

Legal Brief

UNILEG/1/2008

Employment Law Time Chart

Complaint	Qualifying Period	Time Limit for ET Complaint	Notes
DISMISSAL			
Written reasons for dismissal (S.92 ERA)	1 year (a)	3 months starting with EDT*	
Unfair dismissal (Part X ERA)	1 year	3 months starting with EDT* (l)	
UD for a reason connected with medical suspension (S.108(2) ERA)	1 month	3 months starting with EDT*	
UD for taking part in official industrial action (S.238A TULR(C)A)	None	6 months from complainant's date of dismissal* (b)	
UD for 'trade union' reasons (Ss.152 & 153 TULR(C)A)	None	3 months starting with EDT*	
UD by reason of business transfer, or a reason connected with the transfer which is not an ETO reason entailing changes in the workforce (TUPE, Reg 7)	1 year	3 months starting with EDT*	
UD for a reason connected with pregnancy, childbirth, maternity, maternity leave, parental leave or dependant care leave (S.99 ERA)	None	3 months starting with EDT*	
UD for a health and safety reason (S.100 ERA)	None	3 months starting with EDT*	
UD of a shop or betting worker for refusing to work on a Sunday (S.101 ERA)	None	3 months starting with EDT*	
UD for a reason connected with the Working Time Regulations 1998 (S.101A ERA)	None	3 months starting with EDT*	

UD for performing functions as an occupational pension trustee (S.102 ERA)	None	3 months starting with EDT*	
UD for performing functions as an employee representative (S.103 ERA)	None	3 months starting with EDT*	
UD related to making a protected disclosure (S.103A ERA)	None	3 months starting with EDT*	
UD for asserting a statutory right (S.104 ERA)	None	3 months starting with EDT*	
UD related to national minimum wage (S.104A ERA)	None	3 months starting with EDT*	
UD related to status as part-time worker (PTW Regs, Reg 7)	None	3 months starting with EDT*	
UD related to status as fixed-term employee (FTE Regs, Reg 6)	None	3 months starting with EDT*	
UD for enforcing right to working family tax credits (S.104B ERA)	None	3 months starting with EDT*	
UD related to a claim for union recognition (Sch A1 para 161 TULR(C)A)	None	3 months starting with EDT*	
UD related to establishment of, or participation in, a European Works Council or information and consultation procedure (TICE Regs, Reg 28)	None	3 months starting with EDT*	
UD for performing or proposing to perform functions or activities of an information and consultation representative or candidate (ICE Regs, Reg 30)	None	3 months starting with EDT*	
UD in relation to a request for flexible working (S.104 ERA)	None	3 months starting with EDT*	
UD relating to jury service (S.98B ERA)	None	3 months starting with EDT*	
Interim relief pending complaint under Ss.100, 101A, 102, 103, 103A ERA or Sch A1 para 161 TULR(C)A (S.128 ERA)	None	7 days immediately following EDT***	

REDUNDANCY/BUSINESS TRANSFERS			
Redundancy payment (Part XI ERA)	2 years (c)	6 months starting with 'relevant date' (d)(l)	
Consultation with appropriate representatives over proposed redundancies (S.188 TULR(C)A)	N/A	either before dismissal or 3 months starting with date on which dismissal takes effect*	
Failure to pay remuneration under protective award (S.190 TULR(C)A)	None	3 months starting with last day in respect of which complaint is made*	
Failure to consult with appropriate representatives over a business transfer (TUPE, Reg 15)	N/A	3 months starting with date of completion of transfer*	
Failure to comply with a compensation order made under Reg 15 (TUPE, Reg 15(10))	N/A	3 months starting with date of tribunal's order*	
Failure by transferor to notify transferee of relevant information (TUPE, Reg 12)	N/A	3 months starting with date of relevant transfer*	
MATERNITY AND PARENTAL LEAVE			
Right to 26 weeks' ordinary maternity leave (S.71 ERA)	None	N/A	
Right to 26 weeks' additional maternity leave (S.73 ERA)	None	N/A	
Right to 26 weeks' ordinary adoption leave (S.75A ERA)	None	N/A	
Right to 26 weeks' additional adoption leave (S.75B ERA)	None	N/A	
Right to 2 weeks' paternity leave (S.80A ERA)	26 weeks continuous service at 15th week before EWC	N/A	
Right to return to the same job or, if that is not practicable, to a suitable alternative job after additional maternity leave or a period of parental leave of more than 4 weeks (MPL Regs, Reg 18)	None	N/A	

Right to be offered alternative work before maternity suspension (S.67 ERA)	None	3 months starting with first day of suspension*	
Right to be paid during maternity suspension (S.68 ERA)	None	3 months starting with day in respect of which the claim is made*	
Right to 13 weeks' unpaid parental leave in respect of each child, 18 weeks for parents of disabled children (MPL Regs, Regs 13 & 14)	1 year (f)	3 months from when employer refuses right*	
Right to return to the same job after a period of parental leave of 4 weeks or less (MPL Regs, Reg 18)	None	N/A	
Right not to suffer detriment in relation to pregnancy, maternity leave, adoption leave, paternity leave, parental leave, or time off for dependents (S.47C ERA)	None	3 months starting with date of (last) act or failure to act*	
DISCRIMINATION			
Sex discrimination claim (Parts I, II & VII SDA)	None	3 months starting with date of act complained of** (g)(l)	
Race discrimination claim (Parts I, II & VIII RRA)	None	3 months starting with date of act complained of** (g)(l)	
Disability discrimination claim (Parts I, II & Sch 3 DDA)	None	3 months starting with date of act complained of** (g)(l)	
Sex discrimination claim under EC law (Art.5 Equal treatment Directive 76/207)	None	3 months starting with date of act complained of (h)	
Equal pay/value claim under EC law (Art.141 EC treaty & Art.1 Equal Pay Directive 75/117)	None	3/6 months starting with termination of employment (h)	
Equal pay claim (EqPA)	None	6 months starting with termination of employment (i)	
Preliminary complaint by EHRC(m) (S.73(1) SDA/S.64(1) RRA)	N/A	6 months starting with date of act complained of**	
Application by EHRC (m) in connection with discriminatory advertising etc. and/or pressure to discriminate (S.72(2)(a) SDA/S.63(2)(a) RRA)	N/A	6 months starting when act to which application relates was done**	

Religion or belief discrimination claim (EE(RoB) Regs)	None	3 months starting with date of act complained of** (g)(l)	
Sexual orientation discrimination claim (EE(SO) Regs)	None	3 months starting with date of act complained of** (g)(l)	
Age discrimination claim (EE(Age) Regs)	None	3 months starting with date of act complained of** (g)(l)	
Claim of discrimination on the ground of civil partnership status (S.251 SDA)	None	3 months starting with date of act complained of** (g)(l)	
TRADE UNIONS AND UNION MEMBERS			
Interim relief pending S.152 complaint (S.161 TULR(C)A)	None	7 days immediately following EDT***	
Right not to suffer detriment as a result of being a union member or taking part in union activities (S.146 TULR(C)A)	None	3 months starting with date of (last) act or failure to act* (l)	
Unlawful exclusion/expulsion from union (S.174 TULR(C)A)	None	6 months starting with date of exclusion/expulsion*	
Application for compensation after successful S.174 complaint (S.176 TULR(C)A)	None	Not earlier than 4 weeks and not later than 6 months from date of ET's decision***	
Unjustifiable discipline by union (Ss.64 to 66 TULR(C)A)	None	3 months starting with date of union's decision****	
Application for compensation after successful S.66 complaint (S.67 TULR(C)A)	None	Not earlier than 4 weeks and not later than 6 months from date of ET's decision***	
Unauthorised deduction of union subscriptions (S.68 TULR(C)A)	None	3 months starting with date of payment*	
Refusal of employment/services of employment agency on grounds related to union membership (S.137/S.138 TULR(C)A)	N/A	3 months starting with date of conduct complained of*	
Complaint by trade union over employer's failure to comply with collective bargaining obligations regarding training (S.70B TULR(C)A)	N/A	3 months starting with the alleged failure*	

Complaint about either a wrongful deduction of contributions to a union political funds, or a refusal to deduct union dues	N/A	3 months starting with date of payment of emoluments*	
Complaint by a worker about inducements relating to trade union membership or activities, or to collective bargaining (Ss.145A - B TULR(C)A) Time off	N/A	3 months beginning when the offer, or last offer, was made*	
Right to unpaid time off for public duties (S.50 ERA)	None	3 months from date of failure to give time off*	
Right to paid time off to look for work where notice of dismissal by reason of redundancy has been given (Ss.52 & 53 ERA)	2 years	3 months starting with day time off should have been allowed*	
Right to paid time off for antenatal care (Ss.55 & 56 ERA)	None	3 months starting with date of appointment*	
Right to unpaid time off to care for dependants (S.57A ERA)	None	3 months starting with date when refusal occurred*	
Right to paid time off for pension scheme trustees (Ss.58 & 59 ERA)	None	3 months starting with the date when the failure occurred*	
Right to paid time off for employee representatives (Ss.61 & 62 ERA)	None	3 months starting with day time off taken or on which time off should have been allowed*	
Right to paid time off for representatives of employee safety and for candidates standing for election as such a representative (H&S Regs)	None	3 months starting with the date when the failure occurred*	
Right to paid time off for safety representatives (SRSC Regs)	None	3 months starting with the date when the failure occurred*	
Right to paid time off for information and consultation representatives (ICE Regs, Reg 27)	None	3 months starting with the day time off taken or on which time off should have been allowed*	
Right to paid time off for union duties (Ss.168 & 169 TULR(C)A)	None	3 months starting with the date when the failure occurred*	
Right to unpaid time off for union activities (S.170 TULR(C)A)	None	3 months starting with the date when the failure occurred*	

Right to time off for study or training (Ss.63A, 63B & 63C ERA)	None	3 months starting with day time off taken or on which time off should have been allowed*	
MISCELLANIOUS			
Guarantee pay (Ss.28-35 ERA)	1 month	3 months starting with day for which payment claimed*	
Rights on insolvency of employer (Part XII ERA)	None (j)	3 months starting with date of communication of Secretary of State's decision*	
Itemised pay statement (Ss.812 ERA)	None	3 months starting with date on which employment ceased*	
Written particulars of employment (Ss.17 ERA)	1 month (l)	3 months starting with date on which employment ceased*	
Medical suspension pay (S.64 ERA)	1 month	3 months starting with first day of suspension	
Unlawful deduction from wages (Part II ERA)	None	3 months from date of (last) deduction or (last) payment to employer*	
Right to be accompanied at a grievance or disciplinary hearing (Ss.1015 EReIA)	None	3 months from date of failure or threat of failure*	
Unlawful infringement of human rights by public body (HRA)	None	1 year from date of act complained of*****	
Failure to allow access to records relating to national minimum wage (Ss.9 to 11 NMWA)	None	3 months after the period of 14 days (or longer if agreed) following receipt of the production notice	
Failure to allow access to records relating to national minimum wage (Ss.19 and 22 NMW Act)	N/A	4 weeks following date of service of notice	
Right not to be treated less favourably because of part-time status (PTW Regs, Reg 5)	None	3 months from date of less favourable treatment**(g)	
Right of part-time worker to receive written statement of reasons for less favourable treatment (PTW Regs, Reg 6)	None	N/A	
Right not to be treated less favourably because of fixed-term status (FTE Regs, Reg 3)	N/A	3 months from date of less favourable treatment or detriment to which complaint relates, or, where act is part of a series, the last of them**	

Right of fixed-term employee to receive written statement of reasons for less favourable treatment (FTE Regs, Reg 5)	N/A	N/A	
Right of fixed-term employee to be informed by employer of permanent vacancies (FTE Regs, Reg 3(6))	N/A	3 months from (last) date on which other individuals, whether or not employees of the employer, were informed of the vacancy**	
Right of employee employed under successive fixed-term contracts to be regarded as a permanent employee (FTE Regs, Reg 8)	N/A	N/A	
Right of employee employed under successive fixed-term contracts to receive written statement that he or she is a permanent employee (FTE Regs, Reg 9)	N/A	N/A	
Right not to suffer detriment in relation to: health and safety (S.44 ER Act); Sunday working (S.45 ER Act); jury service (S.43M ERA); performing functions as a pension trustee (S.46 ER Act) or as an employee representative (S.47 ER Act); time off for study or training (S.47A ER Act); protected disclosures (S.47B ER Act); dependant care leave (S.47C ER Act); part-time working (PTW Regs, Reg 7); right to be accompanied at a grievance or disciplinary hearing (S.12 ERel Act); national minimum wage (S.23 NMW Act); European Works Councils (TICE Regs, Reg 32); or payment of tax credits by the employer (Sch 3 para 1 TC Act)	None	3 months starting with date of (last) act or failure to act* (I)	

Complaint that Secretary of State has not paid a sum in respect of the unpaid pensions contributions of an insolvent employer. (S.126(2) Pensions Schemes Act 1993)	None	3 months starting with the date on which the Secretary of State's decision was communicated to the person(s) presenting it*	
Contract claim by employee	None	In the employment tribunal, 3 months starting with EDT or if no EDT the last day on which the employee worked.* In the county court or High Court, 6 years from breach of contract	
Contract claim by employer	None	In the employment tribunal, 6 weeks from receipt of employee's claim.* In the county court or High Court, 6 years from breach of contract	

Notes

(a) There is no qualifying period where a woman is dismissed during pregnancy or during ordinary or additional maternity leave periods (S.92(4) ER Act).

(b) For these purposes 'date of dismissal' means (a) where the employee's contract of employment was terminated by notice, the date on which the employer's notice was given, and (b) in any other case, the EDT – S.238(5) TULR(C) Act.

(c) Starting on 18th birthday if the employee started work before that date.

(d) If during those six months the employee gives a written notice to the employer claiming a redundancy payment or refers a redundancy pay claim to a tribunal or submits a claim for unfair dismissal to a tribunal. The time limit may be extended to one year if during the six months immediately following the first six-month period the employee makes a written claim for payment to the employer or refers a redundancy pay claim to a tribunal or presents an unfair dismissal claim to a tribunal and it appears to the tribunal to be just and equitable that the employee should receive a redundancy payment – S.164 ER Act. It may also be extended to one year if the employee dies during the six months following the relevant date – S.176(7) ER Act.

(e) Unless the claimant was employed under a fixed-term contract for three months or less or a contract for the performance of a specific task which was not expected to last more than three months in which case he or she must have been continuously employed for more than three months in order to qualify.

(f) At the beginning of the 11th week before the expected week of childbirth.

(g) However, an act may be treated as done at the end of a period if it is an act 'extending over' that period (S.76(6)(b) SD Act/S.68(7)(b) RR Act/Sch 3 para 3(3)(b) DD Act) – see Barclays Bank plc v Kapur & ors 1991 ICR 208.

(h) There are no expressly stated time limits governing actions under EC law. Time limits will generally be analogous to those under national law, i.e three months under the EC Equal Treatment Directive (No.76/207), and three or six months under Article 141 of the EC Treaty and the EC Equal Pay Directive (No.75/117). In *Biggs v Somerset County Council* 1996 ICR 364 (Brief 559) a part-time employee brought a claim for unfair dismissal compensation relying on *R v Secretary of State for Employment ex parte EOC & anor* 1994 IRLR 176 (Brief 513), in which the House of Lords ruled that the qualifying hours thresholds in UK legislation were contrary to Article 141. The Court of Appeal held that the

relevant national time limit of three months began to run against the applicant from the date of her dismissal in the 1970s.

i) The House of Lords confirmed the legality of the six-month time limit in *Preston & ors v Wolverhampton Healthcare NHS Trust & ors (No 2)*; *Fletcher & ors v Midland Bank plc (No 2)* 2001 ICR 217, except in cases involving the application of the time limit to employees working on a succession of fixed-term contracts.

(j) No statutory minimum qualifying period, but the rights in question – e.g payment of statutory notice pay – in practice involve a period of qualifying employment.

(k) In a case where Reg 38(2) applies (complaints by members of the armed forces), the time limit is extended from three months to six months (Reg 30(2)(a)).

(l) Where a tribunal jurisdiction is listed in Sch 4 to the Employment Act 2002, and S.32 of that Act applies, Reg 15 of the Employment Act 2002 (Dispute Resolution) Regulations 2004 SI 2004/752 operates to extend the normal time limit for bringing a claim for a period of three months beginning with the day after the day on which it would otherwise have happened. The extension applies in two scenarios: where the employee has reasonable grounds for believing that a dismissal or disciplinary procedure, statutory or otherwise, was being followed when the normal time limit expired; or where the employee has lodged a step 1 grievance letter within the normal time limit.

(m) The work and enforcement powers of the EOC and CRE transferred to the Equality and Human Rights Commission in October 2007.

* ET can extend time limit where they consider it was 'not reasonably practicable' to present the complaint in time.

** ET can extend time limit where they consider it 'just and equitable' to do so.

*** No extension of time allowed, except possibly where there has been deliberate fraud by the employer, causing the employee to suffer real injustice in missing the time limit – *Grimes v Sutton London Borough Council* 1973 ICR 240.

****ET can extend time limit on 'not reasonably practicable' grounds, as above, or where delay was caused by reasonable attempts to pursue internal appeal, etc.

*****Under S.7(5) HR Act, the court or tribunal have the discretion to extend the time limit to such longer period as they consider equitable having regard to all the circumstances.

THIS BRIEF REPLACES UNILEG/5/2000

This is one in a series of briefings on legal and industrial relations issues, which we hope Branches and Regional Organising Staff will find useful. These briefs are not a full statement of law and further advice should be sought before bringing or defending proceedings. If there are any subjects you would like covered, please contact Adam Creme, Legal Services ext. 541 or Christine Durance, Policy and Public Affairs, ext. 400 (both at Mabledon Place)