

- Special consideration can be granted if the Tribunal is satisfied that it was not reasonably practicable to do so within the three months.

REMEDIES

If the Tribunal finds the complaint to be well founded remedies include:

- Reinstatement
- Re-engagement
- Compensation

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EMPLOYMENT RIGHTS ACT 2012

PART VI UNFAIR DISMISSAL



Employment Rights For All

The Act provides for the right not to be unfairly dismissed.

The employer has to show the reason or if more than one, the principle reason for dismissal. If it relates to the employee's capability to perform work, or the employee's conduct, the employer must show that he acted reasonably and complied with the rules set out in the Fourth Schedule i.e. Dismissal and Disciplinary Procedures.

The right not to be unfairly dismissed is also contravened if the dismissal -

- took place while the employee was certified by a medical practitioner to be incapable of work for a period of not more than 12 consecutive months.
- was as a result of the employee's participation in trade union activities outside, or with the consent of the employer during working hours.
- is due to being a safety and health representative.
- is a result of a complaint from the employee regarding an allegation of a violation of law, contract of employment or the practice by the employer.
- is a result of the employee being diagnosed with or believed to have HIV/AIDS or any other life-threatening illness or disease.
- is a result of the employee's refusal to carry out tasks which can be deemed to be dangerous in accordance with Section 104 of the Safety and Health at Work Act, 2005.
- is a result of the employee being disabled, where alternative employment could have been reasonably offered.
- is a result of absence due to the performance of national duty.
- is due to an employee's refusal to carry out an unlawful instruction given by the employer.
- is because of pregnancy.
- is a reason that relates to race, colour, gender, age, marital status, religion, political affiliation.
- is related to absence associated with an emergency of a child or dependent family member with a disability, for whom the employee has responsibility.



- An employee has to be employed continuously for a period of not less than one year to be able to make a claim of unfair dismissal.
- The Tribunal would not consider a complaint unless it is presented through the Chief Labour Officer before the end of three months from the effective date of termination.