



Employment Rights Act 1996

1996 CHAPTER 18

PART X **E+W+S**

UNFAIR DISMISSAL

CHAPTER I **E+W+S**

RIGHT NOT TO BE UNFAIRLY DISMISSED

Exclusion of right

109 Upper age limit. **E+W+S**

- (1) Section 94 does not apply to the dismissal of an employee if on or before the effective date of termination he has attained—
- (a) in a case where—
 - (i) in the undertaking in which the employee was employed there was a normal retiring age for an employee holding the position held by the employee, and
 - (ii) the age was the same whether the employee holding that position was a man or a woman,that normal retiring age, and
 - (b) in any other case, the age of sixty-five.
- (2) Subsection (1) does not apply if—
- ^{F1}(a)
 - (b) subsection (1) of section 99 (read with subsection (2) of that section) or subsection (3) of that section applies,
 - (c) subsection (1) of section 100 (read with subsections (2) and (3) of that section) applies,

Status: Point in time view as at 01/07/2000. This version of this provision has been superseded.

Changes to legislation: Employment Rights Act 1996, Section 109 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (d) subsection (1) of section 101 (read with subsection (2) of that section) or subsection (3) of that section applies,
- [^{F2}(dd) section 101A applies,]
- (e) section 102 applies,
- (f) section 103 applies,
- [^{F3}(ff) section 103A applies,]
- (g) subsection (1) of section 104 (read with subsections (2) and (3) of that section) applies, ^{F4} . . .
- [^{F5}(gg) subsection (1) of section 104A (read with subsection (2) of that section) applies, ^{F6} . . .]
- [^{F7}(gh) subsection (1) of section 104B (read with subsection (2) of that section) applies, ^{F8} . . .]
- (h) section 105 applies. [^{F9F10} . . .
- (hh) paragraph (3) or (6) of regulation 28 of the Transnational Information and Consultation of Employees Regulations 1999 (read with paragraphs (4) and (7) of that regulation) applies.]^{F11} or
- (i) paragraph (1) of regulation 7 of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 applies.]

Textual Amendments

- F1** S. 109(2)(a) repealed (15.12.1999) by 1999 c. 26, ss. 9, 44, Sch. 4 Pt. III para. 19, **Sch. 9(2)**; S.I. 1999/2830, art. 2(1)-(3), Sch. 1 Pt. II, **Sch. 2 Pt. II** (with transitional provisions in Sch. 3 paras. 10, 11)
- F2** S. 109(2)(dd) inserted (1.10.1998) by S.I. 1998/1833, **reg. 32(4)**
- F3** S. 109(2)(ff) inserted (2.7.1999) by 1998 c. 23, s. 7(2); S.I. 1999/1547, **art. 2**
- F4** Word in s. 109(2)(g) repealed (1.11.1998) by 1998 c. 39, ss. 25(4), 53, **Sch. 3**; S.I. 1998/2574, art. 2(1), **Sch. 1** (with art. 3)
- F5** S. 109(2)(gg) inserted (1.11.1998) by 1998 c. 39, s. 25(4); S.I. 1998/2574, art. 2(1), **Sch. 1** (with art. 3)
- F6** Word in s. 109(2)(gg) repealed (5.10.1999) by 1999 c. 10, ss. 7, 19(4), 20(2), Sch. 3 para. 3(4), **Sch. 6**
- F7** S. 109(2)(gh) inserted (5.10.1999) by 1999 c. 10, ss. 7, 20(2), Sch. 3 para. 3(4) (which amending Act was repealed (in part on 27.8.2002 and 4.12.2002, otherwise prosp.) by Tax Credits Act 2002 (c. 21), s. 60, **Sch. 6**; S.I. 2002/1727, **art. 2**) and insertion continued (1.9.2002 for certain purposes, otherwise prosp.) by Tax Credits Act 2002 (c. 21), s. 27, **Sch. 1 para. 3(4)**; S.I. 2002/1727, **art. 2**
- F8** Word in s. 109(2)(gh) omitted (15.1.2000) by virtue of S.I. 1999/3323, **reg. 29(3)**
- F9** S. 109(2)(hh) and preceding word inserted (15.1.2000) by S.I. 1999/3323, **reg. 29(3)**
- F10** Word at the end of s. 109(2)(h) omitted (1.7.2000) by virtue of S.I. 2000/1551, reg. 10, **Sch. para. 2(3)** (with regs. 12-17)
- F11** S. 109(2)(i) and the word "or" preceding it inserted (1.7.2000) by S.I. 2000/1551, reg. 10, **Sch. para. 2(3)** (with regs. 12-17)

Modifications etc. (not altering text)

- C1** S. 109 excluded (4.9.2000) by 1999 c. 26, s. 12(4), (with ss. 14, 15); S.I. 2000/2242, **art. 2**
 S. 109 excluded (6.6.2000) by 1992 c. 52, s. 70A, **Sch. A1 para. 164** (as inserted (6.6.2000) by 1999 c. 26, s. 1, **Sch. 1**; S.I. 2000/1338, **art. 2(a)**)

Status:

Point in time view as at 01/07/2000. This version of this provision has been superseded.

Changes to legislation:

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