



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART X

#### UNFAIR DISMISSAL

#### CHAPTER I

##### RIGHT NOT TO BE UNFAIRLY DISMISSED

##### *Exclusion of right*

#### **110 Dismissal procedures agreements**

- (1) Where a dismissal procedures agreement is designated by an order under subsection (3) which is for the time being in force—
  - (a) the provisions of that agreement relating to dismissal shall have effect in substitution for any rights under section 94, and
  - (b) accordingly, section 94 does not apply to the dismissal of an employee from any employment if it is employment to which, and he is an employee to whom, those provisions of the agreement apply.
- (2) Subsection (1) does not apply if—
  - (a) section 84 or 96(1) applies,
  - (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 101 (read with subsection (2) of that section) or subsection (3) of that section applies,
  - (d) subsection (1) of section 104 (read with subsections (2) and (3) of that section) applies, or
  - (e) section 105(1) and (4) applies.

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*Status: This is the original version (as it was originally enacted).*

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- (3) An order designating a dismissal procedures agreement may be made by the Secretary of State, on an application being made to him jointly by all the parties to the agreement, if he is satisfied that—
- (a) every trade union which is a party to the agreement is an independent trade union,
  - (b) the agreement provides for procedures to be followed in cases where an employee claims that he has been, or is in the course of being, unfairly dismissed,
  - (c) those procedures are available without discrimination to all employees falling within any description to which the agreement applies,
  - (d) the remedies provided by the agreement in respect of unfair dismissal are on the whole as beneficial as (but not necessarily identical with) those provided in respect of unfair dismissal by this Part,
  - (e) the procedures provided by the agreement include a right to arbitration or adjudication by an independent referee, or by a tribunal or other independent body, in cases where (by reason of an equality of votes or for any other reason) a decision cannot otherwise be reached, and
  - (f) the provisions of the agreement are such that it can be determined with reasonable certainty whether or not a particular employee is one to whom the agreement applies.
- (4) If at any time when an order under subsection (3) is in force in relation to a dismissal procedures agreement the Secretary of State is satisfied, whether on an application made to him by any of the parties to the agreement or otherwise, either—
- (a) that it is the desire of all the parties to the agreement that the order should be revoked, or
  - (b) that the agreement no longer satisfies all the conditions specified in subsection (3),
- the Secretary of State shall revoke the order by an order under this subsection.
- (5) The transitional provisions which may be made in an order under subsection (4) include, in particular, provisions directing—
- (a) that an employee—
    - (i) shall not be excluded from his right under section 94 where the effective date of termination falls within a transitional period which ends with the date on which the order takes effect and which is specified in the order, and
    - (ii) shall have an extended time for presenting a complaint under section 111 in respect of a dismissal where the effective date of termination falls within that period, and
  - (b) that, where the effective date of termination falls within such a transitional period, an industrial tribunal shall, in determining any complaint of unfair dismissal presented by an employee to whom the dismissal procedures agreement applies, have regard to such considerations as are specified in the order (in addition to those specified in this Part and section 10(4) and (5) of the Industrial Tribunals Act 1996).