



Employment Rights Act 1996

1996 CHAPTER 18

PART XI **E+W+S**

REDUNDANCY PAYMENTS ETC.

CHAPTER VI **E+W+S**

PAYMENTS BY SECRETARY OF STATE

168 Amount of payments. **E+W+S**

- (1) The sum payable to an employee by the Secretary of State under section 167—
- (a) where the employer's payment to which the employee's application under section 166 relates is a redundancy payment or a part of a redundancy payment, is a sum equal to the amount of the redundancy payment or part,^{F1} . . .
 - [^{F2}(aa) where the employer's payment to which the employee's application under section 166 relates is a payment which his employer is liable to make to him under an agreement having effect by virtue of section 203(2)(e) or (f), is a sum equal to the amount of the employer's payment or of any redundancy payment which the employer would have been liable to pay to the employee but for the agreement, whichever is less, and]
 - (b) where the employer's payment to which the employee's application under section 166 relates is a payment which the employer is liable to make under an agreement in respect of which an order is in force under section 157, is a sum equal to the amount of the employer's payment or of the relevant redundancy payment, whichever is less [^{F3}, or
 - (c) receipt of information from the employer and consultation by the employer under section 188 (redundancies) or under the Transfer of Undertakings (Protection of Employment) Regulations 1981.]
- (2) The reference in subsection (1)(b) to the amount of the relevant redundancy payment is to the amount of the redundancy payment which the employer would have been liable to pay to the employee on the assumptions specified in subsection (3).

Changes to legislation: Employment Rights Act 1996, Section 168 is up to date with all changes known to be in force on or before 29 June 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) View outstanding changes

- (3) The assumptions referred to in subsection (2) are that—
- (a) the order in force in respect of the agreement had not been made,
 - (b) the circumstances in which the employer’s payment is payable had been such that the employer was liable to pay a redundancy payment to the employee in those circumstances,
 - (c) the relevant date, in relation to any such redundancy payment, had been the date on which the termination of the employee’s contract of employment is treated as having taken effect for the purposes of the agreement, and
 - (d) in so far as the provisions of the agreement relating to the circumstances in which the continuity of an employee’s period of employment is to be treated as broken, and the weeks which are to count in computing a period of employment, are inconsistent with the provisions of Chapter I of Part XIV, the provisions of the agreement were substituted for those provisions.

Textual Amendments

- F1** Words in s. 168(1)(a) repealed (1.10.1998) by 1998 c. 8, s. 15, **Sch. 2**; S.I. 1998/1658, art. 2(2), **Sch. 2** (with art. 3(5))
- F2** S. 168(1)(aa) inserted (1.10.1998) by 1998 c. 8, s. 11(3); S.I. 1998/1658, art. 2(2), **Sch. 2** (with art. 3(5))
- F3** S. 168(1)(c) and the preceding word “, or” inserted (28.7.1999) by S.I. 1999/1925, **reg. 14**

Changes to legislation:

Employment Rights Act 1996, Section 168 is up to date with all changes known to be in force on or before 29 June 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.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 8 Ch. 5 inserted by [2023 c. 20 Sch. para. 2](#)
- Pt. 8A Ch. 1 heading inserted by [2023 c. 46 s. 1\(3\)](#)
- Pt. 8A Ch. 2 inserted by [2023 c. 46 s. 1\(4\)](#)
- Pt. 8A Ch. 3 inserted by [2023 c. 46 s. 2](#)
- Pt. 8A Ch. 4 inserted by [2023 c. 46 s. 3\(2\)](#)
- s. 43K(1)(ca) and word omitted by [2013 c. 24 s. 20\(5\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 43K(2)(ba) omitted by [2013 c. 24 s. 20\(6\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 47C(2)(cc) inserted by [2023 c. 20 Sch. para. 22](#)
- s. 47H inserted by [2020 c. 7 Sch. 7 para. 9](#)
- s. 47AA inserted by [2008 c. 25 s. 37](#)
- s. 47EA inserted by [2023 c. 46 Sch. para. 4](#)
- s. 47EB inserted by [2023 c. 46 Sch. para. 5](#)
- s. 48(1C) inserted by [2020 c. 7 Sch. 7 para. 10\(a\)](#)
- s. 48(1C) inserted by [2023 c. 46 Sch. para. 6\(2\)](#)
- s. 48(1D) inserted by [2023 c. 46 Sch. para. 6\(3\)](#)
- s. 49(8) inserted by [2020 c. 7 Sch. 7 para. 11\(b\)](#)
- s. 49(8) inserted by [2023 c. 46 Sch. para. 7\(4\)](#)
- s. 49C inserted by [2017 c. 16 s. 32\(4\)](#)
- s. 75I(3)(g) and word inserted by [2023 c. 20 Sch. para. 23\(b\)](#)
- s. 80A(6A) inserted by [2024 c. 17 s. 1\(2\)](#)
- s. 80B(6C) inserted by [2024 c. 17 s. 1\(3\)](#)
- s. 80C(2)(bc) inserted by [2023 c. 20 Sch. para. 24\(2\)](#)
- s. 80C(4)(bc) inserted by [2023 c. 20 Sch. para. 24\(3\)](#)
- s. 80D(1A) inserted by [2024 c. 17 s. 1\(4\)\(a\)](#)
- s. 80D(3) inserted by [2024 c. 17 s. 1\(4\)\(c\)](#)
- s. 80EB(2)(f) and word inserted by [2023 c. 20 Sch. para. 25\(b\)](#)
- s. 99(3)(cc) inserted by [2023 c. 20 Sch. para. 28](#)
- s. 101B inserted by [2008 c. 25 s. 38](#)
- s. 104H inserted by [2020 c. 7 Sch. 7 para. 14](#)
- s. 104CA inserted by [2023 c. 46 Sch. para. 9](#)
- s. 105(4B) inserted by [2008 c. 25 s. 39\(3\)](#)
- s. 105(7BC) inserted by [2020 c. 7 Sch. 7 para. 15](#)
- s. 105(7BAA) inserted by [2023 c. 46 Sch. para. 10](#)
- s. 108(3)(gia) inserted by [2023 c. 46 Sch. para. 11](#)
- s. 108(3)(de) inserted by [2008 c. 25 s. 39\(4\)](#)
- s. 108(3)(gn) inserted by [2020 c. 7 Sch. 7 para. 16](#)
- s. 110(3A) inserted by [2002 c. 22 s. 44](#)
- s. 205A(2)(ba) inserted by [2023 c. 46 Sch. para. 16\(2\)](#)
- s. 205A(8A) inserted by [2023 c. 46 Sch. para. 16\(3\)](#)
- s. 225(7)(8) inserted by [2023 c. 46 Sch. para. 17](#)

– s. 227(1)(zb)(zc) inserted by [2023 c. 46 Sch. para. 18](#)