



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART XIV **E+W+S**

#### INTERPRETATION

### CHAPTER III **E+W+S**

#### OTHER INTERPRETATION PROVISIONS

#### 235 Other definitions. **E+W+S**

(1) In this Act, except in so far as the context otherwise requires—

“act” and “action” each includes omission and references to doing an act or taking action shall be construed accordingly,

“basic award of compensation for unfair dismissal” shall be construed in accordance with section 118,

“business” includes a trade or profession and includes any activity carried on by a body of persons (whether corporate or unincorporated),

“childbirth” means the birth of a living child or the birth of a child whether living or dead after twenty-four weeks of pregnancy,

“collective agreement” has the meaning given by section 178(1) and (2) of the <sup>M1</sup>Trade Union and Labour Relations (Consolidation) Act 1992,

“conciliation officer” means an officer designated by the Advisory, Conciliation and Arbitration Service under section 211 of that Act,

“dismissal procedures agreement” means an agreement in writing with respect to procedures relating to dismissal made by or on behalf of one or more independent trade unions and one or more employers or employers’ associations,

“employers’ association” has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992,

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“expected week of childbirth” means the week, beginning with midnight between Saturday and Sunday, in which it is expected that childbirth will occur,

“guarantee payment” has the meaning given by section 28,

“independent trade union” means a trade union which—

- (a) is not under the domination or control of an employer or a group of employers or of one or more employers’ associations, and
- (b) is not liable to interference by an employer or any such group or association (arising out of the provision of financial or material support or by any other means whatever) tending towards such control,

“job”, in relation to an employee, means the nature of the work which he is employed to do in accordance with his contract and the capacity and place in which he is so employed,

[<sup>F1</sup>“paternity leave” means leave under section 80A or 80B,]

<sup>F2</sup>  
 . . .

<sup>F2</sup>  
 . . .

“position”, in relation to an employee, means the following matters taken as a whole—

- (a) his status as an employee,
- (b) the nature of his work, and
- (c) his terms and conditions of employment,

[<sup>F3</sup>“protected disclosure” has the meaning given by section 43A,]

“redundancy payment” has the meaning given by Part XI,

“relevant date” has the meaning given by sections 145 and 153,

“renewal” includes extension, and any reference to renewing a contract or a fixed term shall be construed accordingly,

“statutory provision” means a provision, whether of a general or a special nature, contained in, or in any document made or issued under, any Act, whether of a general or special nature,

“successor”, in relation to the employer of an employee, means (subject to subsection (2)) a person who in consequence of a change occurring (whether by virtue of a sale or other disposition or by operation of law) in the ownership of the undertaking, or of the part of the undertaking, for the purposes of which the employee was employed, has become the owner of the undertaking or part,

“trade union” has the meaning given by section 1 of the <sup>M2</sup>Trade Union and Labour Relations (Consolidation) Act 1992,

“week”—

- (a) in Chapter I of this Part means a week ending with Saturday, and
- (b) otherwise, except in [<sup>F4</sup>sections 80A, 80B and 86], means, in relation to an employee whose remuneration is calculated weekly by a week ending with a day other than Saturday, a week ending with that other day and, in relation to any other employee, a week ending with Saturday.

(2) The definition of “successor” in subsection (1) has effect (subject to the necessary modifications) in relation to a case where—

- (a) the person by whom an undertaking or part of an undertaking is owned immediately before a change is one of the persons by whom (whether as partners, trustees or otherwise) it is owned immediately after the change, or

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- (b) the persons by whom an undertaking or part of an undertaking is owned immediately before a change (whether as partners, trustees or otherwise) include the persons by whom, or include one or more of the persons by whom, it is owned immediately after the change,  
as it has effect where the previous owner and the new owner are wholly different persons.
- [<sup>F5</sup>(2A) For the purposes of this Act a contract of employment is a “limited-term contract” if—
- (a) the employment under the contract is not intended to be permanent, and
  - (b) provision is accordingly made in the contract for it to terminate by virtue of a limiting event.
- (2B) In this Act, “limiting event”, in relation to a contract of employment means—
- (a) in the case of a contract for a fixed-term, the expiry of the term,
  - (b) in the case of a contract made in contemplation of the performance of a specific task, the performance of the task, and
  - (c) in the case of a contract which provides for its termination on the occurrence of an event (or the failure of an event to occur), the occurrence of the event (or the failure of the event to occur).]

(3) References in this Act to redundancy, dismissal by reason of redundancy and similar expressions shall be construed in accordance with section 139.

(4) In sections 136(2), 154 and 216(3) and paragraph 14 of Schedule 2 “lock-out” means—

    - (a) the closing of a place of employment,
    - (b) the suspension of work, or
    - (c) the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute,

done with a view to compelling persons employed by the employer, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment.

(5) In sections 91(2), 140(2) and (3), 143(1), 144(2) and (3), 154 and 216(1) and (2) and paragraph 14 of Schedule 2 “strike” means—

    - (a) the cessation of work by a body of employed persons acting in combination, or
    - (b) a concerted refusal, or a refusal under a common understanding, of any number of employed persons to continue to work for an employer in consequence of a dispute,

done as a means of compelling their employer or any employed person or body of employed persons, or to aid other employees in compelling their employer or any employed person or body of employed persons, to accept or not to accept terms or conditions of or affecting employment.

#### Textual Amendments

- F1** Definition in s. 235(1) inserted (8.12.2002) by [Employment Act 2002 \(c. 22\)](#), s. 53, [Sch. 7 para. 48\(2\)](#); [S.I. 2002/2866](#), [art. 2\(2\)](#), [Sch. 1 Pt. 2](#)
- F2** S. 235(1): definitions of "maternity leave" and "notified day of return" repealed (15.12.1999) by [1999 c. 26](#), ss. 9, 44, [Sch. 4 Pt. III para. 41](#), [Sch. 9\(2\)](#); [S.I. 1999/2830](#), [art. 2\(2\)\(3\)](#), [Sch. 1 Pt. II](#), [Sch. 2 Pt. II](#) (with [Sch. 3 paras. 10, 11](#))

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- F3** Definition of "protected disclosure" in s. 235 inserted (2.7.1999) by 1998 c. 23, s. 15(2); S.I. 1999/1547, art. 2
- F4** Words in s. 235(1) substituted (8.12.2002) by Employment Act 2002 (c. 22), s. 55(2), 53, Sch. 7 para. 48(3); The Employment Act 2002 (Commencement No. 3 and Transitional and Saving Provisions) Order 2002 (S.I. 2002/2866), art. 2(2), Sch. 1 Pt. 2
- F5** S. 235(2A)(2B) inserted (1.10.2002) by The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 (S.I. 2002/2034), reg. 11, Sch. 2 Pt. 1 para. 3(18) (with regs. 13-20 and subject to transitional provisions in Sch. 2 Pt. 2)

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**Marginal Citations**

- M1** 1992 c. 52.  
**M2** 1992 c. 52.

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