



Employment Rights Act 1996

1996 CHAPTER 18

PART III

GUARANTEE PAYMENTS

35 Exemption orders.

(1) Where—

- (a) at any time there is in force a collective agreement, or an agricultural wages order, under which employees to whom the agreement or order relates have a right to guaranteed remuneration, and
- (b) on the application of all the parties to the agreement, or of the Board making the order, the appropriate Minister (having regard to the provisions of the agreement or order) is satisfied that section 28 should not apply to those employees,

he may make an order under this section excluding those employees from the operation of that section.

(2) In subsection (1) “agricultural wages order” means an order made under—

- (a) section 3 of the ^{M1}Agricultural Wages Act 1948, or
- (b) section 3 of the ^{M2}Agricultural Wages (Scotland) Act 1949.

(3) In subsection (1) “the appropriate Minister” means—

- (a) in relation to a collective agreement or to an order such as is referred to in subsection (2)(b), the Secretary of State, and
- (b) in relation to an order such as is referred to in subsection (2)(a), the Minister of Agriculture, Fisheries and Food.

(4) The Secretary of State shall not make an order under this section in respect of an agreement unless—

- (a) the agreement provides for procedures to be followed (whether by arbitration or otherwise) in cases where an employee claims that his employer has failed to pay the whole or any part of any guaranteed remuneration to which the employee is entitled under the agreement and those procedures include a right

Status: Point in time view as at 11/11/1999. This version of this provision has been superseded.

Changes to legislation: Employment Rights Act 1996, Section 35 is up to date with all changes known to be in force on or before 20 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)

to arbitration or adjudication by an independent referee or body in cases where (by reason of an equality of votes or otherwise) a decision cannot otherwise be reached, or

- (b) the agreement indicates that an employee to whom the agreement relates may present a complaint to an [^{F1}employment tribunal] that his employer has failed to pay the whole or any part of any guaranteed remuneration to which the employee is entitled under the agreement.
- (5) Where an order under this section is in force in respect of an agreement indicating as described in paragraph (b) of subsection (4) an [^{F1}employment tribunal] shall have jurisdiction over a complaint such as is mentioned in that paragraph as if it were a complaint falling within section 34.
- (6) An order varying or revoking an earlier order under this section may be made in pursuance of an application by all or any of the parties to the agreement in question, or the Board which made the order in question, or in the absence of such an application.

Textual Amendments

- F1** Words in s. 35(5) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

Marginal Citations

- M1** 1948 c. 47.
M2 1949 c. 30.

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