



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART XV

#### GENERAL AND SUPPLEMENTARY

##### *General*

#### 236 Orders and regulations. **E+W+S**

- (1) Any power conferred by any provision of this Act to make any order (other than an Order in Council) or regulations is exercisable by statutory instrument.
  - (2) A statutory instrument made under any power conferred by this Act to make an Order in Council or other order or regulations, except—
    - (a) an Order in Council or other order [<sup>F1</sup>or regulations] to which subsection (3) applies,
    - <sup>F2</sup>(aa) regulations under section 27R,]
    - (b) an order under section 35 or Part II of Schedule 2, or
    - <sup>F3</sup>(c) an order made in accordance with section 208,]is subject to annulment in pursuance of a resolution of either House of Parliament.
  - (3) No recommendation shall be made to Her Majesty to make an Order in Council under section 192(3), and no order [<sup>F1</sup>or regulations] shall be made under section [<sup>F4</sup>27B,]<sup>F5</sup>27F, 27S,<sup>F6</sup>41A that include provision under subsection (4) (c) of that section,<sup>F7</sup>43FA (but see subsection (3A)),<sup>F8</sup>43K(4),<sup>F9</sup>47C, <sup>F10</sup>49B,<sup>F11</sup>49D,<sup>F12</sup>63D, 63F(7),] 71, 72, 73, <sup>F13</sup>75A, 75B,<sup>F14</sup>75E, 75F(16), 75G, 75H(16), (17) or (18)] 76, [<sup>F15</sup><sup>F16</sup>80A, <sup>F17</sup>... 80B [<sup>F18</sup>, 80EA], <sup>F19</sup>... 80G]<sup>F20</sup>80J,] 99,<sup>F21</sup>120(2), 124(2)]<sup>F22</sup>, 125(7) or 205A(11) or (12)] or (subject to subsection (4)) section 209, unless a draft of the Order in Council [<sup>F23</sup>, order or regulations] has been laid before Parliament and approved by a resolution of each House of Parliament.
- <sup>F24</sup>(3A) Subsection (3) does not apply to regulations under section 43FA that contain only the provision mentioned in section 43FA(2), (3) or (4).]

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- (4) Subsection (3) does not apply to an order under section 209(1)(b) which specifies only provisions contained in Part XI.
- (5) Any power conferred by this Act which is exercisable by statutory instrument includes power to make such incidental, supplementary or transitional provisions as appear to the authority exercising the power to be necessary or expedient.

### Extent Information

- E1** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

### Textual Amendments

- F1** Words in s. 236(2)(a)(3) inserted (15.12.1999) by 1999 c. 26, s. 9, **Sch. 4 Pt. III para. 42(2)(3)(a)**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with Sch. 3 paras. 10, 11)
- F2** S. 236(2)(aa) inserted (31.7.2023 for specified purposes) by Employment (Allocation of Tips) Act 2023 (c. 13), **ss. 12(2)(e)(i)**, 14(2); S.I. 2023/876, reg. 3(c)
- F3** S. 236(2)(c) repealed (prosp.) by 1999 c. 26, ss. 44, 45(1), **Sch. 9(10)**
- F4** Word in s. 236(3) inserted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 153(3)**, 164(1) (with s. 153(2)); S.I. 2015/1329, reg. 2(g)
- F5** Words in s. 236(3) inserted (31.7.2023 for specified purposes) by Employment (Allocation of Tips) Act 2023 (c. 13), **ss. 12(2)(e)(ii)**, 14(2); S.I. 2023/876, reg. 3(c)
- F6** Words in s. 236(3) inserted (4.5.2016 for specified purposes) by Enterprise Act 2016 (c. 12), s. 44(1)(d), **Sch. 5 para. 11**
- F7** Words in s. 236(3) inserted (1.1.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 148(3)(a)**, 164(1); S.I. 2015/2029, reg. 2(a)
- F8** Words in s. 236(3) inserted (E.W.S.) (25.6.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 20(8)**, 103(2) (with s. 24(6))
- F9** Words in s. 236(3) substituted (15.12.1999) by 1999 c. 26, s. 9, **Sch. 4 Pt. III para. 42(3)(b)**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with Sch. 3 paras. 10, 11)
- F10** Word in s. 236(3) inserted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 149(4)**, 164(1); S.I. 2015/1329, reg. 2(e)
- F11** Word in s. 236(3) inserted (E.W.S.) (24.7.2023) by Protection from Redundancy (Pregnancy and Family Leave) Act 2023 (c. 17), **ss. 1(8)**, 3(2)
- F12** Words in s. 236(3) inserted (6.4.2010 for certain purposes and otherwise prosp.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 40, 269(4), **Sch. 1 para. 11**; S.I. 2010/303, **art. 4**, Sch. 3 (with arts. 8-14) (as amended by S.I. 2010/1151, art. 22)
- F13** Words in s. 236(3) inserted (8.12.2002) by Employment Act 2002 (c. 22), s. 53, **Sch. 7 para. 49(2)**; S.I. 2002/2866, **art. 2(2)**, Sch. 1 Pt. 2
- F14** Words in s. 236(3) inserted (30.6.2014) by Children and Families Act 2014 (c. 6), **ss. 117(2)**, 139(6); S.I. 2014/1640, art. 3(1)(a)
- F15** Words in s. 236(3) inserted (E.W.S.) (8.12.2002 for certain purposes and 6.4.2003 otherwise) by Employment Act 2002 (c. 22), s. 53, **Sch. 7 para. 49(3)**; S.I. 2002/2866, **art. 2(2)(3)**, Sch. 1 Pts. 2, 3
- F16** Words in s. 236(3) substituted (E.W.S.) (3.3.2010) by Work and Families Act 2006 (c. 18), ss. 11, 19, **Sch. 1 para. 44**; S.I. 2010/495, **art. 3(c)**
- F17** Word in s. 236(3) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 43(a)**; S.I. 2014/1640, art. 7(v) (with art. 16)
- F18** Word in s. 236(3) inserted (18.1.2020) by Parental Bereavement (Leave and Pay) Act 2018 (c. 24), s. 2(2), **Sch. para. 3**; S.I. 2020/45, reg. 2
- F19** Word in s. 236(3) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 43(b)**; S.I. 2014/1640, art. 7(v) (with art. 16)

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- F20** Word in s. 236(3) inserted (4.12.2023) by Carer's Leave Act 2023 (c. 18), s. 3(3), **Sch. para. 3**; S.I. 2023/1283, reg. 2
- F21** Words in s. 236(3) repealed (prosp.) by 1999 c. 26, ss. 44, 45(1), **Sch. 9(10)**
- F22** Words in s. 236(3) substituted (E.W.S.) (1.9.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 31(6), 35(1)**; S.I. 2013/1766, art. 2
- F23** Words in s. 236(3) substituted (15.12.1999) by 1999 c. 26, s. 9, **Sch. 4 Pt. III para. 42(3)(c)**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with Sch. 3 paras. 10, 11)
- F24** S. 236(3A) inserted (1.1.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 148(3)(b), 164(1)**; S.I. 2015/2029, reg. 2(a)

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**Changes and effects yet to be applied to :**

- s. 236(3) word inserted by [2017 c. 16 s. 32\(6\)](#)
- s. 236(3) word inserted by [2023 c. 20 Sch. para. 3](#)
- s. 236(3) words inserted by [2023 c. 46 Sch. para. 20](#)

**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. 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. 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. 163(6) inserted by 2022 c. 35 Sch. 5 para. 27
- 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