

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: Education and Skills Act 2008, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 19 April 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*



# Education and Skills Act 2008

## 2008 CHAPTER 25

### PART 1

#### DUTY TO PARTICIPATE IN EDUCATION OR TRAINING: ENGLAND

### CHAPTER 3

#### EMPLOYERS

#### *Supplementary*

PROSPECTIVE

### 37 Right not to suffer detriment

After section 47A of the Employment Rights Act 1996 (c. 18) insert—

#### **“47AA Employees in England aged 16 or 17 participating in education or training**

- (1) An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that, being a person entitled to be permitted to participate in education or training by section 27 or 28 of the Education and Skills Act 2008, the employee exercised, or proposed to exercise, that right.
- (2) This section does not apply where the detriment in question amounts to dismissal (within the meaning of Part 10).”

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: Education and Skills Act 2008, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 19 April 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*

PROSPECTIVE

### 38 Dismissal to be treated as unfair

After section 101A of the Employment Rights Act 1996 insert—

#### “101B Participation in education or training

An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that, being a person entitled to be permitted to participate in education or training by section 27 or 28 of the Education and Skills Act 2008, the employee exercised, or proposed to exercise, that right.”

### 39 Other amendments of Employment Rights Act 1996

- (1) The Employment Rights Act 1996 is further amended as follows.
- (2) In section 63A (right to time off for young person for study or training), after subsection (5) insert—
 

“(5A) References in this section to an employee do not include a person to whom Part 1 of the Education and Skills Act 2008 (duty to participate in education or training for 16 and 17 year olds in England) applies, or is treated by section 29 of that Act (extension for person reaching 18) as applying.”;

and, in the title, after “young person” insert “ in Wales or Scotland ”.
- (3) In section 105 (redundancy), after subsection (4A) insert—
 

“(4B) This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was that specified in section 101B.”
- (4) In section 108 (qualifying period of employment), after subsection (3)(dd) insert—
 

“(de) section 101B applies.”.
- (5) In section 194 (House of Lords staff), in subsection (2)(c), after “47,” insert “ 47AA, ”.
- (6) In section 195 (House of Commons staff), in subsection (2)(c), after “47,” insert “ 47AA, ”.

#### Commencement Information

**II** S. 39(1)(2) in force at 28.6.2013 by S.I. 2013/1204, art. 2(q) (with art. 4)

**Status:**

This version of this cross heading contains provisions that are prospective.

**Changes to legislation:**

Education and Skills Act 2008, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 19 April 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.

[View outstanding changes](#)

**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):

- s. 91(3)(c) inserted by [2022 asc 1 Sch. 4 para. 22\(3\)](#)