
STATUTORY INSTRUMENTS

1997 No. 1774 (N.I. 16)

NORTHERN IRELAND

The Police (Health and Safety) (Northern Ireland) Order 1997

Made - - - - *22nd July 1997*
Laid before Parliament *6th August 1997*
Coming into operation on days to be appointed under
Article 1(2)

At the Court at Buckingham Palace, the 22nd day of July 1997

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to the purposes of sections 1 to 6 of the Police (Health and Safety) Act 1997:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 7 of the said Act of 1997) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Police (Health and Safety) (Northern Ireland) Order 1997.

(2) This Order shall come into operation on such day or days as the Secretary of State may by order appoint.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

Application of Part II of Health and Safety at Work (Northern Ireland) Order 1978 to police

3. After Article 47 of the Health and Safety at Work (Northern Ireland) Order 1978 there shall be inserted the following Article—

“Application of Part to police

47A.—(1) For the purposes of this Part, a person who, otherwise than under a contract of employment, holds the office of constable shall be treated as an employee of the relevant officer.

(2) In this Article “the relevant officer”—

- (a) in relation to a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve, means the Chief Constable of the Royal Ulster Constabulary;
- (b) in relation to a person holding office under section 9(1)(b) of the Police Act 1997 (police members of the National Criminal Intelligence Service) means the Director General of the National Criminal Intelligence Service; and
- (c) in relation to any other person holding the office of constable, means the person who has the direction and control of the body of constables in question.

(3) For the purposes of regulations under Article 4(4) the Police Association for Northern Ireland shall be treated as a recognised trade union recognised by the Chief Constable of the Royal Ulster Constabulary.

(4) Regulations under Article 4(4) may provide, in relation to persons falling within paragraph (2)(b) or (c), that a body specified in the regulations is to be treated as a recognised trade union recognised by such person as may be specified.”.

Meaning of “at work” in relation to constables

4. In Article 2(4) of the Health and Safety at Work (Northern Ireland) Order 1978 (meaning of work and at work) in sub-paragraph

(b) the word “and” shall be omitted and after that sub-paragraph there shall be inserted the following sub-paragraph—

“(bb) a person holding the office of constable is at work throughout the time when he is on duty, but not otherwise; and”.

Right of police not to suffer detriment in health and safety cases

5. In Chapter I of Part VI of the Employment Rights (Northern Ireland) Order 1996 (protection from suffering detriment in employment) after Article 72 there shall be inserted the following Article—

“Application to police of Article 68 and related provisions

72A.—(1) For the purposes of Article 68, and of Articles 71 and 72 so far as relating to that Article, the holding, otherwise than under a contract of employment, of the office of constable -shall be treated as employment by the relevant officer under a contract of employment.

(2) In this Article “the relevant officer”—

- (a) in relation to a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve, means the Chief Constable of the Royal Ulster Constabulary; .
- (b) in relation to a person holding office under section 9(1)(b) of the Police Act 1997 (police members of the National Criminal Intelligence Service) means the Director General of the National Criminal Intelligence Service; and

- (c) in relation to any other person holding the office of constable, means the person who has the direction and control of the body of constables in question.”.

Right of police not to be dismissed on certain grounds relating to health and safety

6. In Chapter III of Part XI of the Employment Rights (Northern Ireland) Order 1996 (right not to be unfairly dismissed) after Article 169 there shall be inserted the following Article—

“Application to police

169A.—(1) For the purposes of Article 132, and of the other provisions of this Part so far as relating to the right not to be unfairly dismissed in a case where the dismissal is unfair by virtue of Article 132, the holding, otherwise than under a contract of employment, of the office of constable shall be treated as employment by the relevant officer under a contract of employment.

(2) In this Article “the relevant officer”—

- (a) in relation to a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve, means the Chief Constable of the Royal Ulster Constabulary;
- (b) in relation to a person holding office under section 9(1)(b) of the Police Act 1997 (police members of the National Criminal Intelligence Service) means the Director General of the National Criminal Intelligence Service; and
- (c) in relation to any other person holding the office of constable, means the person who has the direction and control of the body of constables in question.”.

Payment of damages, compensation and fines out of certain funds

7.—(1) There shall be paid out of the relevant fund—

- (a) any damages or costs awarded against the responsible officer in any proceedings brought against him by virtue of Article 47A of the Health and Safety at Work (Northern Ireland) Order 1978 in respect of a breach of health and safety regulations and any costs incurred by him in any such proceedings so far as not recovered by him in the proceedings;
- (b) any sum required in settlement of any claim made against the responsible officer by virtue of Article 47A of that Order in respect of an alleged breach of health and safety regulations, if the settlement is approved by the relevant authority;
- (c) any compensation or costs awarded against the responsible officer in any proceedings brought against him—
 - (i) under Article 71 of the Employment Rights (Northern Ireland) Order 1996 by virtue of Article 72A of that Order; or
 - (ii) under Article 145 of that Order by virtue of Article 169A of that Order,and any costs incurred by him in any such proceedings so far as not recovered by him in the proceedings; and
- (d) any sum required in settlement of any claim made against the responsible officer as mentioned in head (i) or (ii) of sub-paragraph (c), if the settlement is approved by the relevant authority.

(2) Any fine imposed on the responsible officer on conviction of an offence under Part II of the Health and Safety at Work (Northern Ireland) Order 1978 by virtue of Article 47A of that Order, any costs ordered to be paid by him on conviction of such an offence and any costs incurred by him in

connection with proceedings for such an offence may, with the approval of the relevant authority, be paid out of the relevant fund.

(3) In this Article—

“health and safety regulations” has the same meaning as in Part II of the Health and Safety at Work (Northern Ireland) Order 1978;

“the relevant authority” means—

- (a) in relation to the Chief Constable of the Royal Ulster Constabulary, the Police Authority for Northern Ireland;
- (b) in relation to the Director General of the National Criminal Intelligence Service, the Service Authority for the National Criminal Intelligence Service; and
- (c) in relation to any other responsible officer, the authority by whom the constables in question are paid;

“the relevant fund” means—

- (a) in relation to the Director General of the National Criminal Intelligence Service, the NCIS service fund; and
- (b) in relation to any other responsible officer, money provided by the relevant authority;

“the responsible officer” means—

- (a) in relation to the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve, the Chief Constable of the Royal Ulster Constabulary;
- (b) in relation to the National Criminal Intelligence Service, its Director General; and
- (c) in relation to any other body of constables, the person who has the direction and control of the body of constables in question.

Consequential amendments

8.—(1) In Article 2(2) of the Health and Safety at Work (Northern Ireland) Order 1978 (interpretation) at the end of the definition of “employee” there shall be added “or who is treated by Article 47A as being an employee;”.

(2) In Article 243 of the Employment Rights (Northern Ireland) Order 1996 (which specifies provisions of the Order which do not apply to employment under a contract of employment in police service or to persons engaged in such employment) in paragraph (1)—

- (a) for the words “Part VI (other than Article 69)” there shall be substituted “Article 70, Chapter II of Part VI”;
- (b) after the words “Part XI” there shall be inserted “(except Articles 132 and 169A and the other provisions of that Part so far as relating to the right not to be unfairly dismissed in a case where the dismissal is unfair by virtue of Article 132)”.

N. H. Nicholls
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made only for purposes corresponding to those of the Police (Health and Safety) Act 1997.

This Order extends the provisions of the Health and Safety at Work (Northern Ireland) Order 1978 to constables by bringing them within the definition of “employee” in that Order.

The Order also amends the Employment Rights (Northern Ireland) Order 1996 to provide constables with rights of access to industrial tribunals where they suffer a detriment in employment in health and safety cases.