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STATUTORY INSTRUMENTS

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**1996 No. 1919**

**The Employment Rights (Northern Ireland) Order 1996**

**PART XII**

**REDUNDANCY PAYMENTS ETC.**

**CHAPTER IV**

**GENERAL EXCLUSIONS FROM RIGHT**

**Qualifying period of employment**

**190.** An employee does not have any right to a redundancy payment unless he has been continuously employed for a period of not less than two years ending with the relevant date.

**Upper age limit**

**191.—**(1) An employee does not have any right to a redundancy payment if before the relevant date he has attained—

(a) in a case where—

(i) in the business for the purposes of which the employee was employed there was a normal retiring age of less than sixty-five for an employee holding the position held by the employee, and

(ii) the age was the same whether the employee holding that position was a man or woman,

that normal retiring age, and

(b) in any other case, the age of sixty-five.

(2) Paragraph (1) does not apply to a case within Article 172(1).

**Exemption orders**

**192.—**(1) Where an order under this Article is in force in respect of an agreement covered by this Article, an employee who, immediately before the relevant date, is an employee to whom the agreement applies does not have any right to a redundancy payment.

(2) An agreement is covered by this Article if it is an agreement between—

(a) one or more employers or organisations of employers, and

(b) one or more trade unions representing employees,

under which employees to whom the agreement applies have a right in certain circumstances to payments on the termination of their contracts of employment.

(3) Where, on the application of all the parties to an agreement covered by this Article, the Department is satisfied, having regard to the provisions of the agreement, that the employees to

whom the agreement applies should not have any right to a redundancy payment, it may make an order under this Article in respect of the agreement.

(4) The Department shall not make an order under this Article in respect of an agreement unless the agreement indicates (in whatever terms) the willingness of the parties to it to submit to an industrial tribunal any question arising under the agreement as to—

- (a) the right of an employee to a payment on the termination of his employment, or
- (b) the amount of such a payment.

(5) An order revoking an earlier order under this Article may be made in pursuance of an application by all or any of the parties to the agreement in question or in the absence of such an application.

(6) Paragraph (1) does not apply to a case within Article 172(1).

### **Pension rights**

**193.**—(1) The Department shall by regulations make provision for excluding the right to a redundancy payment, or reducing the amount of any redundancy payment, in such cases to which paragraph (2) applies as are prescribed by the regulations.

(2) This paragraph applies to cases in which an employee has (whether by virtue of any statutory provision or otherwise) a right or claim (whether or not legally enforceable) to a periodical payment or lump sum by way of pension, gratuity or superannuation allowance which—

- (a) is to be paid by reference to his employment by a particular employer, and
- (b) is to be paid, or to begin to be paid, at the time when he leaves the employment or within such period after he leaves the employment as may be prescribed by the regulations.

(3) The regulations shall secure that the right to a redundancy payment shall not be excluded, and that the amount of a redundancy payment shall not be reduced, by reason of any right or claim to a periodical payment or lump sum, in so far as the payment or lump sum —

- (a) represents compensation for loss of employment or for loss or diminution of emoluments or of pension rights, and
- (b) is payable under a statutory provision.

(4) In relation to any case where (in accordance with any provision of this Part) an industrial tribunal determines that an employer is liable to pay part (but not the whole) of a redundancy payment the references in this Article to a redundancy payment, or to the amount of a redundancy payment, are to the part of the redundancy payment, or to the amount of the part.

### **Public offices etc.**

**194.** A person does not have any right to a redundancy payment in respect of any employment which—

- (a) is employment in a public office within the meaning of section 39 of the Superannuation Act 1965 or section 39 of the Superannuation (Northern Ireland) Act 1967, or
- (b) is treated for the purposes of pensions and other superannuation benefits as service in the civil service of Northern Ireland or the civil service of the United Kingdom.

### **Overseas government employment**

**195.**—(1) A person does not have any right to a redundancy payment in respect of employment in any capacity under the Government of an overseas territory.

(2) The reference in paragraph (1) to the Government of an overseas territory includes a reference to—

- (a) a Government constituted for two or more overseas territories, and
- (b) any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more overseas territories.

(3) In this Article references to an overseas territory are to any territory or country outside the United Kingdom.

### **Domestic servants**

**196.**—(1) A person does not have any right to a redundancy payment in respect of employment as a domestic servant in a private household where the employer is the parent (or step-parent), grandparent, child (or step-child), grandchild or brother or sister (or half-brother or half-sister) of the employee.

(2) Subject to that, the provisions of this Part apply to an employee who is employed as a domestic servant in a private household as if—

- (a) the household were a business, and
- (b) the maintenance of the household were the carrying on of that business by the employer.