
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XV

MISCELLANEOUS

CHAPTER I

PARTICULAR TYPES OF EMPLOYMENT

Crown employment etc.

Crown employment

236.—(1) Subject to Articles 237 and 238, the provisions of this Order to which this Article applies have effect in relation to Crown employment and persons in Crown employment as they have effect in relation to other employment and other employees or workers.

(2) This Article applies to—

- (a) Parts I to IX,
- (b) in Part X, Articles 124 and 125,
- (c) Part XI, and
- (d) this Part and Part XVI.

(3) In this Order “Crown employment” means employment under or for the purposes of a government department or any officer or body exercising on behalf of the Crown functions conferred by a statutory provision.

(4) For the purposes of the application of provisions of this Order in relation to Crown employment in accordance with paragraph (1)—

- (a) references to an employee or a worker shall be construed as references to a person in Crown employment,
- (b) references to a contract of employment, or a worker’s contract, shall be construed as references to the terms of employment of a person in Crown employment,
- (c) references to dismissal, or to the termination of a worker’s contract, shall be construed as references to the termination of Crown employment,
- (d) references to redundancy shall be construed as references to the existence of such circumstances as are treated, in accordance with any arrangements falling within Article 212(3) or (4) for the time being in force, as equivalent to redundancy in relation to Crown employment, and
- (e) references to an undertaking shall be construed—
 - (i) in relation to a Minister of the Crown, as references to his functions or (as the context may require) to the department of which he is in charge, and

- (ii) in relation to a government department, officer or body, as references to the functions of the department, officer or body or (as the context may require) to the department, officer or body.

(5) Where the terms of employment of a person in Crown employment restrict his right to take part in—

- (a) certain political activities, or
- (b) activities which may conflict with his official functions,

nothing in Article 78 requires him to be allowed time off work for public duties connected with any such activities.

(6) Part II applies in relation to Crown employment otherwise than under a contract only where the terms of employment correspond to those of a contract of employment.

(7) Article 27, and the other provisions of Part II applying in relation to that Article, bind the Crown so far as they relate to the activities of an employment agency in relation to employment to which those provisions apply.

(8) Articles 194 and 195 are without prejudice to any exemption or immunity of the Crown.

Armed forces

237.—(1) Article 236—

- (a) applies to service as a member of the naval, military or air forces of the Crown but subject to the following provisions of this Article, and
- (b) applies to employment by an association established for the purposes of Part VI of the Reserve Forces Act 1980.

(2) The provisions of this Order which have effect by virtue of Article 236 in relation to service as a member of the naval, military or air forces of the Crown are—

- (a) Parts I and III,
- (b) in Part VII, Articles 83 to 85,
- (c) Parts VIII and IX,
- (d) in Part X, Articles 124 and 125,
- (e) Part XI, apart from Articles 132 to 134 and 136, and
- (f) this Part and Part XVI.

(3) The Department may by order—

- (a) amend paragraph (2) by making additions to, or omissions from, the provisions for the time being specified in that paragraph, and
- (b) make any provision for the time being so specified apply to service as a member of the naval, military or air forces of the Crown subject to such exceptions and modifications as may be specified in the order,

but no provision contained in Part IV may be added to the provisions for the time being specified in paragraph (2).

(4) Modifications made by an order under paragraph (3) may include provision precluding the making of a complaint or reference to any industrial tribunal unless the person aggrieved has availed himself of the service redress procedures applicable to him.

(5) Where modifications made by an order under paragraph (3) include provision such as is mentioned in paragraph (4), the order shall also include provision designed to secure that the service redress procedures result in a determination, or what is to be treated under the order as

a determination, in sufficient time to enable a complaint or reference to be made to an industrial tribunal.

(6) In paragraphs (4) and (5) “the service redress procedures” means the procedures, excluding those which relate to the making of a report on a complaint to Her Majesty, referred to in—

- (a) sections 180 and 181 of the Army Act 1955,
- (b) sections 180 and 181 of the Air Force Act 1955, and
- (c) section 130 of the Naval Discipline Act 1957.

(7) No provision shall be made by virtue of paragraph (4) which has the effect of substituting a period longer than six months for any period specified as the normal period for a complaint or reference.

(8) In paragraph (7) “the normal period for a complaint or reference”, in relation to any matter within the jurisdiction of an industrial tribunal, means the period specified in the relevant statutory provision as the period within which the complaint or reference must be made (disregarding any provision permitting an extension of that period at the discretion of the tribunal).

National security

238.—(1) The provisions of this Order to which this Article applies do not have effect in relation to any Crown employment in respect of which there is in force a certificate issued by or on behalf of the Secretary of State certifying that employment of a description specified in the certificate, or the employment of a particular person so specified, is (or, at a time specified in the certificate, was) required to be excepted from those provisions for the purpose of safeguarding national security.

(2) This Article applies to—

- (a) Part II,
- (b) Part III, so far as it relates to itemised pay statements,
- (c) Part V,
- (d) Chapter II of Part VI;
- (e) in Part VII, Articles 78 to 82 and 92 to 95;
- (f) in Part VIII, Articles 96 and 97, and Articles 101 and 102 so far as relating to those Articles,
- (g) in Part X, Articles 124 and 125, except where they apply by virtue of Article 124(4),
- (h) Part XI, except so far as relating to a dismissal which is treated as unfair—
 - (i) by Article 131(1) to (3), 132 or 134, or
 - (ii) by paragraph (1) of Article 137 by reason of the application of paragraph (2), (3) or (5) of that Article, and
- (i) Part I, this Part and Part XVI (so far as relating to any of the provisions specified in subparagraphs (a) to (h)).

(3) Any document purporting to be a certificate issued as mentioned in paragraph (1)—

- (a) shall be received in evidence, and
- (b) unless the contrary is proved, shall be deemed to be such a certificate.