
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XV

MISCELLANEOUS

CHAPTER I

PARTICULAR TYPES OF EMPLOYMENT

Excluded classes of employment

Employment outside Northern Ireland

239.—(1) Articles 33 to 39 and Articles 118 to 123 do not apply in relation to employment during any period when the employee is engaged in work wholly or mainly outside Northern Ireland unless—

- (a) the employee ordinarily works in Northern Ireland and the work outside Northern Ireland is for the same employer, or
- (b) the law which governs his contract of employment is the law of Northern Ireland.

(2) The provisions to which this paragraph applies do not apply to employment where under the employee's contract of employment he ordinarily works outside Northern Ireland.

(3) Paragraph (2) applies to—

- (a) Part II
- (b) in Part III, Articles 40 to 42,
- (c) Parts IV, V and VI,
- (d) Part VII, apart from Articles 86 to 88,
- (e) Parts VIII and IX,
- (f) in Part X, Articles 124 and 125,
- (g) (subject to paragraph (4)) Part XI, and
- (h) Part XIII.

(4) Part XI applies to employment where under her contract of employment the employee ordinarily works outside Northern Ireland if—

- (a) Article 116 applies to her dismissal, or
- (b) she is treated as dismissed by Article 128.

(5) For the purposes of paragraphs (2) and (4), a person employed to work on board a ship registered in the United Kingdom shall be regarded as a person who under his contract ordinarily works in Northern Ireland unless—

- (a) the ship is registered at a port outside Northern Ireland,

- (b) the employment is wholly outside Northern Ireland, or
- (c) the person is not ordinarily resident in Northern Ireland.
- (6) An employee—
 - (a) is not entitled to a redundancy payment if he is outside Northern Ireland on the relevant date unless under his contract of employment he ordinarily worked in Northern Ireland, and
 - (b) is not entitled to a redundancy payment if under his contract of employment he ordinarily works outside Northern Ireland unless on the relevant date he is in Northern Ireland in accordance with instructions given to him by his employer.
- (7) Part XIV does not apply to employment where, under the employee's contract of employment, he ordinarily works outside the territory of the member States of the European Communities and of Norway and Iceland.

Fixed-term contracts

240.—(1) Part XI does not apply to dismissal from employment under a contract for a fixed term of one year or more if—

- (a) the dismissal consists only of the expiry of that term without its being renewed, and
- (b) before the term expires the employee has agreed in writing to exclude any claim in respect of rights under that Part in relation to the contract.
- (2) An employee employed under a contract of employment for a fixed term of two years or more is not entitled to a redundancy payment in respect of the expiry of that term without its being renewed (whether by the employer or by an associated employer of his) if, before the term expires, the employee has agreed in writing to exclude any right to a redundancy payment in that event.
- (3) An agreement such as is mentioned in paragraph (1) or (2) may be contained—
 - (a) in the contract itself, or
 - (b) in a separate agreement.
- (4) Where—
 - (a) an agreement such as is mentioned in paragraph (2) is made during the currency of a fixed term, and
 - (b) the term is renewed,

the agreement shall not be construed as applying to the term as renewed; but this paragraph is without prejudice to the making of a further agreement in relation to the renewed term.

Short-term employment

241.—(1) Articles 33 to 39 do not apply to an employee if his employment continues for less than one month.

- (2) The provisions of Part XIII do not apply to employment—
 - (a) under a contract for a fixed term of three months or less, or
 - (b) under a contract made in contemplation of the performance of a specific task which is not expected to last for more than three months,
- where the employee has not been continuously employed for a period of more than three months.

Mariners

242.—(1) Articles 33 to 39, Part IV and Articles 118 to 123 do not apply to a person employed as a seaman in a ship registered in the United Kingdom under a crew agreement the provisions and form of which are of a kind approved by the Secretary of State.

(2) Part II, Articles 40 to 42, Part V, Part VI (other than Article 69), Part VII (other than Articles 86 to 88), Parts VIII and IX, Articles 124 and 125 and (subject to paragraph (3)) Parts XI to XIV do not apply to employment as master, or as a member of the crew, of a fishing vessel where the employee is remunerated only by a share in the profits or gross earnings of the vessel.

(3) Part XI applies to employment such as is mentioned in paragraph (2) if—

- (a) Article 116 applies to the employee's dismissal, or
- (b) she is treated as dismissed by Article 128,

and Part XII applies to employment such as is so mentioned if the employee is treated as dismissed by Article 172.

(4) Articles 40 to 42 and 78 to 82 and Part XIV do not apply to employment as a merchant seaman.

(5) In paragraph (4) “employment as a merchant seaman”—

- (a) does not include employment in the fishing industry or employment on board a ship otherwise than by the owner, manager or charterer of that ship except employment as a radio officer, but
- (b) subject to that, includes—
 - (i) employment as a master or a member of the crew of any ship,
 - (ii) employment as a trainee undergoing training for the sea service, and
 - (iii) employment in or about a ship in port by the owner, manager or charterer of the ship to do work of the kind ordinarily done by a merchant seaman on a ship while it is in port.

(6) Article 239(6) does not apply to an employee, and Article 240(3) does not apply to a contract of employment, if the employee is—

- (a) employed as a master or seaman in a British ship, and
- (b) ordinarily resident in Northern Ireland.

Police officers

243.—(1) Articles 40 to 42, Part V, Part VI (other than Article 69), Part VII (other than Articles 86 to 88), Parts VIII and IX, Articles 124 and 125, Part XI, Article 172 and Part XIII do not apply to employment under a contract of employment in police service or to persons engaged in such employment.

(2) Part II does not apply in relation to police service.

(3) In this Article “police service” means—

- (a) service as a member of the Royal Ulster Constabulary or Royal Ulster Constabulary Reserve;
- (b) subject to—
 - (i) section 126 of the Criminal Justice and Public Order Act 1994 (prison staff not to be regarded as in police service), and
 - (ii) Article 19 of the Airports (Northern Ireland) Order 1994 (airport constables not to be regarded as in police service),

service in any other capacity by virtue of which a person has the powers or privileges of a constable.