
STATUTORY RULES OF NORTHERN IRELAND

1998 No. 386

Working Time Regulations (Northern Ireland) 1998

Part V

Special Classes of Person

Agency workers not otherwise “workers”

35.—(1) This regulation applies in any case where an individual (“the agency worker”)—

- (a) is supplied by a person (“the agent”) to do work for another (“the principal”) under a contract or other arrangements made between the agent and the principal; but
- (b) is not, as respects that work, a worker, because of the absence of a worker’s contract between the individual and the agent or the principal; and
- (c) is not a party to a contract under which he undertakes to do the work for another party to the contract whose status is, by virtue of the contract, that of a client or customer of any profession or business undertaking carried on by the individual.

(2) In a case where this regulation applies, the other provisions of these Regulations shall have effect as if there were a worker’s contract for the doing of the work by the agency worker made between the agency worker and—

- (a) whichever of the agent and the principal is responsible for paying the agency worker in respect of the work; or
- (b) if neither the agent nor the principal is so responsible, whichever of them pays the agency worker in respect of the work,

and as if that person were the agency worker’s employer.

Crown employment

36.—(1) Subject to paragraph (4) and regulation 37, these Regulations have effect in relation to Crown employment and persons in Crown employment as they have effect in relation to other employment and other workers.

(2) In paragraph (1) “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.

(3) For the purposes of the application of the provisions of these Regulations in relation to Crown employment in accordance with paragraph (1)—

- (a) references to a worker shall be construed as references to a person in Crown employment; and
- (b) references to a worker’s contract shall be construed as references to the terms of employment of a person in Crown employment.

(4) No act or omission by the Crown which is an offence under regulation 29 shall make the Crown criminally liable, but the High Court may, on the application of a person appearing to the Court to have an interest, declare any such act or omission unlawful.

Armed forces

37.—(1) Regulation 36 applies—

- (a) subject to paragraph (2), to service as a member of the armed forces, and
- (b) to employment by an association established for the purposes of Part XI of the Reserve Forces Act 1996⁽¹⁾.

(2) No complaint concerning the service of any person as a member of the armed forces may be presented to an industrial tribunal under regulation 30 unless—

- (a) that person has made a complaint in respect of the same matter to an officer under the service redress procedures, and
- (b) that complaint has not been withdrawn.

(3) For the purposes of paragraph (2)(b), a person shall be treated as having withdrawn his complaint if, having made a complaint to an officer under the service redress procedures, he fails to submit the complaint to the Defence Council under those procedures.

(4) Where a complaint of the kind referred to in paragraph (2) is presented to an industrial tribunal, the service redress procedures may continue after the complaint is presented.

(5) In this regulation, “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 section 180 of the Army Act 1955⁽²⁾, section 180 of the Air Force Act 1955⁽³⁾ and section 130 of the Naval Discipline Act 1957⁽⁴⁾⁽⁵⁾.

Police service

38.—(1) For the purposes of these Regulations, the holding, otherwise than under a contract of employment, of the office of constable shall be treated as employment, under a worker’s contract, by the relevant officer.

(2) Any matter relating to the employment of a worker which may be provided for for the purposes of these Regulations in a workforce agreement may be provided for for the same purposes in relation to the service of a person holding the office of constable by an agreement between the relevant officer and the central committee.

(3) In this regulation—

“the central committee” means the committee constituted in accordance with regulation 14 of the Police Association for Northern Ireland Regulations 1991⁽⁶⁾; and

“the relevant officer” means—

- (a) in relation to a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve, the chief constable;

(1) 1996 c. 14

(2) 1955 c. 18

(3) 1955 c. 19

(4) 1957 c. 53

(5) Each of the sections referred to in paragraph (5) was substituted by section 20 of the Armed Forces Act 1996 (c. 46)

(6) S.R. 1991 No. 168

- (b) in relation to a person holding office under section 9(1)(b) of the Police Act 1997(7) (police members of the National Criminal Intelligence Service), the Director General of the National Criminal Intelligence Service; and
- (c) in relation to any other person holding the office of constable, the person who has the direction and control of the body of constables in question.

Non-employed trainees

39. For the purposes of these Regulations, a person receiving relevant training, otherwise than under a contract of employment, shall be regarded as a worker, and the person whose undertaking is providing the training shall be regarded as his employer.

Agricultural workers

40. The provisions of Schedule 2 have effect in relation to workers employed in agriculture.