
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 177

The Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006

Dismissal of employee because of service provision change

7.—(1) Where either before or after a service provision change, any employee of the transferor or transferee is dismissed, that employee shall be treated for the purposes of Part XI of the 1996 Order (unfair dismissal) as unfairly dismissed if the sole or principal reason for his dismissal is—

- (a) the transfer itself; or
- (b) a reason connected with the transfer that is not an economic, technical or organisational reason entailing changes in the workforce.

(2) This paragraph applies where the sole or principal reason for the dismissal is a reason connected with the transfer that is an economic, technical or organisational reason entailing changes in the workforce of either the transferor or the transferee before or after a service provision change.

(3) Where paragraph (2) applies—

- (a) paragraph (1) shall not apply;
- (b) without prejudice to the application of Article 130(4) of the 1996 Order (test of fair dismissal), the dismissal shall, for the purposes of Articles 130(1) and 170 of that Order (reason for dismissal), be regarded as having been for redundancy where Article 130(2) (c) of that Order applies, or otherwise for a substantial reason of a kind such as to justify the dismissal of an employee holding the position which that employee held.

(4) The provisions of this regulation apply irrespective of whether the employee in question is assigned to the organised grouping of resources or employees that is, or will be, transferred.

(5) Paragraph (1) shall not apply in relation to the dismissal of any employee which was required by reason of the application of section 5 of the Aliens Restriction (Amendment) Act 1919⁽¹⁾ to his employment.

(6) Paragraph (1) shall not apply in relation to a dismissal of an employee if the application of Article 126 of the 1996 Order to the dismissal of the employee is excluded by or under any provision of that Order, the 1996 Tribunals Order or the Trade Union and Labour Relations (Consolidation) Act 1992⁽²⁾ insofar as it extends to Northern Ireland, the 1992 Order or the Trade Union and Labour Relations (Northern Ireland) Order 1995⁽³⁾.

(1) 1919 c. 92; section 5 was amended by the Former Enemy Aliens (Disabilities Removal) Act 1925 section 1 and Schedule 2, the Merchant Shipping Act 1970 section 100(3) and Schedule 5 and the Merchant Shipping Act 1995 section 314 and Schedule 12.

(2) 1992 c. 52

(3) S.I. 1995/1980 (N.I. 12)