



Employment Protection (Consolidation) Act 1978

1978 CHAPTER 44

PART IX

MISCELLANEOUS AND SUPPLEMENTAL

Excluded classes of employment

141 Employment outside Great Britain

- (1) Sections 1 to 4 and 49 to 51 do not apply in relation to employment during any period when the employee is engaged in work wholly or mainly outside Great Britain unless the employee ordinarily works in Great Britain and the work outside Great Britain is for the same employer.
- (2) Sections 8 and 53 and Parts II, III, V and VII do not apply to employment where under his contract of employment the employee ordinarily works outside Great Britain.
- (3) An employee shall not be entitled to a redundancy payment if on the relevant date he is outside Great Britain, unless under his contract of employment he ordinarily worked in Great Britain.
- (4) An employee who under his contract of employment ordinarily works outside Great Britain shall not be entitled to a redundancy payment unless on the relevant date he is in Great Britain in accordance with instructions given to him by his employer.
- (5) For the purpose of subsection (2), a person employed to work on board a ship registered in the United Kingdom (not being a ship registered at a port outside Great Britain) shall, unless—
 - (a) the employment is wholly outside Great Britain, or
 - (b) he is not ordinarily resident in Great Britain,be regarded as a person who under his contract ordinarily works in Great Britain.

142 Contracts for a fixed term

- (1) Section 54 does not apply to dismissal from employment under a contract for a fixed term of two years or more, where the dismissal consists only of the expiry of that term without its being renewed, if before the term so expires the employee has agreed in writing to exclude any claim in respect of rights under that section in relation to that contract.
- (2) An employee employed under a contract of employment for a fixed term of two years or more entered into after 5th December 1965 shall not be 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 so expires he has agreed in writing to exclude any right to a redundancy payment in that event.
- (3) Such an agreement as is mentioned in subsection (1) or (2) may be contained either in the contract itself or in a separate agreement.
- (4) Where an agreement under subsection (2) is made during the currency of a fixed term, and that term is renewed, the agreement under that subsection shall not be construed as applying to the term as renewed, but without prejudice to the making of a further agreement under that subsection in relation to the term so renewed.

143 Minimum periods of employment

- (1) An employee shall not be entitled to a guarantee payment in respect of any day unless he has been continuously employed for a period of four weeks ending with the last complete week before that day.
- (2) An employee shall not be entitled to remuneration under section 19 unless he has been continuously employed for a period of four weeks ending with the last complete week before the day on which the suspension begins.
- (3) Subject to subsection (4)—
 - (a) sections 12 and 19 do not apply to employment under a contract for a fixed term of twelve weeks or less; and
 - (b) sections 12, 19 and 49 do not apply to employment under a contract made in contemplation of the performance of a specific task which is not expected to last for more than twelve weeks.
- (4) Subsection (3) does not apply where the employee has been continuously employed for a period of more than twelve weeks.

144 Mariners

- (1) Sections 1 to 6 and 49 to 51 do not apply to—
 - (a) a person employed as a master of or a seaman on a sea-going British ship having a gross registered tonnage of eighty tons or more, including a person ordinarily employed as a seaman who is employed in or about such a ship in port by the owner or charterer of the ship to do work of a kind ordinarily done by a seaman on such a ship while it is in port, or
 - (b) a person employed as a skipper of or a seaman on a fishing boat for the time being required to be registered under section 373 of the Merchant Shipping Act 1894.

Status: This is the original version (as it was originally enacted).

- (2) Sections 8 and 53 and Parts II, III and V to VII 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) Section 141(3) and (4) do not apply to an employee, and section 142(2) does not apply to a contract of employment, if the employee is employed as a master or seaman in a British ship and is ordinarily resident in Great Britain.
- (4) Sections 8, 29, 31, 122 and 123 do not apply to employment as a merchant seaman.
- (5) Employment as a merchant seaman 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, save as aforesaid, it includes employment as master or a member of the crew of any ship and as a trainee undergoing training for the sea service, and 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

145 Dock workers

- (1) Sections 1 to 6 and 49 to 51 do not apply to any registered dock worker except when engaged in work which is not dock work.
- (2) Sections 12, 19, 31, 53, 54, 122 and 123 do not apply to employment as a registered dock worker other than employment by virtue of which the employee is wholly or mainly engaged in work which is not dock work.
- (3) Subject to subsection (4), section 81 does not apply to any person in respect of his employment as a registered dock worker, unless it is employment by virtue of which he is wholly or mainly engaged in work which is not dock work.
- (4) Subsection (3) does not apply where—
 - (a) the person became a registered dock worker in consequence of having been employed »on work which became classified;
 - (b) at the date of the termination of his employment he has been continuously employed since a time before that work was classified ; and
 - (c) as a result of the termination he ceases to be a registered dock worker,and, for the purposes of this subsection, Schedule 13 shall have effect subject to the provisions of the new Scheme.
- (5) In this section—

" classified " means classified as dock work for the purposes of the new Scheme by an order under section 11 of the Dock Work Regulation Act 1976 ;

" dock work ", in relation to a dock worker registered under the 1967 Scheme, means the same as in that Scheme and in relation to one registered under the new Scheme means any work which, by reference to what it is or where it is done, is classified ;

" registered " means registered under the 1967 Scheme or under the new Scheme, and in relation to a worker who is registered under the new Scheme, means registered in a main register thereunder, and not in an extension register;

Status: This is the original version (as it was originally enacted).

" the 1967 Scheme " means the Scheme made under the Dock Workers (Regulation of Employment) Act 1946 and set out, as varied, in Schedule 2 to the Dock Workers (Regulation of Employment) (Amendment) Order 1967;

" the new Scheme " means the Scheme made and in force under section 4 of the Dock Work Regulation Act 1976.

146 Miscellaneous classes of employment

- (1) The following provisions of this Act do not apply to employment where the employer is the husband or wife of the employee, that is to say, sections 1, 4, 8, 53, 122 and 123 and Parts II, III, V and VI.
- (2) Parts II, III, V and VII and sections 8, 9, 53 and 86 do not apply to employment under a contract of employment in police service or to persons engaged in such employment.
- (3) In subsection (2), " police service " means service—
 - (a) as a member of any constabulary maintained by virtue of any enactment, or
 - (b) in any other capacity by virtue of which a person has the powers or privileges of a constable.
- (4) Subject to subsections (5), (6) and (7), the following provisions of this Act (which confer rights which do not depend upon an employee having a qualifying period of continuous employment) do not apply to employment under a contract which normally involves employment for less than sixteen hours weekly, that is to say, sections 8, 27, 28 and 29.
- (5) If the employee's relations with his employer cease to be governed by a contract which normally involves work for sixteen hours or more weekly and become governed by a contract which normally involves employment for eight hours or more, but less than sixteen hours, weekly, the employee shall nevertheless for a period of twenty-six weeks, computed in accordance with subsection (6), be treated for the purposes of subsection (4) as if his contract normally involved employment for sixteen hours or more weekly.
- (6) In computing the said period of twenty-six weeks no account shall be taken of any week—
 - (a) during which the employee is in fact employed for sixteen hours or more;
 - (b) during which the employee takes part in a strike (as defined by paragraph 24 of Schedule 13) or is absent from work because of a lock-out (as so defined) by his employer; or
 - (c) during which there is no contract of employment but which, by virtue of paragraph 9(1) of Schedule 13, counts in computing a period of continuous employment.
- (7) An employee whose relations with his employer are governed by a contract of employment which normally involves employment for eight hours or more, but less than sixteen hours, weekly shall nevertheless, if he has been continuously employed for a period of five years or more be treated for the purposes of subsection (4) as if his contract normally involved employment for sixteen hours or more weekly.

147 Application of ss. 1 to 4 to excluded employment

Sections 1 to 4 shall apply to an employee who at any time comes or ceases to come within the exceptions from those sections provided for by or under sections 3(1), 143 to 146 and 149 as if a period of employment terminated or began at that time.