Employment Rights Act 1996

1996 CHAPTER 18

PART XIII

MISCELLANEOUS

CHAPTER I

PARTICULAR TYPES OF EMPLOYMENT

Excluded classes of employment

199 Mariners.

(1) Sections 1 to 7, [F1Parts 2 and 2B] and sections 86 to 91 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 [F2or an agreement specified in regulations under section 32(a) of the Merchant Shipping Act 1995].

(2) Sections 8 to 10, Part III, sections 44, 45, 47, [F3]47C, [F4[F5]47E], [F6]47F,]][F7]Part 5B, sections] 50 to 57B] and 61 to 63, [F8]Parts [F9]6A to 8B]], sections 92 and 93 and F10. . . [F11]Part X] 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.

F12(3) . . . . . .

(4) Sections 8 to 10 and 50 to 54 F13... do not apply to employment as a merchant seaman.

(5) In subsection (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—

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(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) [F14]. . . . . .

[[F15](7) The provisions mentioned in subsection (8) apply to employment on board a ship registered in the register maintained under section 8 of the Merchant Shipping Act 1995 if and only if—

(a) the ship's entry in the register specifies a port in Great Britain as the port to which the vessel is to be treated as belonging,

(b) under his contract of employment the person employed does not work wholly outside Great Britain, and

(c) the person employed is ordinarily resident in Great Britain.

[F15](8) The provisions are—

(a) sections 8 to 10,

(b) Parts II, **[**[F16]2B,**]**III and V,

[F17](ba) **[** Part 5B,**]**

(c) Part VI, apart from sections 58 to 60,

[F18](d) **[** Parts **[**[F19]6A to 8B**]**,**]**

(e) sections 92 and 93, and

(f) Part X.**]**

Textual Amendments

F1 Words in s. 199(1) substituted (31.7.2023 for specified purposes) by Employment (Allocation of Tips) Act 2023 (c. 13), **ss. 12(2)(c)(i)**, 14(2); S.I. 2023/876, reg. 3(c)

F2 Words in s. 199(1) inserted (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Consequential and Minor Amendments) Regulations 2014 (S.I. 2014/1614), regs. 1, **3**

F3 Words in s. 199(2) substituted (15.12.1999) by 1999 c. 26, s. 9, **Sch. 4 Pt. III para. 34(a)**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with Sch. 3 paras. 8, 10, 11)

F4 Word in s. 199(2) inserted (6.4.2003) by Employment Act 2002 (c. 22), s. 53, **Sch. 7 para. 44(2)(a)**; S.I. 2002/2866, **art. 2(3)**, Sch. 1 Pt. 3

F5 Word in s. 199(2) substituted (6.4.2005) by Employment Relations Act 2004 (c. 24), **ss. 41(8)**, 59(2)-(4); S.I. 2005/872, **arts. 4**, 5, Sch. (subject to arts. 6-12)

F6 Words in s. 199(2) inserted (6.4.2010 for certain purposes and otherwise prosp.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 40, 269(4), **Sch. 1 para. 7(a)**; S.I. 2010/303, **art. 4**, Sch. 3 (with arts. 8-14) (as amended by S.I. 2010/1151, art. 22)

F7 Words in s. 199(2) inserted (24.7.2023) by Protection from Redundancy (Pregnancy and Family Leave) Act 2023 (c. 17), **ss. 1(7)(a)**, 3(2)

F8 Words in s. 199(2) substituted (6.4.2003) by Employment Act 2002 (c. 22), s. 53, **Sch. 7 para. 44(2)(b)**; S.I. 2002/2866, **art. 2(3)**, Sch. 1 Pt. 3

F9 Words in s. 199(2) substituted (4.12.2023) by Carer's Leave Act 2023 (c. 18), s. 3(3), **Sch. para. 13(a)**; S.I. 2023/1283, reg. 2

F10 Words in s. 199(2) repealed (15.12.1999) by 1999 c. 26, ss. 9, 44, Sch. 4 Pt. III para. 34(b), **Sch. 9(2)**; S.I. 1999/2830, art. 2(2)(3), Sch. 1 Pt. II, **Sch. 2 Pt. II** (with Sch. 3 paras. 8, 10, 11)

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F11 Words in s. 199(2) substituted (13.4.2018) by The Seafarers (Insolvency, Collective Redundancies and Information and Consultation Miscellaneous Amendments) Regulations 2018 (S.I. 2018/407), regs. 1(1), **2(2)** (with reg. 2(4)(5))

F12 S. 199(3) repealed (15.12.1999) by 1999 c. 26, ss. 9, 44, Sch. 4 Pt. III para. 34(c), **Sch. 9(2)**; S.I. 1999/2830, art. 2(1)-(3), Sch. 1 Pt. II, **Sch. 2 Pt. II** (with transitional provisions in Sch. 3 paras. 8, 10, 11)

F13 Words in s. 199(4) omitted (13.4.2018) by virtue of The Seafarers (Insolvency, Collective Redundancies and Information and Consultation Miscellaneous Amendments) Regulations 2018 (S.I. 2018/407), regs. 1(1), **2(3)**

F14 S. 199(6) omitted (1.10.2002) by virtue of The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 (S.I. 2002/2034), reg. 11, **Sch. 2 Pt. 1 para. 3(16)** (with regs. 13-20 and subject to transitional provisions in Sch. 2 Pt. 2)

F15 S. 199(7)(8) inserted (25.10.1999) by 1999 c. 26, **s. 32(4)**; S.I. 1999/2830, art. 2(1)(2), **Sch. 1 Pt. I** (with transitional provisions in Sch. 3 para. 7(2))

F16 Word in s. 199(8)(b) inserted (31.7.2023 for specified purposes) by Employment (Allocation of Tips) Act 2023 (c. 13), **ss. 12(2)(c)(ii)**, 14(2); S.I. 2023/876, reg. 3(c)

F17 S. 199(8)(ba) inserted (24.7.2023) by Protection from Redundancy (Pregnancy and Family Leave) Act 2023 (c. 17), **ss. 1(7)(b)**, 3(2)

F18 S. 199(8)(d) substituted (6.4.2003) by Employment Act 2002 (c. 22), s. 53, **Sch. 7 para. 44(3)**; S.I. 2002/2866, **art. 2(3)**, Sch. 1 Pt. 3

F19 Words in s. 199(8)(d) substituted (4.12.2023) by Carer's Leave Act 2023 (c. 18), s. 3(3), **Sch. para. 13(b)**; S.I. 2023/1283, reg. 2

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Changes and effects yet to be applied to :

- s. 199(2) word inserted by 2023 c. 46 Sch. para. 15

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 8 Ch. 5 inserted by 2023 c. 20 Sch. para. 2
- Pt. 8A Ch. 1 heading inserted by 2023 c. 46 s. 1(3)
- Pt. 8A Ch. 2 inserted by 2023 c. 46 s. 1(4)
- Pt. 8A Ch. 3 inserted by 2023 c. 46 s. 2
- Pt. 8A Ch. 4 inserted by 2023 c. 46 s. 3(2)
- s. 43K(1)(ca) and word omitted by 2013 c. 24 s. 20(5) (This amendment not applied to legislation.gov.uk. The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 43K(2)(ba) omitted by 2013 c. 24 s. 20(6) (This amendment not applied to legislation.gov.uk. The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 47C(2)(cc) inserted by 2023 c. 20 Sch. para. 22
- s. 47H inserted by 2020 c. 7 Sch. 7 para. 9
- s. 47AA inserted by 2008 c. 25 s. 37
- s. 47EA inserted by 2023 c. 46 Sch. para. 4
- s. 47EB inserted by 2023 c. 46 Sch. para. 5
- s. 48(1C) inserted by 2020 c. 7 Sch. 7 para. 10(a)
- s. 48(1C) inserted by 2023 c. 46 Sch. para. 6(2)
- s. 48(1D) inserted by 2023 c. 46 Sch. para. 6(3)
- s. 49(8) inserted by 2020 c. 7 Sch. 7 para. 11(b)
- s. 49(8) inserted by 2023 c. 46 Sch. para. 7(4)
- s. 49C inserted by 2017 c. 16 s. 32(4)
- s. 75I(3)(g) and word inserted by 2023 c. 20 Sch. para. 23(b)
- s. 80C(2)(bc) inserted by 2023 c. 20 Sch. para. 24(2)
- s. 80C(4)(bc) inserted by 2023 c. 20 Sch. para. 24(3)
- s. 80EB(2)(f) and word inserted by 2023 c. 20 Sch. para. 25(b)
- s. 99(3)(cc) inserted by 2023 c. 20 Sch. para. 28
- s. 101B inserted by 2008 c. 25 s. 38
- s. 104H inserted by 2020 c. 7 Sch. 7 para. 14
- s. 104CA inserted by 2023 c. 46 Sch. para. 9
- s. 105(4B) inserted by 2008 c. 25 s. 39(3)
- s. 105(7BC) inserted by 2020 c. 7 Sch. 7 para. 15
- s. 105(7BAA) inserted by 2023 c. 46 Sch. para. 10
- s. 108(3)(gia) inserted by 2023 c. 46 Sch. para. 11
- s. 108(3)(de) inserted by 2008 c. 25 s. 39(4)
- s. 108(3)(gn) inserted by 2020 c. 7 Sch. 7 para. 16
- s. 110(3A) inserted by 2002 c. 22 s. 44
- s. 205A(2)(ba) inserted by 2023 c. 46 Sch. para. 16(2)
- s. 205A(8A) inserted by 2023 c. 46 Sch. para. 16(3)
- s. 225(7)(8) inserted by 2023 c. 46 Sch. para. 17

– s. 227(1)(zb)(zc) inserted by 2023 c. 46 Sch. para. 18