

## 1976 No. 766

## TERMS AND CONDITIONS OF EMPLOYMENT

## The Employment Protection (Offshore Employment) Order 1976

*Made* - - - - 19th May 1976

*Laid before Parliament* 26th May 1976

*Coming into Operation* 21st June 1976

At the Court at Buckingham Palace, the 19th day of May 1976

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 123(3) and 127 of the Employment Protection Act 1975(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*Citation, commencement and interpretation*

1.—(1) This Order may be cited as the Employment Protection (Offshore Employment) Order 1976 and shall come into operation on 21st June 1976.

(2) In this Order unless the context otherwise requires—

“applied provisions” means the provisions applied by Article 3 of, and the Schedule to, this Order as they are applied by that Article and that Schedule;

“designated area” means any area designated by order under section 1(7) of the Continental Shelf Act 1964(b);

“dredging” does not include the excavation of the sea bed or its subsoil in the course of pipe laying;

“industrial tribunals (England and Wales)” means the industrial tribunals (England and Wales) established in pursuance of the Industrial Tribunals (England and Wales) Regulations 1965(c) as amended(d);

“industrial tribunals (Scotland)” means the industrial tribunals (Scotland) established in pursuance of the Industrial Tribunals (Scotland) Regulations 1965(e) as amended(f);

“ship” includes vessel;

“structure” includes ship (whether registered in the United Kingdom or elsewhere);

“the territorial waters” means the territorial waters of the United Kingdom other than the territorial waters adjacent to Northern Ireland.

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(a) 1975 c. 71. (b) 1964 c. 29. (c) S.I. 1965/1101 (1965 II, p. 2805).

(d) The relevant amending instruments are S.I. 1967/301, 1971/1660 (1967 I, p. 1040; 1971 III, p. 4559).

(e) S.I. 1965/1157 (1965 II, p. 3266).

(f) The relevant amending instruments are S.I. 1967/302, 1971/1661 (1967 I, p. 1050; 1971 III, p. 4561).

(3) (a) For the purposes of this Order, subject to (b), (c) and (d) below, an offshore installation is any structure (whether fixed or otherwise) which is for use offshore for purposes connected with the exploration of the sea bed or its subsoil or the exploitation of their natural resources.

(b) A structure may be treated as being for use for the purposes described in (a) above notwithstanding that it is not in operation or that it is undergoing construction, modification, maintenance, repair, demolition or any similar works.

(c) A structure which is a ship (whether registered in the United Kingdom or elsewhere) shall (notwithstanding that it is for use as described in (a) above) not be treated as an offshore installation if it is—

(i) in the course of navigation or engaged in dredging, other than navigation or dredging which is wholly or mainly attributable to activities for the purposes described in (a) above in which it is for the time being actually engaged;

(ii) a survey ship.

(d) The purposes described in (a) above do not include fishing.

(4) The expressions “the English area” and “the Scottish area” in Article 6 of this Order have the same meanings respectively as in the Continental Shelf (Jurisdiction) Order 1968(a) as amended(b); and references in Article 2(1)(b) of, and the Schedule to, this Order to an area or part of an area in which the law of Northern Ireland applies are references to the Northern Irish area as defined in Article 1(3) of the 1968 Order.

(5) References in this Order to enactments are references to those enactments as amended or extended by or under any other enactment, including the Employment Protection Act 1975 and the Trade Union and Labour Relations (Amendment) Act 1976(c).

(6) The Interpretation Act 1889(d) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

#### *Application of Order*

2.—(1) Subject to paragraph (2) below, this Order applies to employment for the purposes of any of the following activities that is to say—

(a) any activities (other than activities connected with a ship which is in the course of navigation or is a survey ship or is engaged in dredging or fishing) in the territorial waters;

(b) any activities connected with the exploration of the sea bed or subsoil or the exploitation of their natural resources in any designated area (other than an area or part of an area in which the law of Northern Ireland applies) being activities carried out on or from an offshore installation in any such designated area.

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(a) S.I. 1968/892 (1968 II, p. 2373).

(b) The relevant amending instruments are S.I. 1971/721, 1974/1490 (1971 II, p. 1968; 1974 III, p. 5716).

(c) 1976 c. 7.

(d) 1889 c. 63.

(2) This Order does not apply to any employment wholly or mainly for the purpose of any activities connected with the Frigg Field Reservoir or the Ekofisk Field.

*Application of enactments*

3. The provisions of the following Acts that is to say—

- (a) the Wages Councils Act 1959 (a);
- (b) the Industrial Training Act 1964(b);
- (c) the Redundancy Payments Act 1965(c);
- (d) the Contracts of Employment Act 1972(d);
- (e) the Trade Union and Labour Relations Act 1974(e); and
- (f) The Employment Protection Act 1975,

shall, to the extent and for the purposes (and subject to the modifications) specified in the Schedule hereto, apply to or, as the case requires, in relation to persons in employment to which this Order applies.

*Application to foreign individuals and bodies corporate*

4. This Order shall apply to individuals whether or not they are British subjects, and to bodies corporate whether or not they are incorporated under the law of any part of the United Kingdom notwithstanding that such application may affect their activities outside the United Kingdom.

*Offences*

5.—(1) Offences under the applied provision (offences connected with employment to which this Order applies) are excluded from the operation of section 3 of the Territorial Waters Jurisdiction Act 1878(f) (consents required for prosecutions).

(2) Proceedings for any offence under the applied provisions (including cases where but for (1) above section 3 of the 1878 Act would apply) shall not be brought in England and Wales except by or with the consent of the Secretary of State.

*Jurisdiction of industrial tribunals*

6.—(1) The industrial tribunals (England and Wales) shall have such jurisdiction in respect of matters arising in connection with employment to which this Order applies from acts or omissions taking place in the English area as they would have if those acts or omissions had taken place in England or Wales.

(2) The industrial tribunals (Scotland) shall have such jurisdiction in respect of matters arising in connection with employment to which this Order applies from acts or omissions taking place in the Scottish area as they would have if those acts or omissions had taken place in Scotland.

*Transitional provisions and savings about handling redundancies*

7.—(1) Sections 99 and 100 of the Employment Protection Act 1975 shall not by virtue of this Order apply to any dismissal which, pursuant to a qualifying notice given before the date on which this Order comes into operation, is to take effect before the expiry of the period of 90 days beginning with that date.

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(a) 1959 c. 69.  
(d) 1972 c. 53.

(b) 1964 c. 16.  
(e) 1974 c. 52.

(c) 1965 c. 62.  
(f) 1878 c. 73.

(2) In determining for the purposes of section 99(3) or 100(1) as applied whether an employer is proposing to dismiss as redundant 100 or more, or as the case may be, 10 or more employees, no account shall be taken of employees whose proposed dismissals, pursuant to a qualifying notice given before the date on which this Order comes into operation, are to take effect before the expiry of the period of 90 days beginning with that date.

(3) For the purposes of paragraphs (1) and (2) above a qualifying notice is a notice complying with the requirements of section 1(1) of the Contracts of Employment Act 1972 (rights of employee to minimum period of notice) and the relevant terms of the contract of employment.

(4) Section 99(3) shall not by virtue of this Order apply to any dismissal which is to take effect on or after the date on which this Order comes into operation where consultation with trade union representatives began before that date.

(5) For the purposes of paragraph (4) above consultation shall not be taken to have begun unless the employer has disclosed in writing to the relevant trade union representatives the matters specified in paragraphs (a), (b) and (c) of section 99(5).

(6) In a case falling within paragraph (4) above section 100(1) as applied shall have effect as if the words "at least 90 days" and "at least 60 days" in paragraphs (i) and (ii) respectively were omitted.

*N. E. Leigh*

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*Article 3*

SCHEDULE  
APPLIED PROVISIONS

PART I

THE WAGES COUNCILS ACT 1959  
(*"the 1959 Act"*)

1. The whole of the 1959 Act shall apply for such purposes as are relevant to or in relation to persons in employment to which this Order applies.

PART II

THE INDUSTRIAL TRAINING ACT 1964  
(*"the 1964 Act"*)

2. Subject to 3 below, the whole of the 1964 Act shall apply for such purposes as are relevant to or in relation to persons in employment to which this Order applies.

3. The application of the 1964 Act is subject to the modification that references in section 14 to Great Britain shall be treated as including the territorial waters and the waters in any designated area (other than an area or part of an area in which the law of Northern Ireland applies).

PART III

THE REDUNDANCY PAYMENTS ACT 1965  
(*"the 1965 Act"*)

4. Subject to 5, 6 and 7 below, the provisions of the 1965 Act shall apply for such purposes as are relevant to or in relation to persons in employment to which this Order applies.

5. Sections 20 and 57 are not applied.

6. The application of the provisions of the 1965 Act is subject to the following modifications:—

- (a) section 15 shall have effect as if—
  - (i) for the words in subsection (1) “before the appointed day whether before or after the passing of this Act” there were substituted the words “before 21st June 1976”;
  - (ii) subsection (5) were omitted;
- (b) the references in section 17(1) and (2) to Great Britain shall be treated as including the territorial waters and the waters in any designated area (other than an area or part of an area in which the law of Northern Ireland applies).

7. The application by this Order of the provisions of the 1965 Act shall not affect the exclusion of any merchant seaman from that Act by the Redundancy Payments (Merchant Seamen Exclusion) Order 1973(a) or the disregarding pursuant to Article 4 of that Order of any period of employment.

#### PART IV

##### THE CONTRACTS OF EMPLOYMENT ACT 1972

(“the 1972 Act”)

8. Subject to 9 below, the whole of the 1972 Act shall apply for such purposes as are relevant to or in relation to persons in employment to which this Order applies.

9. The application of the 1972 Act is subject to the following modifications:—

- (a) section 9(2)(a) shall have effect as if the word “British” were omitted;
- (b) the references in section 12(1) and paragraph 1(2) of Schedule 1 to Great Britain shall be treated as including the territorial waters and the waters in any designated area (other than an area or part of an area in which the law of Northern Ireland applies).

#### PART V

##### THE TRADE UNION AND LABOUR RELATIONS ACT 1974

(“the 1974 Act”)

10. Subject to 11 and 12 below, the provisions of the 1974 Act shall apply for such purposes as are relevant to or in relation to persons in employment to which this Order applies.

11. Sections 1(1) and (3), 19, 21, 22, 23, 24, 25(2) and 31(5), paragraph 27 of Schedule 1 and Schedule 4 are not applied.

12. The application of the 1974 Act is subject to the modifications that Part II of Schedule 1 shall have effect as if—

- (a) the reference in paragraph 9(2) to Great Britain included the territorial waters and the waters in any designated area (other than an area or part of an area in which the law of Northern Ireland applies);
- (b) paragraph 9(3) were omitted;
- (c) in paragraph 12(a) for the words “before 28th February 1972” there were substituted the words “before the 21st June 1976”.

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(a) S.I. 1973/1281 (1973 II, p. 3887).

PART VI  
THE EMPLOYMENT PROTECTION ACT 1975  
(“the 1975 Act”)

13. Subject to 14 and 15 below, the provisions of the 1975 Act in force on the date on which this Order comes into operation shall apply for such purposes as are relevant to or in relation to persons in employment to which this Order applies. (The provisions of the 1975 Act not in force on the date on which this Order comes into operation are set out in the Appendix below.)

14. Sections 97, 114, 115, 116 and 122 and Schedules 9, 10, 13, 14 and 15 are not applied.

15. The application of the provisions of the 1975 Act is subject to the modifications that section 119 shall have effect as if—

- (a) the reference in subsection (5) to Great Britain included the territorial waters and the waters in any designated area (other than an area or part of an area in which the law of Northern Ireland applies);
- (b) subsections (6), (12), (13) and (14) were omitted.

APPENDIX

*The provisions of the 1975 Act not in force on the date on which the Order comes into operation*

- (a) sections 17–21 (disclosure of information);
- (b) sections 22–28 (rights of employees—guarantee payments);
- (c) section 35(1)(a) (rights of employees in connection with pregnancy and confinement);
- (d) sections 36–47 except section 42(4) (maternity);
- (e) sections 57–60 (time off work);
- (f) section 62 in so far as it relates to sections 57–60;
- (g) section 63(2)(a) and (c) in so far as (c) relates to section 57(4) (guarantee payment and payment for time off);
- (h) sections 81–84 (itemised pay statement);
- (i) section 98 (extension of terms and conditions);
- (j) section 111 (disentitlement to unemployment benefit and supplementary benefit during trade dispute);
- (k) section 124(2)(a) and (3) (financial provisions relating to Maternity Pay Fund);
- (l) section 125(1) in so far as it relates to paragraph 6 of Part I, paragraphs 7, 8, 11, 13 and 14 of Part II, and paragraphs 14(1)(a) and 15 of Part III, of Schedule 16;
- (m) section 125(2) in so far as it relates to paragraph 13 of Schedule 17 (terms and conditions);
- (n) section 125(3) in so far as it relates to the Terms and Conditions of Employment Act 1959(a), the Payment of Wages Act 1960(b), the Supplementary Benefit Act 1966(c), paragraph 9(1)(a) of Part I of Schedule 1 to the Trade Union and Labour Relations Act 1974, the Social Security Act 1975(d) and the Social Security (Consequential Provisions) Act 1975(e);
- (o) section 126 in so far as it relates to the definition of “maternity pay” and “guarantee payment”;

(a) 1959 c. 26.  
(d) 1975 c. 14.

(b) 1960 c. 37.  
(e) 1975 c. 18.

(c) 1966 c. 20.

- (p) Schedule 11 (extension of terms and conditions etc.);
  - (q) paragraph 6 of Part I, paragraphs 7, 8, 11, 13 and 14 of Part II, and paragraphs 14(1)(a) and 15 of Part III, of Schedule 16;
  - (r) paragraph 13 of Schedule 17; and
  - (s) Schedule 18, to the extent mentioned above in relation to section 125(3).
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#### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order, which comes into operation on 21st June 1976, applies (with appropriate exceptions and modifications) the provisions of the Wages Councils Act 1959, the Industrial Training Act 1964, the Redundancy Payments Act 1965, the Contracts of Employment Act 1972, the Trade Union and Labour Relations Acts 1974 and 1976 together with such provisions of the Employment Protection Act 1975 as are in force on the date on which the Order comes into operation, to or in relation to persons in certain employments in British territorial waters and designated areas of the Continental Shelf; the Order does not extend to areas adjacent to Northern Ireland.

Article 7 of the Order contains transitional provisions relating to sections 99 and 100 of the Employment Protection Act 1975 (handling of redundancies) as those sections are applied by the Order.

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