
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XII

REDUNDANCY PAYMENTS ETC.

CHAPTER II

RIGHT ON DISMISSAL BY REASON OF REDUNDANCY

Dismissal by reason of redundancy

No dismissal in cases of renewal of contract or re-engagement

173.—(1) Where—

- (a) an employee's contract of employment is renewed, or he is re-engaged under a new contract of employment in pursuance of an offer (whether in writing or not) made before the end of his employment under the previous contract, and
- (b) the renewal or re-engagement takes effect either immediately on, or after an interval of not more than four weeks after, the end of that employment,

the employee shall not be regarded for the purposes of this Part as dismissed by his employer by reason of the ending of his employment under the previous contract.

(2) Paragraph (1) does not apply if—

- (a) the provisions of the contract as renewed, or of the new contract, as to—
 - (i) the capacity and place in which the employee is employed, and
 - (ii) the other terms and conditions of his employment,differ (wholly or in part) from the corresponding provisions of the previous contract, and
- (b) during the period specified in paragraph (3)—
 - (i) the employee (for whatever reason) terminates the renewed or new contract, or gives notice to terminate it and it is in consequence terminated, or
 - (ii) the employer, for a reason connected with or arising out of any difference between the renewed or new contract and the previous contract, terminates the renewed or new contract, or gives notice to terminate it and it is in consequence terminated.

(3) The period referred to in paragraph (2)(b) is the period—

- (a) beginning at the end of the employee's employment under the previous contract, and
- (b) ending with—
 - (i) the period of four weeks beginning with the date on which the employee starts work under the renewed or new contract, or
 - (ii) such longer period as may be agreed in accordance with paragraph (6) for the purpose of retraining the employee for employment under that contract;

and is in this Part referred to as the “trial period”.

(4) Where paragraph (2) applies, for the purposes of this Part—

- (a) the employee shall be regarded as dismissed on the date on which his employment under the previous contract (or, if there has been more than one trial, period, the original contract) ended, and
- (b) the reason for the dismissal shall be taken to be the reason for which the employee was then dismissed, or would have been dismissed had the offer (or original offer) of renewed or new employment not been made, or the reason which resulted in that offer being made.

(5) Paragraph (2) does not apply if the employee’s contract of employment is again renewed, or he is again re-engaged under a new contract of employment, in circumstances such that paragraph (1) again applies.

(6) For the purposes of paragraph (3)(b)(ii) a period of retraining is agreed in accordance with this paragraph only if the agreement—

- (a) is made between the employer and the employee or his representative before the employee starts work under the contract as renewed, or the new contract,
- (b) is in writing,
- (c) specifies the date on which the period of retraining ends, and
- (d) specifies the terms and conditions of employment which will apply in the employee’s case after the end of that period.