

Status: Point in time view as at 07/10/2013.

Changes to legislation: The Employment Rights (Northern Ireland) Order 1996, Cross Heading: Dismissal is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XI

UNFAIR DISMISSAL

CHAPTER I

RIGHT NOT TO BE UNFAIRLY DISMISSED

Dismissal

Circumstances in which an employee is dismissed

127.—(1) For the purposes of this Part an employee is dismissed by his employer if (and, subject to paragraph (2) ^{F1} . . . , only if)—

- (a) the contract under which he is employed is terminated by the employer (whether with or without notice),
 - ^{F2}(b) he is employed under a limited-term contract that terminates by virtue of the limiting event without being renewed, or]
 - (c) the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of the employer's conduct.
- (2) An employee shall be taken to be dismissed by his employer for the purposes of this Part if—
- (a) the employer gives notice to the employee to terminate his contract of employment, and
 - (b) at a time within the period of that notice the employee gives notice to the employer to terminate the contract of employment on a date earlier than the date on which the employer's notice is due to expire;

and the reason for the dismissal is to be taken to be the reason for which the employer's notice is given.

F1 1999 NI 9

F2 SR 2002/298

Modifications etc. (not altering text)

C1 Art. 127(1)(c) restricted (6.4.2006) by [Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), regs. 2(3), 10(3), **Sch. 1 para. 11** (with reg. 21(1)(5), Sch. 1 para. 3)

Art. 128 rep. by 1999 NI 9

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Effective date of termination

129.—(1) Subject to the following provisions of this Article, in this Part “the effective date of termination”

- (a) in relation to an employee whose contract of employment is terminated by notice, whether given by his employer or by the employee, means the date on which the notice expires,
- (b) in relation to an employee whose contract of employment is terminated without notice, means the date on which the termination takes effect, and
- [^{F3}(c) in relation to an employee who is employed under a limited-term contract which terminates by virtue of the limiting event without being renewed, means the date on which the termination takes effect.]

(2) Where—

- (a) the contract of employment is terminated by the employer, and
- (b) the notice required by Article 118 to be given by an employer would, if duly given on the material date, expire on a date later than the effective date of termination (as defined by paragraph (1)),

for the purposes of Articles 23(3), 140(1) and 153(1) the later date is the effective date of termination.

(3) In paragraph (2)(b) “the material date” means—

- (a) the date when notice of termination was given by the employer, or
- (b) where no notice was given, the date when the contract of employment was terminated by the employer.

(4) Where—

- (a) the contract of employment is terminated by the employee,
- (b) the material date does not fall during a period of notice given by the employer to terminate that contract, and
- (c) had the contract been terminated not by the employee but by notice given on the material date by the employer, that notice would have been required by Article 118 to expire on a date later than the effective date of termination (as defined by paragraph (1)),

for the purposes of Articles 23(3), 140(1) and 153(1) the later date is the effective date of termination.

(5) In paragraph (4) “the material date” means—

- (a) the date when notice of termination was given by the employee, or
- (b) where no notice was given, the date when the contract of employment was terminated by the employee.

Para. (6) rep. by 1999 NI 9

F3 SR 2002/298

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