



Employment Protection (Consolidation) Act 1978

1978 CHAPTER 44

PART IX

MISCELLANEOUS AND SUPPLEMENTAL

Crown employment

[^{F1}138A Application of Act to armed forces.

- (1) The provisions of this Act which apply, by virtue of section 138, to service as a member of the naval, military or air forces of the Crown are—
 - Part I;
 - in Part II, sections 19 to 22 and 31A;
 - Part III;
 - in Part IV, section 53;
 - Part V, except sections 57A [^{F2}57AA,] and 80;
 - Part VIII; and
 - this Part.
- (2) Her Majesty may, by Order in Council,—
 - (a) amend subsection (1) above by making additions to, or omissions from, the provisions for the time being specified in that subsection by an Order under this subsection; and
 - (b) make any provision apply to service as a member of the naval, military or air forces of the Crown subject to such exceptions and modifications as may be specified in the Order.
- (3) Subject to subsection (5) below, modifications made under subsection (2) above may include provision precluding the making of a complaint or reference to any

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[^{F3}employment tribunal] unless the person aggrieved has availed himself of the service procedures for the redress of complaints applicable to him.

- (4) Where modifications include the provision authorised by subsection (3) above the Order in Council shall also include provision designed to secure that the service procedures for the redress of complaints result in a determination, or what is to be treated under the Order as a determination, in sufficient time to enable a complaint or reference to be made to an [^{F3}employment tribunal].
- (5) No provision shall be made by virtue of subsection (3) above which has the effect of substituting, for any period specified as the normal period for a complaint or reference on any matter to an [^{F3}employment tribunal], a period longer than six months.
- (6) No recommendation shall be made to Her Majesty to make an Order in Council under subsection (2) above unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.
- (7) In this section—

“the normal period for a complaint or reference”, in relation to any matter within the jurisdiction of an [^{F3}employment tribunal], means the period specified in the relevant enactment as the period within which the complaint or reference must be made, disregarding any provision permitting an extension of that period at the discretion of the tribunal; and

“the service procedures for the redress of complaints” means the procedures, excluding those which relate to the making of a report on a complaint to Her Majesty, referred to in sections 180 and 181 of the ^{M1}Army Act 1955, sections 180 and 181 of the ^{M2}Air Force Act 1955 and section 130 of the ^{M3}Naval Discipline Act 1957.]

Textual Amendments

- F1** S. 138A inserted (10.6.1994) by 1993 c. 19, s. 31(2); S.I. 1994/1365, art. 2, Sch.
- F2** Words in s. 138A(1) inserted (26.10.1995) by S.I. 1995/2587, reg. 14(5)
- F3** Words in s. 138A(3)-(5)(7) substituted (1.8.1998) by 1998 c. 8, s. 1(2) (with s. 16(2)); S.I. 1998/1658, art. 2, Sch. 1

Marginal Citations

- M1** 1955 c. 18.
- M2** 1955 c. 19.
- M3** 1957 c. 53.

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