
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XI

UNFAIR DISMISSAL

CHAPTER I

RIGHT NOT TO BE UNFAIRLY DISMISSED

[^{F1}Other Dismissals]

^{X1}**Replacements**

138.—(1) Where this Article applies to an employee he shall be regarded for the purposes of Article 130(1)(b) as having been dismissed for a substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.

(2) This Article applies to an employee where—

- (a) on engaging him the employer informs him in writing that his employment will be terminated on the resumption of work by another employee who is, or will be, absent wholly or partly because of pregnancy or childbirth,^[F1] or on adoption leave^[F2]^[F3] or shared parental leave^[.] and
- (b) the employer dismisses him in order to make it possible to give work to the other employee.

(3) This Article also applies to an employee where—

- (a) on engaging him the employer informs him in writing that his employment will be terminated on the end of a suspension of another employee from work on medical grounds or maternity grounds (within the meaning of Part VIII), and
- (b) the employer dismisses him in order to make it possible to allow the resumption of work by the other employee.

(4) Paragraph (1) does not affect the operation of Article 130(4) in a case to which this Article applies.

Editorial Information

X1 The insertion of the new arts. 130ZA-130ZH preceded by new "Retirement" crossheading and followed by new "Other Dismissals" crossheading on 1.10.2006 gives rise to a change in the structure of this Order on legislation.gov.uk which breaks the continuity of historical versions of the existing provisions which are brought under new "Other Dismissals" crossheading

F1 [2002 NI 2](#)

F2 Words in art. 138(2)(a) inserted (1.10.2010) by [Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947 \(N.I. 16\)\)](#), arts. 1(3), 13(1), [Sch. 1 para. 41](#); S.R. 2010/295, [art. 3\(a\)\(d\)](#)

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Employment Rights (Northern Ireland) Order 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F3 Words in art. 138(2)(a) substituted (15.3.2015) by [Work and Families Act \(Northern Ireland\) 2015](#) (c. 1), s. 23(1), **Sch. 1 para. 4(17)**; S.R. 2015/86, art. 3(2)(d) (with art. 6(1))

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Changes and effects yet to be applied to :

- art.126-169 (Pt.1) (defn. of dismissal) applied by [1998 c. 39 s.23\(4\)](#) (This amendment not applied to legislation.gov.uk. Pre-2006 basedate NI non-textual amendment)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Act applied with modifications by [S.R. 2023/156 reg. 15](#)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Pt. 7A inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 1](#)
- Ch. 5 inserted by [2022 c. 27 \(N.I.\) s. 1\(1\)](#)
- art. 21(4B) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 2](#)
- art. 23(1)(zza) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 3](#)
- art. 70F inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 4](#)
- art. 70G inserted by [2020 c. 7 Sch. 7 para. 20](#)
- art. 71(1C) inserted by [2020 c. 7 Sch. 7 para. 21\(a\)](#)
- art. 72(8) inserted by [2020 c. 7 Sch. 7 para. 22\(b\)](#)
- art. 85ZS(3)(a)-(c) substituted for words by [2022 c. 18 \(N.I.\) Sch. 3 para. 47\(4\)](#)
- art. 95F(5A) inserted by [2016 c. 15 \(N.I.\) Sch. 2 para. 32](#)
- art. 135E inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 6](#)
- art. 135G inserted by [2020 c. 7 Sch. 7 para. 25](#)
- art. 137(6D) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 7](#)
- art. 137(7N) inserted by [2020 c. 7 Sch. 7 para. 26\(b\)](#)
- art. 140(3)(fj) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 8](#)
- art. 140(3)(fl) inserted by [2020 c. 7 Sch. 7 para. 27](#)
- art. 143(2)(ddd) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 9](#)
- art. 144(2)(ddd) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 10](#)