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STATUTORY INSTRUMENTS

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**1996 No. 1919**

**The Employment Rights (Northern Ireland) Order 1996**

PART XI

UNFAIR DISMISSAL

CHAPTER I

RIGHT NOT TO BE UNFAIRLY DISMISSED

*Exclusion of right*

**Dismissals in connection with other industrial action**

**144.**—(1) This Article applies in relation to an employee who has a right to complain of unfair dismissal (the “complainant”) and who claims to have been unfairly dismissed, where at the date of the dismissal—

- (a) the employer was conducting or instituting a lock-out, or
- (b) the complainant was taking part in a strike or other industrial action.

(2) This Article does not apply if—

[<sup>F1</sup>(aa) paragraph (1) of Article 130B (read with paragraph (2) of that Article) applies;]

[<sup>F2</sup>(a) Article 131 applies;]

(b) paragraph (1) of Article 132 (read with paragraphs (2) and (3) of that Article) applies,

[<sup>F3</sup>(bb) Article 132A(d) applies,]

(c) Article 134 applies,

[<sup>F2</sup>(cc) Article 135 applies in relation to time off under Article 85A;]

[<sup>F1</sup>(d) Article 135C applies;]

[<sup>F4</sup>(dd) Article 135D applies;]

(e) Article 137(1) and (3) applies, or

(f) Article 137(1) and (5) applies.

[<sup>F2</sup>(2A) This Article does not apply in relation to an employee who is regarded as unfairly dismissed by virtue of Article 144A.]

(3) In a case where this Article applies an industrial tribunal shall not determine whether the dismissal was fair or unfair unless it is shown—

- (a) that one or more relevant employees of the same employer have not been dismissed, or
- (b) that a relevant employee has before the expiry of the period of three months beginning with the date of his dismissal been offered re-engagement and that the complainant has not been offered re-engagement.

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- (4) For this purpose “relevant employees” means—
- (a) in relation to a lock-out, employees who were directly interested in the dispute in contemplation or furtherance of which the lock-out occurred, and
  - (b) in relation to a strike or other industrial action, those employees at the establishment of the employer at or from which the complainant works who at the date of his dismissal were taking part in the action.
- (5) Nothing in Article 143 affects the question who are relevant employees for the purposes of this Article.
- (6) An offer of re-engagement means an offer (made either by the original employer or by a successor of that employer or an associated employer) to re-engage an employee, either in the job which he held immediately before the date of dismissal or in a different job which would be reasonably suitable in his case.
- (7) In this Article “date of dismissal” means—
- (a) where the employee's contract of employment was terminated by notice, the date on which the employer's notice was given, and
  - (b) in any other case, the effective date of termination.
- (8) Article 145(2) does not apply in relation to a complaint to which this Article<sup>F2</sup> or Article 144A] applies, but an industrial tribunal shall not consider such a complaint unless it is presented—
- (a) before the end of the period of six months beginning with the date of the complainant's dismissal; or
  - (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of six months.
- (9) Where it is shown that the condition referred to in paragraph (3)(b) is fulfilled the references in Articles 130 to 138 to the reason or principal reason for which the complainant was dismissed shall be read as references to the reason or principal reason he has not been offered re-engagement.

**F1** [2004 NI 19](#)

**F2** [1999 NI 9](#)

**F3** [SR 1998/386](#)

**F4** [Art. 144\(2\)\(dd\) inserted \(30.6.2012\) by Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 57\(7\), 118\(1\) \(with s. 73\); S.R. 2012/266, art. 2\(b\), Sch. Pt. 2](#)

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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](#)