
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XII

REDUNDANCY PAYMENTS ETC.

CHAPTER V

OTHER PROVISIONS ABOUT REDUNDANCY PAYMENTS

Amount of a redundancy payment

197.—(1) The amount of a redundancy payment shall be calculated by—

- (a) determining the period, ending with the relevant date, during which the employee has been continuously employed,
- (b) reckoning backwards from the end of that period the number of years of employment falling within that period, and
- (c) allowing the appropriate amount for each of those years of employment.

(2) In paragraph (1)(c) “the appropriate amount” means—

- (a) one and a half weeks' pay for a year of employment in which the employee was not below the age of forty-one,
- (b) one week's pay for a year of employment (not within sub-paragraph (a)) in which he was not below the age of twenty-two, and
- (c) half a week's pay for each year of employment not within sub-paragraph (a) or (b).

(3) Where twenty years of employment have been reckoned under paragraph (1), no account shall be taken under that paragraph of any year of employment earlier than those twenty years.

(4) Where the relevant date is after the sixty-fourth anniversary of the day of the employee's birth, the amount arrived at under paragraphs (1) to (3) shall be reduced by the appropriate fraction.

(5) In paragraph (4) “the appropriate fraction” means the fraction of which—

- (a) the numerator is the number of whole months reckoned from the sixty-fourth anniversary of the day of the employee's birth in the period beginning with that anniversary and ending with the relevant date, and
- (b) the denominator is twelve.

(6) Paragraphs (1) to (5) apply for the purposes of any provision of this Part by virtue of which an industrial tribunal may determine that an employer is liable to pay to an employee—

- (a) the whole of the redundancy payment to which the employee would have had a right apart from some other provision, or
- (b) such part of the redundancy payment to which the employee would have had a right apart from some other provision as the tribunal thinks fit,

as if any reference to the amount of a redundancy payment were to the amount of the redundancy payment to which the employee would have been entitled apart from that other provision.

(7) Paragraphs (4) and (5) do not apply to a case within Article 172(1).

(8) This Article has effect subject to any regulations under Article 193 by virtue of which the amount of a redundancy payment, or part of a redundancy payment, may be reduced.

References to industrial tribunals

198.—(1) Any question arising under this Part as to—

- (a) the right of an employee to a redundancy payment, or
- (b) the amount of a redundancy payment,

shall be referred to and determined by an industrial tribunal.

(2) For the purposes of any such reference, an employee who has been dismissed by his employer shall, unless the contrary is proved, be presumed to have been so dismissed by reason of redundancy.

(3) Any question whether an employee will become entitled to a redundancy payment if he is not dismissed by his employer and he terminates his contract of employment as mentioned in Article 185(1) shall for the purposes of this Part be taken to be a question as to the right of the employee to a redundancy payment.

(4) Where an order under Article 192 is in force in respect of an agreement, this Article has effect in relation to any question arising under the agreement as to the right of an employee to a payment on the termination of his employment, or as to the amount of such a payment, as if the payment were a redundancy payment and the question arose under this Part.

Claims for redundancy payment

199.—(1) An employee does not have any right to a redundancy payment unless, before the end of the period of six months beginning with the relevant date—

- (a) the payment has been agreed and paid,
- (b) the employee has made a claim for the payment by notice in writing given to the employer,
- (c) a question as to the employee's right to, or the amount of, the payment has been referred to an industrial tribunal, or
- (d) a complaint relating to his dismissal has been presented by the employee under Article 145.

(2) An employee is not deprived of his right to a redundancy payment by paragraph (1) if, during the period of six months immediately following the period mentioned in that paragraph, the employee—

- (a) makes a claim for the payment by notice in writing given to the employer,
- (b) refers to an industrial tribunal a question as to his right to, or the amount of, the payment, or
- (c) presents a complaint relating to his dismissal under Article 145,

and it appears to the tribunal to be just and equitable that the employee should receive a redundancy payment.

(3) In determining under paragraph (2) whether it is just and equitable that an employee should receive a redundancy payment an industrial tribunal shall have regard to—

- (a) the reason shown by the employee for his failure to take any such step as is referred to in paragraph (2) within the period mentioned in paragraph (1), and
- (b) all the other relevant circumstances.

Written particulars of redundancy payment

200.—(1) On making any redundancy payment, otherwise than in pursuance of a decision of a tribunal which specifies the amount of the payment to be made, the employer shall give to the employee a written statement indicating how the amount of the payment has been calculated.

(2) An employer who without reasonable excuse fails to comply with paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(3) If an employer fails to comply with the requirements of paragraph (1), the employee may by notice in writing to the employer require him to give to the employee a written statement complying with those requirements within such period (not being less than one week beginning with the day on which the notice is given) as may be specified in the notice.

(4) An employer who without reasonable excuse fails to comply with a notice under paragraph (3) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. CHAPTER VI