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STATUTORY INSTRUMENTS

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**1996 No. 1919**

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

PART XV

MISCELLANEOUS

CHAPTER I

PARTICULAR TYPES OF EMPLOYMENT

*Crown employment etc.*

**Crown employment**

**236.**—(1) Subject to Articles 237 and 238, the provisions of this Order to which this Article applies have effect in relation to Crown employment and persons in Crown employment as they have effect in relation to other employment and other employees or workers.

(2) This Article applies to—

- (a) Parts I to<sup>[F1]</sup> IXA,],
- (b) in Part X, Articles 124 and 125,
- (c) Part XI, and
- (d) this Part and Part XVI.

(3) In this Order “Crown employment” means employment under or for the purposes of a government department or any officer or body exercising on behalf of the Crown functions conferred by a statutory provision.

(4) For the purposes of the application of provisions of this Order in relation to Crown employment in accordance with paragraph (1)—

- (a) references to an employee or a worker shall be construed as references to a person in Crown employment,
  - (b) references to a contract of employment, or a worker's contract, shall be construed as references to the terms of employment of a person in Crown employment,
  - (c) references to dismissal, or to the termination of a worker's contract, shall be construed as references to the termination of Crown employment,
  - (d) references to redundancy shall be construed as references to the existence of such circumstances as are treated, in accordance with any arrangements falling within Article 212(3) or (4) for the time being in force, as equivalent to redundancy in relation to Crown employment,<sup>F2</sup> . . .
- [<sup>F3</sup>(dd) the reference in Article 130B(2)(a) to the employer's undertaking shall be construed as a reference to the national interest, and]
- (e) [<sup>F3</sup>any other reference] to an undertaking shall be construed—

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- (i) in relation to a Minister of the Crown, as references to his functions or (as the context may require) to the department of which he is in charge, and
- (ii) in relation to a government department, officer or body, as references to the functions of the department, officer or body or (as the context may require) to the department, officer or body.

(5) Where the terms of employment of a person in Crown employment restrict his right to take part in—

- (a) certain political activities, or
- (b) activities which may conflict with his official functions,

nothing in Article 78 requires him to be allowed time off work for public duties connected with any such activities.

(6) Part II applies in relation to Crown employment otherwise than under a contract only where the terms of employment correspond to those of a contract of employment.

(7) Article 27, and the other provisions of Part II applying in relation to that Article, bind the Crown so far as they relate to the activities of an employment agency in relation to employment to which those provisions apply.

(8) Articles 194 and 195 are without prejudice to any exemption or immunity of the Crown.

<b>F1</b>	2002 NI 2
<b>F2</b>	2004 NI 19
<b>F3</b>	2004 NI 19

## Armed forces

**237.**—(1) Article 236—

- (a) applies to service as a member of the naval, military or air forces of the Crown but subject to the following provisions of this Article, and
- (b) applies to employment by an association established for the purposes of Part VI of the Reserve Forces Act 1980.

(2) The provisions of this Order which have effect by virtue of Article 236 in relation to service as a member of the naval, military or air forces of the Crown are—

- (a) Parts I and III,

[<sup>F4</sup>(aa) in Part VI, [<sup>F5</sup>Articles [<sup>F6</sup>67M] 68A, 70C and 70D] and Articles 71 and 72 so far as relating to [<sup>F7</sup>those Articles],]

*Sub#para. (ab) rep. by 2002 c. 21*

- (b) in Part VII, Articles [<sup>F8</sup> 83 to 85B],
- (c) Parts VIII and IX,
- (d) in Part X, Articles 124 and 125,
- (e) Part XI, apart from Articles [<sup>F9</sup> 130B(2)] 132 to 134 [<sup>F10</sup>,135C] and 136, and
- (f) this Part and Part XVI.

(3) The Department may by order—

- (a) amend paragraph (2) by making additions to, or omissions from, the provisions for the time being specified in that paragraph, and

- (b) make any provision for the time being so specified 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,

but no provision contained in Part IV may be added to the provisions for the time being specified in paragraph (2).

(4) Modifications made by an order under paragraph (3) may include provision precluding the making of a complaint or reference to any industrial tribunal unless the person aggrieved has availed himself of the [F11service complaint procedures] applicable to him.

(5) Where modifications made by an order under paragraph (3) include provision such as is mentioned in paragraph (4), the order shall also include provision designed to secure that the [F12service complaint procedures] 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 industrial tribunal.

(6) In paragraphs (4) and (5)[F13 “the service complaint procedures” means the procedures prescribed by regulations under section 334 of the Armed Forces Act 2006.]

(7) No provision shall be made by virtue of paragraph (4) which has the effect of substituting a period longer than six months for any period specified as the normal period for a complaint or reference.

(8) In paragraph (7) “the normal period for a complaint or reference”, in relation to any matter within the jurisdiction of an industrial tribunal, means the period specified in the relevant statutory provision 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).

**F4** SR 1998/386

**F5** Words in art. 237(2)(aa) substituted (1.9.2002 for certain purposes, otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\), ss. 27, 61, Sch. 1 para. 2\(5\)\(a\)](#); S.I. 2002/1727, [art. 2](#)

**F6** Word in art. 237(2)(aa) inserted (24.7.2005) by [Employment Relations \(Northern Ireland\) Order 2004 \(S.I. 2004/3078 \(N.I. 19\)\)](#), arts. 1(2), 30(1), [Sch. 2 para. 17\(a\)](#); S.R. 2005/345, [art. 3](#), [Sch.](#)

**F7** Words in art. 237(2)(aa) substituted (1.9.2002 for certain purposes, otherwise prosp.) by [Tax Credits Act 2002 \(c. 21\), ss. 27, 61, Sch. 1 para. 2\(5\)\(b\)](#); S.I. 2002/1727, [art. 2](#)

**F8** 1999 NI 9

**F9** 2004 NI 19

**F10** 2002 NI 2

**F11** Words in art. 237(4) substituted (31.10.2009) by [Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), [art. 2](#), [Sch. 1 para. 15\(a\)](#)

**F12** Words in art. 237(5) substituted (31.10.2009) by [Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), [art. 2](#), [Sch. 1 para. 15\(a\)](#)

**F13** [Art. 237\(6\)](#): definition of “the service complaint procedures” substituted (31.10.2009) for the definition of “the service redress procedures” by [Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), [art. 2](#), [Sch. 1 para. 15\(b\)](#) (with [Sch. 2 para. 9](#))

#### [F14] National security

**238.** Part VA and Article 70B do not apply in relation to employment for the purposes of—

- (a) the Security Service; or  
(b) the Secret Intelligence Service.]

**F14** 1999 NI 9

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**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](#)