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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 [<sup>F11</sup>service 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 [<sup>F12</sup>service 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)[<sup>F13</sup> “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](#))

#### [<sup>F14</sup>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

### Excluded classes of employment

#### [<sup>F15</sup>E] Employment outside Northern Ireland

**239.**—(1) The provisions to which this paragraph applies do not apply to employment where under his contract of employment an employee ordinarily works outside Northern Ireland.

(2) Paragraph (1) applies to—

- (a) Part II;
- (b) [<sup>F16</sup>Chapters II and III] of Part VI;
- (c) Articles 92 to 95;
- (d) Articles [<sup>F17</sup>221 to 222] .

[<sup>F16</sup>(3) Chapters II and III of Part VI do not apply to employment where under his contract personally to do work or perform services a worker who is not an employee works outside Northern Ireland.]]

[<sup>F18</sup>(4) For the purposes of paragraph (1) as it relates to Articles 221 to 222, employment on board a ship registered in the United Kingdom is to be treated as employment where under his contract a person ordinarily works in Northern Ireland.]

**F15** 1999 NI 9

**F16** 2004 NI 19

**F17** Words in art. 239(2)(d) substituted (26.1.2020) by [The Seafarers \(Collective Redundancies, Information and Consultation and Insolvency Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020](#) (S.R. 2020/12), regs. 1(1), **3(3)(a)** (with reg. 3(5))

**F18** Art. 239(4) inserted (26.1.2020) by [The Seafarers \(Collective Redundancies, Information and Consultation and Insolvency Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020](#) (S.R. 2020/12), regs. 1(1), **3(3)(b)** (with reg. 3(5))

*Art. 240 rep. by SR 2002/298*

#### Short-term employment

**241.**—(1) Articles 33 to 39 do not apply to an employee if his employment continues for less than one month.

(2) The provisions of Part XIII do not apply to employment—

- (a) under a contract for a fixed term of three months or less, or
- (b) under a contract made in contemplation of the performance of a specific task which is not expected to last for more than three months,

where the employee has not been continuously employed for a period of more than three months.

#### Mariners

**242.**—(1) Articles 33 to 39, Part IV and Articles 118 to 123 do not apply to a person employed as a seaman in a ship registered in the United Kingdom under a crew agreement the provisions and form of which are of a kind approved by the Secretary of State.

(2) Part II, Articles 40 to 42, Part V, Part VI (other than Article 69), Part VII (other than Articles 86 to 88), Parts VIII<sup>F19</sup>, IX and IXA], Articles 124 and 125 and<sup>F20</sup> . . . [<sup>F21</sup>Parts 11 and 12] do not apply to employment as master, or as a member of the crew, of a fishing vessel where the employee<sup>F22</sup>

(or, in the case of Articles 73 to 77F), the worker)] is remunerated only by a share in the profits or gross earnings of the vessel.

*Para. (3) rep. by 1999 NI 9*

- (4) Articles 40 to 42 and 78 to 82 <sup>F23</sup>... do not apply to employment as a merchant seaman.
- (5) In paragraph (4) “employment as a merchant seaman”
- (a) does not include employment in the fishing industry or employment on board a ship otherwise than by the owner, manager or charterer of that ship except employment as a radio officer, but
- (b) subject to that, includes—
- (i) employment as a master or a member of the crew of any ship,
- (ii) employment as a trainee undergoing training for the sea service, and
- (iii) employment in or about a ship in port by the owner, manager or charterer of the ship to do work of the kind ordinarily done by a merchant seaman on a ship while it is in port.

*Para. (6) rep. by SR 2002/298*

<sup>F20</sup>(7) The provisions mentioned in paragraph (8) apply to employment on board a ship registered in the register maintained under section 8 of the Merchant Shipping Act 1995 if and only if—

- (a) the ship's entry in the register specifies a port in Northern Ireland as the port to which the vessel is to be treated as belonging;
- (b) under his contract of employment the person employed does not work wholly outside Northern Ireland; and
- (c) the person employed is ordinarily resident in Northern Ireland.
- (8) The provisions are—
- (a) Articles 40 to 42;
- (b) Parts IV and V and Chapter I of Part VI;
- (c) Part VII, apart from Articles 86 to 88;
- (d) Parts VIII<sup>F19</sup>, IX and IXA];
- (e) Articles 124 and 125; and
- (f) Part XI.]

**F19** 2002 NI 2

**F20** 1999 NI 9

**F21** Words in art. 242(2) substituted (26.1.2020) by The Seafarers (Collective Redundancies, Information and Consultation and Insolvency Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/12), regs. 1(1), **3(4)(a)** (with reg. 3(5)(6))

**F22** 2004 NI 19

**F23** Words in art. 242(4) omitted (26.1.2020) by virtue of The Seafarers (Collective Redundancies, Information and Consultation and Insolvency Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/12), regs. 1(1), **3(4)(b)** (with reg. 3(5)(6))

## Police officers

**243.**—(1) Articles 40 to 42, Part V,<sup>F24</sup> . . . [<sup>F25</sup> Article 67M][<sup>F26</sup> Article 68A,][<sup>F27</sup> Article 70,][<sup>F28</sup> Article 70C,] Chapter II of Part VI] Part VII (other than Articles 86 to 88), Parts VIII and IX, Articles 124 and 125, Part XI,<sup>F27</sup> (except Articles 132<sup>F29</sup>, 134A] and 169A and the other provisions of that

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Part so far as relating to the right not to be unfairly dismissed in a case where the dismissal is unfair by virtue of Article 132<sup>[F29 or 134A]</sup> )<sup>F28</sup> . . . and Part XIII do not apply to employment under a contract of employment in police service or to persons engaged in such employment.

(2) Part II does not apply in relation to police service.

(3) In this Article “police service” means—

<sup>F30</sup>(a) service as a police officer;

(b) subject to—

(i) section 126 of the Criminal Justice and Public Order Act 1994 (prison staff not to be regarded as in police service), and

(ii) Article 19 of the Airports (Northern Ireland) Order 1994 (airport constables not to be regarded as in police service),

service in any other capacity by virtue of which a person has the powers or privileges of a constable.

**F24** 2003 c. 6  
**F25** 2004 NI 19  
**F26** SR 1998/386  
**F27** 1997 NI 16  
**F28** 1999 NI 9  
**F29** 2003 c. 6  
**F30** 2000 c. 32

**Modifications etc. (not altering text)**

**C1** Art. 243 restricted (1.12.2023) by [Northern Ireland Troubles \(Legacy and Reconciliation\) Act 2023](#) (c. 41), s. 63(4), Sch. 1 paras. 15, **21** (with s. 61); S.I. 2023/1293, reg. 2(a)

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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](#)