
STATUTORY INSTRUMENTS

1999 No. 2790

The Employment Relations (Northern Ireland) Order 1999

Other rights of individuals

Unfair dismissal of striking workers

18. Schedule 5 shall have effect.

Art. 19 rep. by 2004 NI 19

Agreement to exclude dismissal rights

20.—(1) In Article 240 of the Employment Rights Order (fixed-term contracts) paragraph (1) (agreement to exclude unfair dismissal provisions) shall be omitted; and paragraphs (2) to (5) shall have effect in consequence.

(2) In Articles 68(4), 69(2), 70(2), 70A(2) and 70B(2) of that Order—

(a) the words from the beginning to “the dismissal,” shall be omitted, and

(b) for “that Part” there shall be substituted “Part XI”.

(3) In Article 68A(4) of that Order the words from “, unless” to the end shall be omitted.

(4) In Schedule 2 to the Shops (Sunday Trading &.) (Northern Ireland) Order 1997, paragraph 11(5) shall be omitted.

(5) In—

(a) section 23(4) of the National Minimum Wage Act 1998; and

Sub#para. (b) rep. by 2002 c. 21

the words from “except” to the end shall be omitted.

Para.(6) rep. by 1999 NI 9

Part-time work: discrimination

21.—(1) The Department shall make regulations for the purpose of securing that persons in part-time employment are treated, for such purposes and to such extent as the regulations may specify, no less favourably than persons in full-time employment.

(2) The regulations may—

(a) specify classes of person who are to be taken to be, or not to be, in part-time employment;

(b) specify classes of person who are to be taken to be, or not to be, in full-time employment;

(c) specify circumstances in which persons in part-time employment are to be taken to be, or not to be, treated less favourably than persons in full-time employment;

(d) make provision which has effect in relation to persons in part-time employment generally or provision which has effect only in relation to specified classes of persons in part-time employment.

(3) The regulations may—

- (a) confer jurisdiction (including exclusive jurisdiction) on industrial tribunals;
 - (b) create criminal offences in relation to specified acts or omissions by an employer, by an organisation of employers, by an organisation of workers or by an organisation existing for the purposes of a profession or trade carried on by the organisation's members;
 - (c) in specified cases or circumstances, extend liability for a criminal offence created under sub-paragraph (b) to a person who aids the commission of the offence or to a person who is an agent, principal, employee, employer or officer of a person who commits the offence;
 - (d) provide for specified obligations or offences not to apply in specified circumstances;
 - (e) make provision about notices or information to be given, evidence to be produced and other procedures to be followed;
 - (f) amend, apply with or without modifications, or make provision similar to any provision of the Employment Rights Order (including, in particular, Parts VI, XI and XV) or the Trade Union and Labour Relations Order;
 - (g) provide for the provisions of specified agreements to have effect in place of provisions of the regulations to such extent and in such circumstances as may be specified;
 - (h) include consequential provision, including provision amending a statutory provision.
- ^{F1}(4)
- (5) Regulations under this Article which create an offence—
- (a) shall provide for it to be triable summarily only, and
 - (b) may not provide for it to be punishable by imprisonment or by a fine in excess of level 5 on the standard scale.

F1 Art. 21(4) omitted (31.12.2020) by virtue of [The Employment Rights \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/537\)](#), reg. 1(1), **Sch. para. 2** (with Sch. para. 11); 2020 c. 1, Sch. 5 para. 1(1)

Part-time work: code of practice

- 22.—(1) The Department may issue codes of practice containing guidance for the purpose of—
- (a) eliminating discrimination in the field of employment against part-time workers;
 - (b) facilitating the development of opportunities for part-time work;
 - (c) facilitating the flexible organisation of working time taking into account the needs of workers and employers;
 - (d) any matter dealt with in the framework agreement on part-time work annexed to Council Directive 97/81/EC.
- (2) The Department may revise a code and issue the whole or part of the revised code.
- (3) A person's failure to observe a provision of a code does not make him liable to any proceedings.
- (4) A code—
- (a) is admissible in evidence in proceedings before an industrial tribunal, and
 - (b) shall be taken into account by an industrial tribunal in any case in which it appears to the tribunal to be relevant.

Code of practice: supplemental

23.—(1) Before issuing or revising a code of practice under Article 22 the Department shall consult such persons as it considers appropriate.

(2) Before issuing a code the Department shall—

- (a) publish a draft code,
- (b) consider any representations made to it about the draft,
- (c) if the Department thinks it appropriate, modify the draft in the light of any representations made to it.

(3) If, having followed the procedure under paragraph (2), the Department decides to issue a code, the Department shall lay a draft code before the Assembly.

(4) If the draft code is approved by resolution of the Assembly, the Department shall issue the code in the form of the draft.

(5) In this Article and Article 22(3) and (4)—

- (a) a reference to a code includes a reference to a revised code,
- (b) a reference to a draft code includes a reference to a draft revision, and
- (c) a reference to issuing a code includes a reference to issuing part of a revised code.

Power to confer rights on individuals

24.—(1) This Article applies to any right conferred on an individual against an employer (however defined) under any of the following—

- (a) the Industrial Relations (Northern Ireland) Order 1992;
- (b) the Trade Union and Labour Relations Order;
- (c) the Employment Rights Order;
- (d) [^{F2}the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 or] the Shops (Sunday Trading &.) (Northern Ireland) Order 1997;
- (e) this Order;
- (f) any instrument made under section 2(2) of the European Communities Act 1972.
- [^{F3}(g) the Employment (Northern Ireland) Order 2002.]
- [^{F4}(h) the Employment (Northern Ireland) Order 2003.]

(2) The Department may by order make provision which has the effect of conferring any such right on individuals who are of a specified description.

(3) The reference in paragraph (2) to individuals includes a reference to individuals expressly excluded from exercising the right.

(4) An order under this Article may—

- (a) provide that individuals are to be treated as parties to workers' contracts or contracts of employment;
- (b) make provision as to who are to be regarded as the employers of individuals;
- (c) make provision which has the effect of modifying the operation of any right as conferred on individuals by the order;
- (d) include such consequential provisions as the Department thinks fit.

Changes to legislation: There are currently no known outstanding effects for the The Employment Relations (Northern Ireland) Order 1999, Cross Heading: Other rights of individuals. (See end of Document for details)

(5) An order under this Article may make provision in such way as the Department thinks fit,^{F5} including, in particular, amending, excluding or applying (with or without amendment) any statutory provision.]

(6) Article 250(4) of the Employment Rights Order (which is superseded by this Article) shall be omitted.

(7) Any order made or having effect as if made under Article 250(4), so far as effective immediately before the coming into operation of this Article, shall have effect as if made under this Article.

F2	2004 NI 1
F3	2002 NI 2
F4	2003 NI 15
F5	2004 NI 19

Changes to legislation:

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