
STATUTORY INSTRUMENTS

1996 No. 3147

TERMS AND CONDITIONS OF EMPLOYMENT

The Employment Protection (Continuity
of Employment) Regulations 1996

<i>Made</i>	- - - -	<i>16th December 1996</i>
<i>Laid before Parliament</i>		<i>17th December 1996</i>
<i>Coming into force</i>	- -	<i>13th January 1997</i>

The Secretary of State, in exercise of the powers conferred on him by section 219 of the Employment Rights Act 1996⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Employment Protection (Continuity of Employment) Regulations 1996 and shall come into force on 13th January 1997.

(2) The Employment Protection (Continuity of Employment) Regulations 1993⁽²⁾ are revoked.

Application

2. These Regulations apply to any action taken in relation to the dismissal of an employee which consists of—

- (a) his making a claim in accordance with a dismissal procedures agreement designated by an order under section 110 of the Employment Rights Act 1996,
- (b) the presentation by him of a relevant complaint of dismissal,
- (c) any action taken by a conciliation officer under section 18 of the Industrial Tribunals Act 1996⁽³⁾, or
- (d) the making of a relevant compromise contract.

(1) 1996 c. 18.
(2) S.I. 1993/2165.
(3) 1996 c. 17.

Continuity of employment where employee re-engaged

3.—(1) The provisions of this regulation shall have effect to preserve the continuity of a person's period of employment for the purposes of—

- (a) Chapter I of Part XIV of the Employment Rights Act 1996 (continuous employment), and
- (b) that Chapter as applied by subsection (2) of section 282 of the Trade Union and Labour Relations (Consolidation) Act 1992⁽⁴⁾ for the purposes of that section.

(2) If in consequence of any action to which these Regulations apply a dismissed employee is reinstated or re-employed by his employer or by a successor or associated employer of the employer—

- (a) the continuity of that employee's period of employment shall be preserved, and
- (b) the period beginning with the date on which the dismissal takes effect and ending with the date of reinstatement or re-engagement shall count in the computation of the employee's period of continuous employment.

Exclusion of operation of section 214 of the Employment Rights Act 1996 where redundancy or equivalent payment repaid

4.—(1) Section 214 of the Employment Rights Act 1996 (continuity broken where employee re-employed after the making of a redundancy payment or equivalent payment) shall not apply where—

- (a) in consequence of any action to which these Regulations apply a dismissed employee is reinstated or re-employed by his employer or by a successor or associated employer of the employer,
- (b) the terms upon which he is so reinstated or re-engaged include provision for him to repay the amount of a redundancy payment or an equivalent payment paid in respect of the relevant dismissal, and
- (c) that provision is complied with.

(2) For the purposes of this regulation the cases in which a redundancy payment shall be treated as having been paid are the cases mentioned in section 214(5) of the Employment Rights Act 1996.

John M Taylor,
Parliamentary Under-Secretary of State for
Corporate and Consumer Affairs,
Department of Trade and Industry

16th December 1996

(4) 1992 c. 52; a new version of subsection (2) of section 282 was substituted by the Employment Rights Act 1996, Schedule 1, paragraph 56(18).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 13th January 1997, replace the Employment Protection (Continuity of Employment) Regulations 1993 (“the 1993 Regulations”) and repeat their effect with certain additions.

The 1993 Regulations provided for the preservation of continuity of employment for the purposes of employment protection rights now contained in the Employment Rights Act 1996 (“the 1996 Act”) where a dismissed employee was reinstated or re-engaged in consequence of—

- (a) the making of a complaint of unfair dismissal under the 1996 Act;
- (b) the making of a complaint under the Sex Discrimination Act 1975 (1975 c. 65) or the Race Relations Act 1976 (1976 c. 74) arising out of a dismissal;
- (c) action taken by a conciliation officer under the conciliation powers relevant to such complaints;
- (d) the making of a compromise contract as permitted in relation to such complaints; and
- (e) the making of a claim in accordance with a dismissal procedures agreement designated by an order under the 1996 Act.

The 1993 Regulations also provided that continuity of employment was not broken in redundancy cases where any such employee repaid a redundancy payment or equivalent payment.

The additional provisions in these regulations have the effect of preserving continuity of employment for the purpose of the employment protection rights contained in the 1996 Act where a dismissed employee is reinstated or re-engaged in consequence of—

- (a) the making of a complaint under the Disability Discrimination Act 1995 (1995 c. 50) arising out of a dismissal,
- (b) action by a conciliation officer under the conciliation powers which apply in relation to such a complaint (all the conciliation powers of such officers are now consolidated in section 18 of the Industrial Tribunals Act 1996 (1996 c. 17)), or
- (c) the making of a compromise contract as permitted in relation to such a complaint.

The expressions “relevant complaint of dismissal” and “relevant compromise contract” mentioned in paragraphs (b) and (d) of regulation 2 are defined, respectively, in section 219(3) and (4) of the 1996 Act.