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STATUTORY INSTRUMENTS

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**1996 No. 1919**

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

PART XI

UNFAIR DISMISSAL

CHAPTER I

RIGHT NOT TO BE UNFAIRLY DISMISSED

*Exclusion of right*

**Dismissal of those taking part in unofficial industrial action**

**143.**—(1) Article 126 does not apply to the dismissal of an employee if at the time of dismissal he was taking part in an unofficial strike or other unofficial industrial action.

(2) Paragraph (1) does not apply if—

[<sup>F1</sup>(aa) paragraph (1) of Article 130B (read with paragraph (2) of that Article) applies;]

[<sup>F2</sup>(a) Article 131 applies;]

(b) paragraph (1) of Article 132 (read with paragraphs (2) and (3) of that Article) applies,

[<sup>F3</sup>(bb) Article 132A(d) applies,]

(c) Article 134 applies,

[<sup>F4</sup>(cc) Article 134A applies;]

[<sup>F2</sup>(ccc) Article 135 applies in relation to time off under Article 85A;]

*Sub#para. (d) rep. by 1999 NI 9*

[<sup>F1</sup>(d) Article 135C applies;]

[<sup>F5</sup>(dd) Article 135D applies,]

(e) Article 137(1) and (3) applies, or

(f) Article 137(1) and (5) applies.

(3) A strike or other industrial action is unofficial in relation to an employee unless—

(a) he is a member of a trade union and the action is authorised or endorsed by that union, or

(b) he is not a member of a trade union but there are among those taking part in the industrial action members of a trade union by which the action has been authorised or endorsed;

but a strike or other industrial action shall not be regarded as unofficial if none of those taking part in it are members of a trade union.

(4) The provisions of Article 21(2) of the 1992 Order apply for the purpose of determining whether industrial action is to be taken to have been authorised or endorsed by a trade union.

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*Changes to legislation: The Employment Rights (Northern Ireland) Order 1996, Section 143 is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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(5) The question whether industrial action is to be so taken in any case shall be determined by reference to the facts as at the time of dismissal; but where an act is repudiated as mentioned in Article 21A of the 1992 Order, industrial action shall not thereby be treated as unofficial before the end of the next working day after the day on which the repudiation takes place.

(6) In this Article the “time of dismissal” means—

- (a) where the employee's contract of employment is terminated by notice, when the notice is given,
- (b) where the employee's contract of employment is terminated without notice, when the termination takes effect, and
- (c) where the employee is employed under a contract for a fixed term which expires without being renewed under the same contract, when that term expires;

and a “working day” means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971.

(7) For the purposes of this Article membership of a trade union 7 for purposes unconnected with the employment in question shall be disregarded; but an employee who was a member of a trade union when he began to take part in industrial action shall continue to be treated as a member for the purpose of determining whether that action is unofficial in relation to him or another notwithstanding that II he may in fact have ceased to be a member.

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| <p><b>F1</b> <a href="#">2004 NI 19</a></p> <p><b>F2</b> <a href="#">1999 NI 9</a></p> <p><b>F3</b> <a href="#">SR 1998/386</a></p> <p><b>F4</b> <a href="#">1998 NI 17</a></p> <p><b>F5</b> <a href="#">Art. 143(2)(dd) inserted (30.6.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 57(6), 118(1) (with s. 73); S.R. 2012/266, art. 2(b), Sch. Pt. 2</a></p> |
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**Changes to legislation:**

The Employment Rights (Northern Ireland) Order 1996, Section 143 is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- art. 126-169 (Pt.1) (defn. of dismissal) applied by [1998 c. 39 s.23\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). Pre-2006 basedate NI non-textual amendment)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

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](#)