
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART III

EMPLOYMENT PARTICULARS

Right to statements of employment particulars

Statement of initial employment particulars

33.—(1) Where an employee begins employment with an employer, the employer shall give to the employee a written statement of particulars of employment.

(2) The statement may (subject to Article 34(4)) be given in instalments and (whether or not given in instalments) shall be given not later than two months after the beginning of the employment.

(3) The statement shall contain particulars of—

- (a) the names of the employer and employee,
- (b) the date when the employment began, and
- (c) the date on which the employee's period of continuous employment began (taking into account any employment with a previous employer which counts towards that period).

(4) The statement shall also contain particulars, as at a specified date not more than seven days before the statement (or the instalment containing them) is given, of—

- (a) the scale or rate of remuneration or the method of calculating remuneration,
- (b) the intervals at which remuneration is paid (that is, weekly, monthly or other specified intervals),
- (c) any terms and conditions relating to hours of work (including any terms and conditions relating to normal working hours),
- (d) any terms and conditions relating to any of the following—
 - (i) entitlement to holidays, including public holidays, and holiday pay (the particulars given being sufficient to enable the employee's entitlement, including any entitlement to accrued holiday pay on the termination of employment, to be precisely calculated),
 - (ii) incapacity for work due to sickness or injury, including any provision for sick pay, and
 - (iii) pensions and pension schemes,
- (e) the length of notice which the employee is obliged to give and entitled to receive to terminate his contract of employment,
- (f) the title of the job which the employee is employed to do or a brief description of the work for which he is employed,

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- (g) where the employment is not intended to be permanent, the period for which it is expected to continue or, if it is for a fixed term, the date when it is to end,
 - (h) either the place of work or, where the employee is required or permitted to work at various places, an indication of that and of the address of the employer,
 - (j) any collective agreements which directly affect the terms and conditions of the employment including, where the employer is not a party, the persons by whom they were made, and
 - (k) where the employee is required to work outside the United Kingdom for a period of more than one month—
 - (i) the period for which he is to work outside the United Kingdom,
 - (ii) the currency in which remuneration is to be paid while he is working outside the United Kingdom,
 - (iii) any additional remuneration payable to him, and any benefits to be provided to or in respect of him, by reason of his being required to work outside the United Kingdom, and
 - (iv) any terms and conditions relating to his return to the United Kingdom.
- (5) Paragraph (4)(d)(iii) does not apply to an employee of a body or authority if—
- (a) the employee's pension rights depend on the terms of a pension scheme established under any statutory provision, and
 - (b) any such provision requires the body or authority to give to a new employee information concerning the employee's pension rights or the determination of questions affecting those rights.

Statement of initial particulars: supplementary

34.—(1) If, in the case of a statement under Article 33, there are no particulars to be entered under any of the heads of sub-paragraph (d) or (k) of paragraph (4) of that Article, or under any of the other sub-paragraphs of paragraph (3) or (4) of that Article, that fact shall be stated.

(2) A statement under Article 33 may refer the employee for particulars of any of the matters specified in paragraph (4)(d)(ii) and (iii) of that Article to the provisions of some other document which is reasonably accessible to the employee.

(3) A statement under Article 33 may refer the employee for particulars of either of the matters specified in paragraph (4)(e) of that Article to the law or to the provisions of any collective agreement directly affecting the terms and conditions of the employment which is reasonably accessible to the employee.

(4) The particulars required by Article 33(3) and (4)(a) to (c), (d)(i), (f) and (h) shall be included in a single document.

(5) Where before the end of the period of two months after the beginning of an employee's employment the employee is to begin to work outside the United Kingdom for a period of more than one month, the statement under Article 33 shall be given to him not later than the time when he leaves the United Kingdom in order to begin so to work.

(6) A statement shall be given to a person under Article 33 even if his employment ends before the end of the period within which the statement is required to be given.

Note about disciplinary procedures and pensions

35.—(1) A statement under Article 33 shall include a note—

- (a) specifying any disciplinary rules applicable to the employee or referring the employee to the provisions of a document specifying such rules which is reasonably accessible to the employee,
- [^{F1}(aa) specifying any procedure applicable to the taking of disciplinary decisions relating to the employee, or to a decision to dismiss the employee, or referring the employee to the provisions of a document specifying such a procedure which is reasonably accessible to the employee,]
- (b) specifying (by description or otherwise)—
 - (i) a person to whom the employee can apply if dissatisfied with any disciplinary decision relating to him^{F1} or any decision to dismiss him], and
 - (ii) a person to whom the employee can apply for the purpose of seeking redress of any grievance relating to his employment,and the manner in which any such application should be made, and
- (c) where there are further steps consequent on any such application, explaining those steps or referring to the provisions of a document explaining them which is reasonably accessible to the employee.

(2) Paragraph (1) does not apply to rules, disciplinary decisions,^{F1} decisions to dismiss] grievances or procedures relating to health or safety at work.

Paras.(3)#(4) rep. by 2003 NI 15

(5) The note shall also state whether there is in force a contracting-out certificate (issued in accordance with Chapter I of Part III of the Pension Schemes (Northern Ireland) Act 1993) stating that the employment is contracted-out employment (for the purposes of that Part of that Act).

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Statement of changes

36.—(1) If, after the material date, there is a change in any of the matters particulars of which are required by Articles 33 to 35 to be included or referred to in a statement under Article 33, the employer shall give to the employee a written statement containing particulars of the change.

- (2) For the purposes of paragraph (1)—
 - (a) in relation to a matter particulars of which are included or referred to in a statement given under Article 33 otherwise than in instalments, the material date is the date to which the statement relates,
 - (b) in relation to a matter particulars of which—
 - (i) are included or referred to in an instalment of a statement given under Article 33, or
 - (ii) are required by Article 34(4) to be included in a single document but are not included in an instalment of a statement given under Article 33 which does include other particulars to which that provision applies,the material date is the date to which the instalment relates, and
 - (c) in relation to any other matter, the material date is the date by which a statement under Article 33 is required to be given.
- (3) A statement under paragraph (1) shall be given at the earliest opportunity and, in any event, not later than—
 - (a) one month after the change in question, or

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(b) where that change results from the employee being required to work outside the United Kingdom for a period of more than one month, the time when he leaves the United Kingdom in order to begin so to work, if that is earlier.

(4) A statement under paragraph (1) may refer the employee to the provisions of some other document which is reasonably accessible to the employee for a change in any of the matters specified in Articles 33(4)(d)(ii) and (iii) and 35(1)(a) and (c).

(5) A statement under paragraph (1) may refer the employee for a change in either of the matters specified in Article 33(4)(e) to the law or to the provisions of any collective agreement directly affecting the terms and conditions of the employment which is reasonably accessible to the employee.

(6) Where, after an employer has given to an employee a statement under Article 33, either—

- (a) the name of the employer (whether an individual or a body corporate or partnership) is changed without any change in the identity of the employer, or
- (b) the identity of the employer is changed in circumstances in which the continuity of the employee's period of employment is not broken,

and paragraph (7) applies in relation to the change, the person who is the employer immediately after the change is not required to give to the employee a statement under Article 33; but the change shall be treated as a change falling within paragraph (1) of this Article.

(7) This paragraph applies in relation to a change if it does not involve any change in any of the matters (other than the names of the parties) particulars of which are required by Articles 33 to 35 to be included or referred to in the statement under Article 33.

(8) A statement under paragraph (1) which informs an employee of a change such as is referred to in paragraph (6)(b) shall specify the date on which the employee's period of continuous employment began.

Exclusion from rights to statements

37.—(1) Articles 33 to 36 apply to an employee who at any time comes or ceases to come within the exceptions from those Articles provided by Articles 239 and 242, and under Article 250, as if his employment with his employer terminated or began at that time.

(2) The fact that Article 33 is directed by paragraph (1) to apply to an employee as if his employment began on his ceasing to come within the exceptions referred to in that paragraph does not affect the obligation under Article 33(3)(b) to specify the date on which his employment actually began.

Reasonably accessible document or collective agreement

38. In Articles 34 to 36 references to a document or collective agreement which is reasonably accessible to an employee are references to a document or collective agreement which—

- (a) the employee has reasonable opportunities of reading in the course of his employment, or
- (b) is made reasonably accessible to the employee in some other way.

Power of Department to require particulars of further matters

39. The Department may by order provide that Article 33 shall have effect as if particulars of such further matters as may be specified in the order were included in the particulars required by that Article; and, for that purpose, the order may include such provisions amending that Article as appear to the Department to be expedient.

[^{F2}Use of alternative documents to give particulars

39A.—(1) Paragraphs (2) and (3) apply where—

- (a) an employer gives an employee a document in writing in the form of a contract of employment or letter of engagement,
- (b) the document contains information which, were the document in the form of a statement under Article 33, would meet the employer's obligation under that Article in relation to the matters mentioned in paragraphs (3) and (4)(a) to (c), (d)(i), (f) and (h) of that Article, and
- (c) the document is given after the beginning of the employment and before the end of the period for giving a statement under that Article.

(2) The employer's duty under Article 33 in relation to any matter shall be treated as met if the document given to the employee contains information which, were the document in the form of a statement under that Article, would meet the employer's obligation under that Article in relation to that matter.

(3) The employer's duty under Article 35 shall be treated as met if the document given to the employee contains information which, were the document in the form of a statement under Article 33 and the information included in the form of a note, would meet the employer's obligation under Article 35.

(4) For the purposes of this Article a document to which paragraph (1)(a) applies shall be treated, in relation to information in respect of any of the matters mentioned in Article 33(4), as specifying the date on which the document is given to the employee as the date as at which the information applies.

(5) Where paragraph (2) applies in relation to any matter, the date on which the document by virtue of which that paragraph applies is given to the employee shall be the material date in relation to that matter for the purposes of Article 36(1).

(6) Where paragraph (3) applies, the date on which the document by virtue of which that paragraph applies is given to the employee shall be the material date for the purposes of Article 36(1) in relation to the matters of which particulars are required to be given under Article 35.

(7) The reference in Article 36(6) to an employer having given a statement under Article 33 shall be treated as including his having given a document by virtue of which his duty to give such a statement is treated as met.]

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Giving of alternative documents before start of employment

39B. A document in the form of a contract of employment or letter of engagement given by an employer to an employee before the beginning of the employee's employment with the employer shall, when the employment begins, be treated for the purposes of Article 39A as having been given at that time.

Right to itemised pay statement

Itemised pay statement

40.—(1) An employee has the right to be given by his employer, at or before the time at which any payment of wages or salary is made to him, a written itemised pay statement.

(2) The statement shall contain particulars of—

- (a) the gross amount of the wages or salary,

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- (b) the amounts of any variable, and (subject to Article (1) any fixed, deductions from that gross amount and the purposes for which they are made,
- (c) the net amount of wages or salary payable, and
- (d) where different parts of the net amount are paid in different ways, the amount and method of payment of each part-payment.

Standing statement of fixed deductions

41.—(1) A pay statement given in accordance with Article 40 need not contain separate particulars of a fixed deduction if—

- (a) it contains instead an aggregate amount of fixed deductions, including that deduction, and
 - (b) the employer has given to the employee, at or before the time at which the pay statement is given, a standing statement of fixed deductions which satisfies paragraph (2).
- (2) A standing statement of fixed deductions satisfies this paragraph if—
- (a) it is in writing,
 - (b) it contains, in relation to each deduction comprised in the aggregate amount of deductions, particulars of—
 - (i) the amount of the deduction,
 - (ii) the intervals at which the deduction is to be made, and
 - (iii) the purpose for which it is made, and
 - (c) it is (in accordance with paragraph (5)) effective at the date on which the pay statement is given.
- (3) A standing statement of fixed deductions may be amended, whether by—
- (a) addition of a new deduction,
 - (b) a change in the particulars, or
 - (c) cancellation of an existing deduction,

by notice in writing, containing particulars of the amendment, given by the employer to the employee.

- (4) An employer who has given to an employee a standing statement of fixed deductions shall—
- (a) within the period of twelve months beginning with the date on which the first standing statement was given, and
 - (b) at intervals of not more than twelve months afterwards,

re-issue it in a consolidated form incorporating any amendments notified in accordance with paragraph (3).

- (5) For the purposes of paragraph (2)(c) a standing statement of fixed deductions—
- (a) becomes effective on the date on which it is given to the employee, and
 - (b) ceases to be effective at the end of the period of twelve months beginning with that date or, where it is re-issued in accordance with paragraph (4), with the end of the period of twelve months beginning with the date of the last re-issue.

Power to amend provisions about pay and standing statements

42. The Department may by order—

- (a) vary the provisions of Articles 40 and 41 as to the particulars which must be included in a pay statement or a standing statement of fixed deductions by adding items to, or removing items from, the particulars listed in those Articles or by amending any such particulars, and
- (b) vary the provisions of paragraphs (4) and (5) of Article 41 so as to shorten or extend the periods of twelve months referred to in those paragraphs, or those periods as varied from time to time under this Article.

Enforcement

References to industrial tribunals

43.—(1) Where an employer does not give an employee a statement as required by Article 33, 36 or 40 (either because he gives him no statement or because the statement he gives does not comply with what is required), the employee may require a reference to be made to an industrial tribunal to determine what particulars ought to have been included or referred to in a statement so as to comply with the requirements of the Article concerned.

(2) Where—

- (a) a statement purporting to be a statement under Article 33 or 36, or a pay statement or a standing statement of fixed deductions purporting to comply with Article 40 or 41, has been given to an employee, and
- (b) a question arises as to the particulars which ought to have been included or referred to in the statement so as to comply with the requirements of this Part,

either the employer or the employee may require the question to be referred to and determined by an industrial tribunal.

(3) For the purposes of this Article—

- (a) a question as to the particulars which ought to have been included in the note required by Article 35 to be included in the statement under Article 33 does not include any question whether the employment is, has been or will be contracted-out employment (for the purposes of Part III of the Pension Schemes (Northern Ireland) Act 1993), and
- (b) a question as to the particulars which ought to have been included in a pay statement or standing statement of fixed deductions does not include a question solely as to the accuracy of an amount stated in any such particulars.

(4) An industrial tribunal shall not consider a reference under this Article in a case where the employment to which the reference relates has ceased unless an application requiring the reference to be made was made—

- (a) before the end of the period of three months beginning with the date on which the employment ceased, or
- (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the application to be made before the end of that period of three months.

Determination of references

44.—(1) Where, on a reference under Article 43(1), an industrial tribunal determines particulars as being those which ought to have been included or referred to in a statement given under Article 33 or 36, the employer shall be deemed to have given to the employee a statement in which those particulars were included, or referred to, as specified in the decision of the tribunal.

(2) On determining a reference under Article 43(2) relating to a statement purporting to be a statement under Article 33 or 36, an industrial tribunal may—

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- (a) confirm the particulars as included or referred to in the statement given by the employer,
- (b) amend those particulars, or
- (c) substitute other particulars for them,

as the tribunal may determine to be appropriate; and the statement shall be deemed to have been given by the employer to the employee in accordance with the decision of the tribunal.

- (3) Where on a reference under Article 43 an industrial tribunal finds—
 - (a) that an employer has failed to give an employee any pay statement in accordance with Article 40, or
 - (b) that a pay statement or standing statement of fixed deductions does not, in relation to a deduction, contain the particulars required to be included in that statement by that Article or Article 41,

the tribunal shall make a declaration to that effect.

(4) Where on a reference in the case of which paragraph (3) applies the tribunal further finds that any unnotified deductions have been made from the pay of the employee during the period of thirteen weeks immediately preceding the date of the application for the reference (whether or not the deductions were made in breach of the contract of employment), the tribunal may order the employer to pay the employee a sum not exceeding the aggregate of the unnotified deductions so made.

(5) For the purposes of paragraph (4) a deduction is an unnotified deduction if it is made without the employer giving the employee, in any pay statement or standing statement of fixed deductions, the particulars of the deduction required by Article 40 or 41.

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