



# Employment Protection (Consolidation) Act 1978

## 1978 CHAPTER 44

### PART IX

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Excluded classes of employment*

#### **141 Employment outside Great Britain.**

- (1) Sections 1 to 4 and 49 to 51 do not apply in relation to employment during any period when the employee is engaged in work wholly or mainly outside Great Britain [<sup>F1</sup>unless—
  - (a) the employee ordinarily works in Great Britain and the work outside Great Britain is for the same employer, or
  - (b) the law which governs his contract of employment is the law of England and Wales or of Scotland.]
- (2) Sections 8 and 53 and Parts II, III, [<sup>F2</sup>and V] do not apply to employment where under his contract of employment the employee ordinarily works outside Great Britain.
- [<sup>F3</sup>(2) Part VII does not apply to employment where under his contract of employment the employee ordinarily works outside the territory of the Member States of the European Communities.]
- (3) An employee shall not be entitled to a redundancy payment if on the relevant date he is outside Great Britain, unless under his contract of employment he ordinarily worked in Great Britain.
- (4) An employee who under his contract of employment ordinarily works outside Great Britain shall not be entitled to a redundancy payment unless on the relevant date he is in Great Britain in accordance with instruction given to him by his employer.

*Status: Point in time view as at 07/02/1994.*

*Changes to legislation: There are currently no known outstanding effects for the Employment Protection (Consolidation) Act 1978, Cross Heading: Excluded classes of employment. (See end of Document for details)*

- (5) For the purpose of subsection (2), a person employed to work on board a ship registered in the United Kingdom (not being a ship registered at a port outside Great Britain) shall, unless—
- (a) the employment is wholly outside Great Britain, or
  - (b) he is not ordinarily resident in Great Britain,
- be regarded as a person who under his contract ordinarily works in Great Britain.

#### Textual Amendments

- F1** Words in s. 141(1) substituted (30.11.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para.22**; S.I. 1993/2503, art. 2(2), **Sch.2**.
- F2** Words “and V” substituted for words “V and VII” by S.I. 1983/624, **regs. 2-4** where “the relevant date” (within the meaning of s. 122(2) of the Act) falls on or after 1.6.1983
- F3** S. 141(2)(A) inserted by S.I. 1983/624, **regs. 2-4** where “the relevant date” (within the meaning of s. 122(2) of the Act) falls on or after 1.6.1983

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

- C1** S. 141 applied (3.5.1994 with effect as mentioned in **Sch. 24 para. 27(14)** of the amending Act) by 1994 c. 9, s. 252, **Sch. 24 para. 27(13)**
- C2** S. 141(2) extended (E.W.)(26.8.1994) by 1994 c. 20, s. 4, **Sch. 4 para. 22**; S.I. 1994/1841, **art. 2**  
 S. 141(2) extended (E.W.)(3.1.1995) by 1994 c. 40, ss. 31, 82(2), **Sch. 8 para. 22**

## 142 Contracts for a fixed term.

- (1) Section 54 does not apply to dismissal from employment under a contract for a fixed term of [<sup>F4</sup>one year] or more, where the dismissal consists only of the expiry of that term without its being renewed, if before the term so expires the employee has agreed in writing to exclude any claim in respect of rights under that section in relation to that contract.
- (2) An employee employed under a contract of employment for a fixed term of two years or more entered into after 5th December 1965 shall not be entitled to a redundancy payment in respect of the expiry of that term without its being renewed (whether by the employer or by an associated employer of his), if before the term so expires he has agreed in writing to exclude any right to a redundancy payment in that event.
- (3) Such an agreement as is mentioned in subsection (1) or (2) may be contained either in the contract itself or in a separate agreement.
- (4) Where an agreement under subsection (2) is made during the currency of a fixed term, and that term is renewed, the agreement under that subsection shall not be construed as applying to the term as renewed, but without prejudice to the making of a further agreement under that subsection in relation to the term so renewed.

#### Textual Amendments

- F4** Words substituted with saving by **Employment Act 1980 (c. 42, SIF 43:5)**, **s. 8(2)** and S.I. 1980/1170, **art. 4, Sch. 3**

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

- C3** S. 142 restricted (E.W.) (26.8.1994) by 1994 c. 20, s. 4, **Sch. 4 para. 7(4)**; S.I. 1994/1841, **art. 2**

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S. 142 restricted (E.W.) (3.1.1995) by 1994 c. 40, ss. 20, 82(2), **Sch. 8 para. 7(4)**

<sup>F5</sup>143 .....

#### Textual Amendments

**F5** S. 143 repealed by **Employment Act 1982** (c. 46, SIF 43:5), **Sch. 4**

#### 144 **Mariners.**

- [<sup>F6</sup>(1) Sections 1 to 4 and 49 to 51 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) Sections 8 and 53 and Parts II, III and V to VII do not apply to employment as master or as a member of the crew of a fishing vessel where the employee is remunerated only by a share in the profits or gross earnings of the vessel.
- (3) Section 141(3) and (4) do not apply to an employee, and section 142(2) does not apply to a contract of employment, if the employee is employed as a master or seaman in a British ship and is ordinarily resident in Great Britain.
- (4) Sections 8, 29, 31, 122 <sup>F7</sup> . . . do not apply to employment as a merchant seaman.
- (5) Employment as a merchant seaman 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, save as aforesaid, it includes employment as master or a member of the crew of any ship and as a trainee undergoing training for the sea service, and 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.

#### Textual Amendments

**F6** S. 144(1) substituted (30.11.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 23**; 1993/2503, art. 2(2), Sch. 2

**F7** Words in s. 144(4) repealed (7.2.1994) by 1993 c. 48, s. 188, **Sch. 5 Pt.I**; S.I. 1994/86, **art. 2**

#### 144 **Mariners.** **E+W+S**

- [<sup>F17</sup>(1) Sections 1 to 4 and 49 to 51 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) Sections 8 and 53 and Parts II, III and V to VII do not apply to employment as master or as a member of the crew of a fishing vessel where the employee is remunerated only by a share in the profits or gross earnings of the vessel.
- (3) Section 141(3) and (4) do not apply to an employee, and section 142(2) does not apply to a contract of employment, if the employee is employed as a master or seaman in a British ship and is ordinarily resident in Great Britain.

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- (4) Sections 8, 29, 31, 122 and 123 do not apply to employment as a merchant seaman.
- (5) Employment as a merchant seaman 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, save as aforesaid, it includes employment as master or a member of the crew of any ship and as a trainee undergoing training for the sea service, and 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.

#### Textual Amendments

**F17** S. 144(1) substituted (30.11.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para.23**; 1993/2503, art. 2(2), Sch.2

**F8** 145 .....

#### Textual Amendments

**F8** S. 145 repealed by Dock Work Act 1989 (c. 13, SIF 43:5), s. 7(1), **Sch. 1 Pt. I**

### 146 Miscellaneous classes of employment.

<sup>F9</sup>(1)

- (2) Parts II, III, [<sup>F10</sup>and V] and sections 8, 9, 53 and 86 do not apply to employment under a contract of employment in police service or to persons engaged in such employment.
- (3) In subsection (2), “police service” means service—
- as a member of any constabulary maintained by virtue of any enactment, or
  - in any other capacity by virtue of which a person has the powers of privileges of a constable.
- (4) Subject to subsections (5), (6) and (7), the following provisions of this Act (which confer rights which do not depend upon an employee having a qualifying period of continuous employment) do not apply to employment under a contract which normally involves employment for less than sixteen hours weekly, that is to say, sections <sup>F11</sup>. . . 8 <sup>F12</sup>. . . and 29.

[<sup>F13</sup>(4A) Subject to subsection (4B), subsection (4) shall have effect as respects section 8 subject to the following modifications, namely—

- the substitution of a reference to eight hours weekly for the reference to sixteen hours weekly, and
- the omission of the words “Subject to subsections (5), (6) and (7)”.

(4B) Subsection (4A) shall not apply in relation to employment if, at the relevant date, the number of employees employed by the employer, added to the number employed by any associated employer, is less than twenty.

(4C) For the purposes of subsection (4B) “relevant date” means the date on which any payment of wages or salary is made to an employee in respect of which he would, apart from subsection (4B), have the right to an itemised pay statement.]

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- (5) If the employee's relations with his employer cease to be governed by a contract which normally involves work for sixteen hours or more weekly and become governed by a contract which normally involves employment for eight hours or more, but less than sixteen hours, weekly, the employee shall nevertheless for a period of twenty-six weeks, computed in accordance with subsection (6), be treated for the purposes of subsection (4) as if his contract normally involved employment for sixteen hours or more weekly.
- (6) In computing the said period of twenty-six weeks no account shall be taken of any week—
- (a) during which the employee is in fact employed for sixteen hours or more;
  - (b) during which the employee takes part in a strike (as defined by paragraph 24 of Schedule 13) or is absent from work because of a lock-out (as so defined) by his employer; or
  - (c) during which there is no contract of employment but which, by virtue of paragraph 9(1) of Schedule 13, counts in computing a period of continuous employment.
- (7) An employee whose relations with his employer are governed by a contract of employment which normally involves employment for eight hours or more, but less than sixteen hours, weekly shall nevertheless, if he has been continuously employed for a period of five years or more be treated for the purposes of subsection (4) as if his contract normally involved employment for sixteen hours or more weekly.
- [<sup>F14</sup>(8) References in subsections (4) to (7) to weeks are to weeks within the meaning of Schedule 13.]

#### Textual Amendments

- F9** S. 146(1) repealed by [Employment Act 1982 \(c. 46, SIF 43:5\)](#), **Sch. 4** with saving in [S.I. 1982/1656, Sch. 2](#)
- F10** Words "and V" substituted for words "V and VII" by [S.I. 1983/624, regs. 2-4](#) where "the relevant date" (within the meaning of s. 122(2) of the Act) falls on or after 1.6.1983
- F11** Words in [s. 146\(4\)](#) (which were inserted with saving by [Employment Act 1982 \(c. 46, SIF 43:5\)](#), s. 20, **Sch. 2 para. 8(5)(a)**) repealed (30.11.1993) by [1993 c. 19, s. 51, Sch.10](#); [S.I. 1993/2503, art. 2\(2\)](#), **Sch.2**.
- F12** Words in [s. 146\(4\)](#) repealed (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(1), 302, **Sch. 1** (with savings in [Sch. 3 para. 2](#)).
- F13** [S. 146\(4A\)-\(4C\)](#) inserted (30.11.1993) by [1993 c. 19, s.27](#); [S.I. 1993/2503, art. 2\(2\)](#), **Sch.2**.
- F14** [S. 146\(8\)](#) added with saving by [Employment Act 1982 \(c. 46, SIF 43:5\)](#), s. 20, **Sch. 2 para. 8(5)(b)**

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

- C4** [S. 146](#) modified (E.W.) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), **s. 7(2)(d)**
- C5** [S. 146](#) modified by [National Health Service \(Scotland\) Act 1978 \(c. 29, SIF 123:2\)](#), **s. 12C** (as added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), **s. 31**)

#### [<sup>F15</sup>146A National Security.

- (1) Where in the opinion of any Minister of the Crown the disclosure of any information would be contrary to the interests of national security—

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- (a) nothing in any of the provisions to which this section applies shall require any person to disclose the information, and
  - (b) no person shall disclose the information in any proceedings in any court or tribunal relating to any of those provisions.
- (2) This section applies to—
- (a) Part I so far as it relates to employment particulars,
  - (b) sections 22A to 22C and section 31A,
  - (c) Part III,
  - (d) section 53(2A),
  - (e) Part V so far as relating to a dismissal which is regarded as unfair by reason of section 57A, 59(1)(a) or 60, and
  - (f) Part VIII and this Part so far as relating to any of the provisions in paragraphs (a) to (e).]

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**Textual Amendments**

**F15** S. 146A inserted (30.11.1993 for specified purposes and otherwise 10.6.1994) by 1993 c. 19, ss. 49(1), 52, **Sch. 7 para.5**; S.I. 1993/2503, art. 2(2), **Sch.2**; S.I. 1994/1365, art. 2, **Sch.**

<sup>F16</sup>**147** .....

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**Textual Amendments**

**F16** S. 147 repealed by **Employment Act 1982 (c. 46, SIF 43:5)**, **Sch. 4**

**Status:**

Point in time view as at 07/02/1994.

**Changes to legislation:**

There are currently no known outstanding effects for the Employment Protection (Consolidation) Act 1978, Cross Heading: Excluded classes of employment.