



Employment Rights Act 1996

1996 CHAPTER 18

PART XIII

MISCELLANEOUS

CHAPTER I

PARTICULAR TYPES OF EMPLOYMENT

Crown employment etc.

191 Crown employment.

- (1) Subject to sections 192 and 193, the provisions of this Act to which this section applies have effect in relation to Crown employment and persons in Crown employment as they have effect in relation to other employment and other employees or workers.
- (2) This section applies to—
 - (a) Parts I to III,
 - [^{F1}(aa) Part IVA,]
 - (b) Part V, apart from section 45,
 - [^{F2}(c) Parts 6 to 8A,]
 - (d) in Part IX, sections 92 and 93,
 - (e) Part X, apart from section 101, and
 - (f) this Part and Parts XIV and XV.
- (3) In this Act “Crown employment” means employment under or for the purposes of a government department or any officer or body exercising on behalf of the Crown functions conferred by a statutory provision.
- (4) For the purposes of the application of provisions of this Act in relation to Crown employment in accordance with subsection (1)—

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- (a) references to an employee or a worker shall be construed as references to a person in Crown employment,
 - (b) references to a contract of employment, or a worker's contract, shall be construed as references to the terms of employment of a person in Crown employment,
 - (c) references to dismissal, or to the termination of a worker's contract, shall be construed as references to the termination of Crown employment,
 - (d) references to redundancy shall be construed as references to the existence of such circumstances as are treated, in accordance with any arrangements falling within section 177(3) for the time being in force, as equivalent to redundancy in relation to Crown employment,^{F3} . . .
 - [^{F4}(da) the reference in section 98B(2)(a) to the employer's undertaking shall be construed as a reference to the national interest, and]
 - (e) [^{F5}any other reference] to an undertaking shall be construed—
 - (i) in relation to a Minister of the Crown, as references to his functions or (as the context may require) to the department of which he is in charge, and
 - (ii) in relation to a government department, officer or body, as references to the functions of the department, officer or body or (as the context may require) to the department, officer or body.
- (5) Where the terms of employment of a person in Crown employment restrict his right to take part in—
- (a) certain political activities, or
 - (b) activities which may conflict with his official functions,
- nothing in section 50 requires him to be allowed time off work for public duties connected with any such activities.
- (6) Sections 159 and 160 are without prejudice to any exemption or immunity of the Crown.

Textual Amendments

- F1** S. 191(1)(aa) inserted (2.7.1999) by 1998 c. 23, s. 10; S.I. 1999/1547, art. 2
- F2** S. 191(2)(c) substituted (6.4.2003) by Employment Act 2002 (c. 22), s. 53, Sch. 7 para. 41; S.I. 2002/2866, art. 2(3), Sch. 1 Pt. 3
- F3** Word in s. 191(4)(d) repealed (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1)(2), 59(2)-(4), Sch. 1 para. 34(2), Sch. 2; S.I. 2005/872, arts. 4, 5, Sch. (subject to arts. 6-12)
- F4** S. 191(4)(da) inserted (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), Sch. 1 para. 34(2); S.I. 2005/872, arts. 4, 5, Sch. (subject to arts. 6-12)
- F5** Words in s. 191(4)(e) substituted (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), Sch. 1 para. 34(3); S.I. 2005/872, arts. 4, 5, Sch. (subject to arts. 6-12)

192 Armed forces.

- (1) Section 191—
- (a) applies to service as a member of the naval, military or air forces of the Crown but subject to the following provisions of this section, and
 - (b) applies to employment by an association established for the purposes of Part XI of the^{MI} Reserve Forces Act 1996.

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- (2) The provisions of this Act which have effect by virtue of section 191 in relation to service as a member of the naval, military or air forces of the Crown are—
- (a) Part I,
 - [^{F6}(aa) in Part V, [^{F7}sections [^{F8}43M,] 45A, 47C and 47D,] and sections 48 and 49 so far as relating to [^{F9}those sections] ,]
 - [^{F10}(ab) section 47C,]
 - (b) in Part VI, sections [^{F11}55 to 57B],
 - (c) Parts VII and VIII,
 - (d) in Part IX, sections 92 and 93,
 - (e) Part X, apart from sections [^{F12}98B(2) and (3),] 100 to 103 [^{F13}, 104C] and 134, and
 - (f) this Part and Parts XIV and XV.
- (3) Her Majesty may by Order in Council—
- (a) amend subsection (2) by making additions to, or omissions from, the provisions for the time being specified in that subsection, and
 - (b) make any provision for the time being so specified apply to service as a member of the naval, military or air forces of the Crown subject to such exceptions and modifications as may be specified in the Order in Council,
- but no provision contained in Part II may be added to the provisions for the time being specified in subsection (2).
- (4) Modifications made by an Order in Council under subsection (3) may include provision precluding the making of a complaint or reference to any [^{F14}employment tribunal] unless [^{F15}—
- (a) the person aggrieved has made [^{F16}a service complaint] ; and
 - (b) the Defence Council have made a determination with respect to the [^{F17}service complaint] .]
- [^{F18}(5) Where modifications made by an Order in Council under subsection (3) include provision such as is mentioned in subsection (4), the Order in Council shall also include provision—
- (a) enabling a complaint or reference to be made to an [^{F14}employment tribunal] in such circumstances as may be specified in the Order, notwithstanding that provision such as is mentioned in subsection (4) would otherwise preclude the making of the complaint or reference; and
 - (b) where a complaint or reference is made to an [^{F14}employment tribunal] by virtue of provision such as is mentioned in paragraph (a), enabling the [^{F19}the service complaint procedures] to continue after the complaint or reference is made.]
- [^{F20}(6A) In subsections (4) and (5)—
- “service complaint” means a complaint under section 334 of the Armed Forces Act 2006;
 - “the service complaint procedures” means the procedures prescribed by regulations under that section.]
- (7) No provision shall be made by virtue of subsection (4) which has the effect of substituting a period longer than six months for any period specified as the normal period for a complaint or reference.

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- (8) In subsection (7) “the normal period for a complaint or reference”, in relation to any matter within the jurisdiction of an [^{F14}employment tribunal], means the period specified in the relevant enactment as the period within which the complaint or reference must be made (disregarding any provision permitting an extension of that period at the discretion of the tribunal).

Textual Amendments

- F6** S. 192(2)(aa) inserted (1.10.1998) by S.I. 1998/1833, **reg. 31(4)**
- F7** Words in s. 192(2)(aa) substituted (1.9.2002 for certain purposes, otherwise prosp.) by Tax Credits Act 2002 (c. 21), s. 27, **Sch. 1 para. 1(5)(a)**; S.I. 2002/1727, **art. 2**
- F8** Words in s. 192(2)(aa) inserted (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 35(a)**; S.I. 2005/872, **arts. 4, 5**, Sch. (subject to arts. 6-12)
- F9** Words in s. 192(2)(aa) substituted (1.9.2002 for certain purposes, otherwise prosp.) by Tax Credits Act 2002 (c. 21), s. 27, **Sch. 1 para. 1(5)(b)**; S.I. 2002/1727, **art. 2**
- F10** S. 192(2)(ab) inserted (15.12.1999) by 1999 c. 26, s. 9, **Sch. 4 Pt. III para. 31(a)**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with Sch. 3 paras. 10, 11)
- F11** Words in s. 192(2)(b) substituted (15.12.1999) by 1999 c. 26, s. 9 **Sch. 4 Pt. III para. 31(b)**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with Sch. 3 paras. 10, 11)
- F12** Words in s. 192(2)(e) inserted (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 35(b)**; S.I. 2005/872, **arts. 4, 5**, Sch. (subject to arts. 6-12)
- F13** Words in s. 192(2)(e) inserted (6.4.2003) by Employment Act 2002 (c. 22), s. 53, **Sch. 7 para. 42**; S.I. 2002/2866, **art. 2(3)**, Sch. 1 Pt. 3
- F14** Words in s. 192(4)(5)(a)(b)(8) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F15** Paras. (a)(b) substituted for words in s. 192(4) (1.10.1997) by 1996 c. 46, s. 26(2); S.I. 1997/2164, **art. 2**
- F16** Words in s. 192(4)(a) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 136(a)(i)**; S.I. 2007/2913, **art. 3**
- F17** Words in s. 192(4)(b) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 136(a)(ii)**; S.I. 2007/2913, **art. 3**
- F18** S. 192(5) substituted (1.10.1997) by 1996 c. 46, s. 26(3); S.I. 1997/2164, **art. 2**
- F19** Words in s. 192(5)(b) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 136(b)**; S.I. 2007/2913, **art. 3**
- F20** S. 192(6A) substituted (1.1.2008) for s. 192(6) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 136(c)**; S.I. 2007/2913, **art. 3**

Modifications etc. (not altering text)

- C1** As s. 31 of the Trade Union Reform and Employment Rights Act 1993 has not come into force before the commencement of this Act (22.8.1996), this Act shall have effect until the relevant commencement date as if for section 192 there were substituted the words expressed in Sch. 2 Part II para. 16(1) of this Act. The relevant commencement date is defined by Sch. 2 Part II para 16(2) of this Act.
- C2** As Part XI of the Reserve Forces Act 1996 has not come into force before the commencement of this Act (22.8.1996), section 192 of this Act shall have effect until the relevant commencement date as if for "Part XI of the Reserve Forces Act 1996" there were substituted "Part VI of the Reserve Forces Act 1980". The relevant commencement date is defined by Sch. 2 Part II para 17(2).
- C3** S. 192(4) modified (24.4.2009) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), **art. 196(1)(f)**
- C4** S. 192(5) modified (24.4.2009) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), **art. 196(2)(f)**

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Marginal Citations

M1 1996 c. 14.

[^{F21}193 National security.

Part IVA and section 47B of this Act do not apply in relation to employment for the purposes of—

- (a) the Security Service,
- (b) the Secret Intelligence Service, or
- (c) the Government Communications Headquarters.]

Textual Amendments

F21 S. 193 substituted (16.7.2001) by 1999 c. 26, s. 41, **Sch. 8 para. 1**; S.I. 2001/1187, **art. 3(a)** as amended by S.I. 2001/1461, **art. 2(2)**

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