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STATUTORY INSTRUMENTS

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**1995 No. 1980**

**The Trade Union and Labour Relations  
(Northern Ireland) Order 1995**

**PART XI**

**MISCELLANEOUS AND GENERAL**

*Crown employment, etc.*

**Crown employment**

**141.**—(1) The provisions of this Order<sup>[F1]</sup> and the 1992 Order] have effect (except as mentioned below) in relation to Crown employment and persons in Crown employment as in relation to other employment and other workers or employees.

(2) Paragraph (1) does not apply in relation to<sup>[F2]</sup> Article 61(4)(b) (power of tribunal] to make order in respect of employer's failure to comply with duties as to union contributions)<sup>[F1]</sup> or in relation to Articles 42 and 43 of the 1992 Order].

(3) In this Article “Crown employment” means employment under or for the purposes of a government department.

(4) For the purposes of the provisions of this Order as they apply in relation to Crown employment or persons in Crown employment—

- (a) “employee” and “contract of employment” means a person in Crown employment and the terms of employment of such a person;
- (b) “dismissal” means the termination of Crown employment;

<sup>[F1]</sup>(bb) the reference in Article 40(1)(e) of the 1992 Order to the employer's undertaking shall be construed as a reference to the national interest;]

- (c) any reference to an undertaking shall be construed, in relation to a Minister of the Crown or Head of a department, as a reference to his functions or (as the context may require) to the department of which he is in charge, and in relation to a government department, shall be construed as a reference to the functions of the department or (as the context may require) to the department.

(5) This Article has effect subject to Article 142 (armed forces) and Article 143 (exemption on grounds of national security).

**F1** 1996 NI 16

**F2** 1998 NI 8

*Status: Point in time view as at 06/04/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Trade Union and Labour Relations (Northern Ireland) Order 1995, PART XI. (See end of Document for details)*

## Armed forces

**142.**—(1) Article 141 (application of Order to Crown employment) does not apply to service as a member of the naval, military or air forces of the Crown.

(2) But that Article applies to employment by an association established for the purposes of Part VI of the Reserve Forces Act 1980<sup>F3</sup> (territorial, auxiliary and reserve forces associations) as it applies to employment for the purposes of a government department.

**F3** 1980 c. 9

## Exemption on grounds of national security

**143.**—(1) Article 141 (application of Order to Crown employment) does not apply to employment in respect of which there is in force a certificate issued by or on behalf of the Secretary of State certifying that employment of a description specified in the certificate, or the employment of a particular person so specified, is (or, at a time specified in the certificate, was) required to be excepted from that Article for the purpose of safeguarding national security or protecting public safety or public order.

(2) A document purporting to be such a certificate shall, unless the contrary is proved, be deemed to be such a certificate.

### *Health service practitioners*

## Health service practitioners

**144.**—<sup>F4</sup>(1) In this Order “worker” includes an individual regarded in his capacity as one who works or normally works or seeks to work as a person<sup>F5</sup> performing personal medical services or personal dental services] providing general medical services, general dental services, general ophthalmic services or pharmaceutical services in accordance with arrangements made by a Health and Social Services Board under Article<sup>F5</sup> 15B,<sup>F4</sup> . . . , 61, 62 or 63 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>F6</sup>; and “employer”, in relation to such an individual, regarded in that capacity, means that Board.

<sup>F4</sup>(2) In this Order “worker” also includes an individual regarded in his capacity as one who works or normally works or seeks to work as a person performing primary medical services—

- (a) in accordance with arrangements made by a Health and Social Services Board under Article 15B of the Health and Personal Social Services (Northern Ireland) Order 1972;
- (b) under a contract under Article 57 of that Order entered into by him with a Health and Social Services Board,

and “employer” in relation to such an individual, regarded in that capacity, means that Board.]

**F4** 2004 NI 2  
**F5** 1997 NI 7  
**F6** 1972 NI 14

## *Police service*

### **Police service**

**145.**—(1) In this Order “employee” or “worker” does not include a person in police service.

(2) “Police service” means service as a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve, or, subject to paragraph (3), in any other capacity by virtue of which a person has the powers or privileges of a constable.

(3) Service in the office of constable under Article 19 of the Airports (Northern Ireland) Order 1994<sup>F7</sup> shall not be treated as police service for the purposes of this Article, and the holding of that office on any airport shall be treated for those purposes as work under a contract of employment with the airport operator.

**F7** 1994 NI 1

## *Contracting out, etc.*

### **Restriction on contracting out**

**146.**—(1) Any provision in an agreement (whether a contract of employment or not) is void in so far as it purports—

- (a) to exclude or limit the operation of any provision of this Order, or
- (b) to preclude a person from bringing proceedings before an industrial tribunal under any provision of this Order.

(2) Paragraph (1) does not apply to an agreement to refrain from instituting or continuing proceedings where the Agency has taken action under<sup>F8</sup> Article 20 of the Industrial Tribunals (Northern Ireland) Order 1996] (general provisions as to conciliation).

(3) Paragraph (1) does not apply to an agreement to refrain from instituting or continuing any proceedings specified in Article 148 before an industrial tribunal if the conditions regulating compromise agreements under this Order are satisfied in relation to the agreement.

(4) The conditions regulating compromise agreements under this Order are that—

- (a) the agreement must be in writing;
- (b) the agreement must relate to the particular<sup>F9</sup> proceedings];
- (c) the complainant must have received<sup>F10</sup> advice from a relevant independent adviser] as to the terms and effect of the proposed agreement and in particular its effect on his ability to pursue his rights before an industrial tribunal;
- (d) there must be in force, when the adviser gives the advice, a<sup>F11</sup> contract of insurance, or an indemnity provided for members of a profession or professional body,] covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;
- (e) the agreement must identify the adviser; and
- (f) the agreement must state that the conditions regulating compromise agreements under this Order are satisfied.

<sup>F9</sup>(5) A person is a relevant independent adviser for the purposes of paragraph (4)(c)—

- (a) if he is a qualified lawyer,

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- (b) if he is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union,
- (c) if he works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre, or
- (d) if he is a person of a description specified in an order made by the Department.

(5A) But a person is not a relevant independent adviser for the purposes of paragraph (4)(c) in relation to the complainant—

- (a) if he is, is employed by or is acting in the matter for the other party or for a person who is connected with the other party,
- (b) in the case of a person within paragraph (5)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party,
- (c) in the case of a person within paragraph (5)(c), if the complainant makes a payment for the advice received from him, or
- (d) in the case of a person of a description specified in an order under paragraph (5)(d), if any condition specified in the order in relation to the giving of advice by persons of that description is not satisfied.

(5B) In paragraph (5)(a) “qualified lawyer” means a barrister (whether in practice as such or employed to give legal advice), or a solicitor who holds a practising certificate.

(6) For the purposes of paragraph (5A) any two persons are to be treated as connected—

- (a) if one is a company of which the other (directly or indirectly) has control, or
- (b) if both are companies of which a third person (directly or indirectly) has control.]

[<sup>F12</sup>(7) An agreement under which the parties agree to submit a dispute to arbitration—

- (a) shall be regarded for the purposes of paragraphs (2) and (3) as being an agreement to refrain from instituting or continuing proceedings if—
  - (i) the dispute is covered by a scheme having effect by virtue of an order under Article 84A of the Industrial Relations (Northern Ireland) Order 1992; and
  - (ii) the agreement is to submit it to arbitration in accordance with the scheme, but
- (b) shall be regarded for those purposes as neither being nor including such an agreement in any other case.]

**F8** 1996 NI 18

**F9** 1998 NI 8

**F10** 1998 NI 8

**F11** 1998 NI 8

**F12** 1998 NI 8

### **Employment governed by foreign law**

**147.** For the purposes of this Order it is immaterial whether the law which (apart from this Order) governs any person's employment is the law of the United Kingdom, or of a part of the United Kingdom, or not.

### *Industrial tribunal proceedings*

*Art.148 rep. by 1996 NI 18*

## *Regulations and orders*

### **Regulations and orders**

**149.**—(1) Subject to paragraph (2), all regulations and orders made by the Department under this Order shall be subject to negative resolution.

(2) Paragraph (1) does not apply to an order under Article 1(2),<sup>[F13]</sup> 44B(9),<sup>[F14]</sup> 90A(2)(e) 91(3) or 121(2).

(3) Regulations and orders under this Order may contain such incidental, supplementary and transitional provisions as appear to the Department to be necessary or expedient.

**F13** 1999 NI 9

**F14** 1999 NI 9

## *Amendments, transitional provisions and repeals*

### **Amendments, transitional provisions and repeals**

**150.**—(1) The Coal Mines Regulation Act 1908<sup>F15</sup> (which makes provision for limiting hours of work below ground) shall cease to have effect.

*Para. (2)—Amendments*

(3) The transitional provisions in Schedule 3 shall have effect.

*Para. (4)—Repeals*

**F15** 1908 c. 57

**Status:**

Point in time view as at 06/04/2019.

**Changes to legislation:**

There are currently no known outstanding effects for the The Trade Union and Labour Relations (Northern Ireland) Order 1995, PART XI.