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*Status: Point in time view as at 03/10/2022.*

*Changes to legislation: The Employment Rights (Northern Ireland) Order 1996, Cross Heading: Right to statements of employment particulars is up to date with all changes known to be in force on or before 15 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)*

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## STATUTORY INSTRUMENTS

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# 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—

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- (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,
- [<sup>F1</sup>(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<sup>F1</sup> 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,<sup>F1</sup> decisions to dismiss] grievances or procedures relating to health or safety at work.

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

<sup>F2</sup>(5) .....

<b>F1</b>	2003 NI 15
<b>F2</b>	Art. 35(5) omitted (6.4.2016) by virtue of Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), Sch. 13 para. 66

### 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.

### [<sup>F3</sup>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.]

**F3** 2003 NI 15

### **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.

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