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STATUTORY INSTRUMENTS

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**1996 No. 1919**

**The Employment Rights (Northern Ireland) Order 1996**

**PART XV**

**MISCELLANEOUS**

**CHAPTER I**

**PARTICULAR TYPES OF EMPLOYMENT**

*Excluded classes of employment*

**[<sup>F1</sup>Employment outside Northern Ireland**

**239.**—(1) The provisions to which this paragraph applies do not apply to employment where under his contract of employment an employee ordinarily works outside Northern Ireland.

(2) Paragraph (1) applies to—

- (a) Part II;
- (b) [<sup>F2</sup>Chapters II and III] of Part VI;
- (c) Articles 92 to 95;
- (d) Articles [<sup>F3</sup>221 to 222] .

[  
<sup>F2</sup>(3) Chapters II and III of Part VI do not apply to employment where under his contract personally to do work or perform services a worker who is not an employee works outside Northern Ireland.]]

[<sup>F4</sup>(4) For the purposes of paragraph (1) as it relates to Articles 221 to 222, employment on board a ship registered in the United Kingdom is to be treated as employment where under his contract a person ordinarily works in Northern Ireland.]

**F1** 1999 NI 9

**F2** 2004 NI 19

**F3** Words in art. 239(2)(d) substituted (26.1.2020) by *The Seafarers (Collective Redundancies, Information and Consultation and Insolvency Miscellaneous Amendments) Regulations (Northern Ireland) 2020* (S.R. 2020/12), regs. 1(1), **3(3)(a)** (with reg. 3(5))

**F4** Art. 239(4) inserted (26.1.2020) by *The Seafarers (Collective Redundancies, Information and Consultation and Insolvency Miscellaneous Amendments) Regulations (Northern Ireland) 2020* (S.R. 2020/12), regs. 1(1), **3(3)(b)** (with reg. 3(5))

**Status:** Point in time view as at 26/01/2020.

**Changes to legislation:** The Employment Rights (Northern Ireland) Order 1996, Cross Heading: Excluded classes of employment is up to date with all changes known to be in force on or before 27 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)

## Short-term employment

**241.**—(1) Articles 33 to 39 do not apply to an employee if his employment continues for less than one month.

(2) The provisions of Part XIII do not apply to employment—

- (a) under a contract for a fixed term of three months or less, or
- (b) under a contract made in contemplation of the performance of a specific task which is not expected to last for more than three months,

where the employee has not been continuously employed for a period of more than three months.

## Mariners

**242.**—(1) Articles 33 to 39, Part IV and Articles 118 to 123 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) Part II, Articles 40 to 42, Part V, Part VI (other than Article 69), Part VII (other than Articles 86 to 88), Parts VIII<sup>F5</sup>, IX and IXA], Articles 124 and 125 and<sup>F6</sup> . . . [<sup>F7</sup>Parts 11 and 12] do not apply to employment as master, or as a member of the crew, of a fishing vessel where the employee<sup>F8</sup> (or, in the case of Articles 73 to 77F), the worker] is remunerated only by a share in the profits or gross earnings of the vessel.

*Para. (3) rep. by 1999 NI 9*

(4) Articles 40 to 42 and 78 to 82 <sup>F9</sup>... do not apply to employment as a merchant seaman.

(5) In paragraph (4) “employment as a merchant seaman”

- (a) 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
- (b) subject to that, includes—
  - (i) employment as a master or a member of the crew of any ship,
  - (ii) employment as a trainee undergoing training for the sea service, and
  - (iii) 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.

*Para. (6) rep. by SR 2002/298*

<sup>F6</sup>(7) The provisions mentioned in paragraph (8) apply to employment on board a ship registered in the register maintained under section 8 of the Merchant Shipping Act 1995 if and only if—

- (a) the ship's entry in the register specifies a port in Northern Ireland as the port to which the vessel is to be treated as belonging;
- (b) under his contract of employment the person employed does not work wholly outside Northern Ireland; and
- (c) the person employed is ordinarily resident in Northern Ireland.

(8) The provisions are—

- (a) Articles 40 to 42;
- (b) Parts IV and V and Chapter I of Part VI;
- (c) Part VII, apart from Articles 86 to 88;
- (d) Parts VIII<sup>F5</sup>, IX and IXA];

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- (e) Articles 124 and 125; and
- (f) Part XI.]

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| <b>F5</b> | 2002 NI 2  |
| <b>F6</b> | 1999 NI 9  |
| <b>F7</b> | Words in art. 242(2) substituted (26.1.2020) by The Seafarers (Collective Redundancies, Information and Consultation and Insolvency Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/12), regs. 1(1), <b>3(4)(a)</b> (with reg. 3(5)(6))       |
| <b>F8</b> | 2004 NI 19   |
| <b>F9</b> | Words in art. 242(4) omitted (26.1.2020) by virtue of The Seafarers (Collective Redundancies, Information and Consultation and Insolvency Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/12), regs. 1(1), <b>3(4)(b)</b> (with reg. 3(5)(6)) |

### Police officers

**243.**—(1) Articles 40 to 42, Part V,<sup>F10</sup> . . . [<sup>F11</sup> Article 67M][<sup>F12</sup> Article 68A,][<sup>F13</sup> Article 70,][<sup>F14</sup> Article 70C,] Chapter II of Part VI] Part VII (other than Articles 86 to 88), Parts VIII and IX, Articles 124 and 125, Part XI,<sup>F13</sup> (except Articles 132<sup>F15</sup>, 134A] and 169A and the other provisions of that Part so far as relating to the right not to be unfairly dismissed in a case where the dismissal is unfair by virtue of Article 132<sup>F15</sup> or 134A] )<sup>F14</sup>. . . and Part XIII do not apply to employment under a contract of employment in police service or to persons engaged in such employment.

(2) Part II does not apply in relation to police service.

(3) In this Article “police service” means—

[<sup>F16</sup>(a) service as a police officer;]

(b) subject to—

(i) section 126 of the Criminal Justice and Public Order Act 1994 (prison staff not to be regarded as in police service), and

(ii) Article 19 of the Airports (Northern Ireland) Order 1994 (airport constables not to be regarded as in police service),

service in any other capacity by virtue of which a person has the powers or privileges of a constable.

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| <b>F10</b> | 2003 c. 6   |
| <b>F11</b> | 2004 NI 19  |
| <b>F12</b> | SR 1998/386 |
| <b>F13</b> | 1997 NI 16  |
| <b>F14</b> | 1999 NI 9   |
| <b>F15</b> | 2003 c. 6   |
| <b>F16</b> | 2000 c. 32  |

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