



# Employment Protection Act 1975

## 1975 CHAPTER 71

### PART V

#### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

#### **120 Transfers to and from Crown employment**

(1) In Schedule 1 to the Contracts of Employment Act 1972 (computation of period of employment) after paragraph 10 there shall be inserted the following paragraph:—

“10A (1) Subject to the following provisions of this paragraph, the provisions of this Schedule shall have effect (for the purpose of computing an employee's period of employment, but not for any other purpose) in relation to Crown employment and to persons in Crown employment as they have effect in relation to other employment and to other employees, and accordingly, except where the context otherwise requires, references to an employer shall be construed as including a reference to the Crown.

(2) In this paragraph, subject to the next following sub-paragraph, " 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 any enactment.

(3) This paragraph does not apply to service as a member of the naval, military or air forces of the Crown, or of any women's service administered by the Defence Council, but does apply to employment by any association established for the purposes of the Auxiliary Forces Act 1953.

(4) In so far as a person in Crown employment is employed otherwise than under a contract of employment, references in this Schedule to an employee's relations with his employer being governed by a contract of employment which normally involves employment for a certain number of hours weekly shall be modified accordingly.

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- (5) The reference in paragraph 9(2) of this Schedule to an undertaking shall be construed as including a reference to any function of (as the case may require) a Minister of the Crown, a government department, or any other officer or body performing functions on behalf of the Crown.”.
- (2) After section 13 of the Redundancy Payments Act 1965 (change of ownership of business) there shall be inserted the following section—

**“13A Transfer to Crown employment.**

- (1) Section 13 of this Act shall apply to a transfer of functions from a person not acting on behalf of the Crown (in this section referred to as the transferor) to a Minister of the Crown, a government department or any other officer or body exercising functions on behalf of the Crown (in this section referred to as the transferee) as that section applies to a transfer of a business, but with the substitution for references to the previous owner and new owner of references to the transferor and transferee respectively.
- (2) In so far as the renewal or re-engagement of the employee by the transferee is in employment otherwise than under a contract of employment—
- (a) references in section 13 of this Act (and in sections 2(4) to (6) and 3(3) to (10) of this Act as they apply by virtue of that section) to a contract of employment or to the terms of such a contract shall be construed as references to employment otherwise than under such a contract and to the terms of such employment; and
  - (b) references in subsection (4) of that section, as modified by subsection (1) of this section, to the substitution of the transferee for the transferor shall be construed as references to the substitution of employment by the transferee otherwise than under a contract of employment for employment by the transferor under such a contract.”
- (3) After section 24 of the said Act of 1965 (modification of right to redundancy payment where previous redundancy payment has been paid) there shall be inserted the following section—

**“24A Modification of right to redundancy payment where payment equivalent to redundancy payment has previously been paid.**

- (1) The provisions of this section shall have effect where—
- (a) a payment has been made, whether in respect of the termination of any person's employment or in respect of lay-off or short-time.—
    - (i) in accordance with any provisions of a scheme under section 1 of the Superannuation Act 1972 ; or
    - (ii) in accordance with any such arrangements as are mentioned in section 41(3) of this Act:
  - (b) he commences new, or renewed, employment : and
  - (c) the circumstances of the commencement of the new, or renewed, employment are such that, in determining for the purposes of section 1(1) of, or Schedule 1 to, this Act whether at any subsequent time he has been continuously employed for the requisite period, or for what period he has been continuously employed, the continuity of his period of employment would, apart from this section, be

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treated as not having been broken by the termination of the previous employment and the commencement of the new, or renewed, employment.

- (2) Where the conditions mentioned in the preceding subsection are fulfilled, then in determining, for the purposes of section 1(1) of, or Schedule 1 to, this Act, whether at any subsequent time he has been continuously employed for the requisite period, or for what period he has been continuously employed, the continuity of the period of employment shall be treated as having been broken—
- (a) in so far as the employment was under a contract of employment, at the date which was the relevant date in relation to the payment mentioned in paragraph (a) of the preceding subsection; or
  - (b) in so far as the employment was otherwise than under a contract of employment, at the date which would have been the relevant date in relation to that payment had the employment been under a contract of employment,

and accordingly no account shall be taken of any time before that date.”.