



Employment Protection (Consolidation) Act 1978

1978 CHAPTER 44

[^{F1}PART I

EMPLOYMENT PARTICULARS

Textual Amendments

F1 Ss. 1-6, Part I heading and cross heading substituted (30.11.1993) by 1993 c. 19, ss. 26, 50, Sch.4, **Sch. 9 para. 3**; S.I. 1993/2503, art. 2(2), **Sch.2**.

^{F2}Written particulars of employment]

Textual Amendments

F2 Ss. 1-6, Part I heading and cross heading substituted (30.11.1993) by 1993 c. 19, ss. 26, 50, Sch.4, **Sch. 9 para. 3**; S.I. 1993/2503, art. 2(2), **Sch.2**.

^{F3}1 Employer's duty to give statement of employment particulars.

- (1) Not later than two months after the beginning of an employee's employment with an employer, the employer shall give to the employee a written statement which may, subject to subsection (3) of section 2, be given in instalments before the end of that period.
- (2) The statement shall contain particulars of—
 - (a) the names of the employer and employee,
 - (b) the date when the employment began, and

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 Employment Protection (Consolidation) Act 1978, Part I. (See end of Document for details)*

- (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).
- (3) The statement shall also contain particulars, as at a specified date not more than seven days before the statement or instalment of the statement 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 the employee is employed,
 - (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.
- (4) Subsection (3)(d)(iii) shall not apply to the employees of any body or authority if—
- (a) the employees' pension rights depend on the terms of a pension scheme established under any provision contained in or having effect under any Act of Parliament, and
 - (b) the body or authority are required by any such provision to give to new employees information concerning their pension rights or the determination of questions affecting their pension rights.

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Textual Amendments

F3 Ss. 1-6 substituted (30.11.1993) by 1993 c. 19, ss. 26, 50, Sch.4, **Sch. 9 para. 3**; S.I. 1993/2503, art. 2(2), **Sch.2**.

Modifications etc. (not altering text)

C1 Ss. 1-4 excluded (30.11.1993) by 1993 c. 19, s. 50, **Sch. 9 para. 3(2)**; S.I. 1993/2503, art. 2(2), **Sch.2**.

C2 S. 1 modified (30.11.1993) by 1993 c. 19, s. 50, **Sch. 9 para. 3(3)**; S.I. 1993/2503, art. 2(2), **Sch.2**.

^{F4}2 Section 1: supplementary.

- (1) If, in the case of a statement under section 1, there are no particulars to be entered under any of the heads of paragraph (d) or (k) of subsection (3) of that section, or under any of the other paragraphs of subsection (2) or (3) of that section, that fact shall be stated.
- (2) A statement under section 1—
 - (a) may refer the employee to the provisions of some other document which—
 - (i) the employee has reasonable opportunities of reading in the course of his employment, or
 - (ii) is made reasonably accessible to him in some other way,for particulars of any of the matters specified in heads (ii) and (iii) of paragraph (d) of subsection (3) of section 1, and
 - (b) may refer the employee to the law, or, subject to subsection (3), to the provisions of any collective agreement which directly affects the terms and conditions of the employment, for particulars of either of the matters specified in paragraph (e) of that subsection.
- (3) A statement under section 1 may refer the employee to the provisions of a collective agreement under subsection (2)(b) if, and only if, it is an agreement which—
 - (a) the employee has reasonable opportunities of reading in the course of his employment, or
 - (b) is made reasonably accessible to him in some other way.
- (4) The particulars required by section 1(2) and the following provisions of subsection (3)
 - (a) paragraphs (a) to (c),
 - (b) head (i) of paragraph (d),
 - (c) paragraph (f), and
 - (d) paragraph (h),shall be included in a single document (in this Part referred to as the “principal statement”).
- (5) Where before the end of the period of two months after the beginning of his employment an employee is to begin to work outside the United Kingdom for a period of more than one month, the statement under section 1 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 section 1 notwithstanding that his employment ends before the end of the period within which the statement is required to be given.

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Changes to legislation: There are currently no known outstanding effects for the Employment Protection (Consolidation) Act 1978, Part 1. (See end of Document for details)

Textual Amendments

F4 Ss. 1-6 substituted (30.11.1993) by 1993 c. 19, ss. 26, 50, Sch.4, **Sch. 9 para. 3**; S.I. 1993/2503, art. 2(2), **Sch.2**.

Modifications etc. (not altering text)

C3 Ss. 1-4 excluded (30.11.1993) by 1993 c. 19, s. 50, **Sch. 9 para. 3(2)**; S.I. 1993/2503, art. 2(2), **Sch.2**.

F63 Statement to include note about disciplinary procedures.

- (1) A statement under section 1 shall include a note—
 - (a) specifying any disciplinary rules applicable to the employee or referring the employee to the provisions of a document which—
 - (i) the employee has reasonable opportunities of reading in the course of his employment, or
 - (ii) is made reasonably accessible to him in some other way,
 and which specifies such rules,
 - (b) specifying, by description or otherwise—
 - (i) a person to whom the employee can apply if he is dissatisfied with any disciplinary decision relating to 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,
 - (c) where there are further steps consequent on any such application, explaining those steps or referring to the provisions of a document which—
 - (i) the employee has reasonable opportunities of reading in the course of his employment, or
 - (ii) is made reasonably accessible to him in some other way,
 and which explains them, and
 - (d) stating whether a contracting-out certificate is in force for the employment.
- (2) Subsection (1)(a) to (c) shall not apply to rules, disciplinary decisions, grievances or procedures relating to health or safety at work.
- (3) The note need not comply with the following provisions of subsection (1)—
 - (a) paragraph (a),
 - (b) in paragraph (b), sub-paragraph (i) and the words following sub-paragraph (ii) so far as relating to sub-paragraph (i), and
 - (c) paragraph (c),
 if on the date when the employee's employment began the relevant number of employees was less than twenty.
- (4) In subsection (3) "the relevant number of employees", in relation to an employee, means the number of employees employed by his employer added to the number of employees employed by any associated employer.

Status: Point in time view as at 13/04/1995.

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Textual Amendments

F6 Ss. 1-6 substituted (30.11.1993) by 1993 c. 19, ss. 26, 50, Sch.4, **Sch. 9 para. 3**; S.I. 1993/2503, art. 2(2), **Sch.2**.

Modifications etc. (not altering text)

C4 Ss. 1-4 excluded (30.11.1993) by 1993 c. 19, s. 50, **Sch. 9 para. 3(2)**; S.I. 1993/2503, art. 2(2), **Sch.2**.

F74 Employer's duty to give statement of changes.

- (1) If, after the date to which a statement given under section 1 relates, or, where no such statement is given, after the end of the period within which a statement under section 1 is required to be given, there is a change in any of the matters particulars of which are required by sections 1 to 3 to be included or referred to in a statement under section 1, the employer shall at the earliest opportunity and, in any event, not later than—
 - (a) one month after the change, or
 - (b) where the 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,give to the employee a written statement containing particulars of the change.
- (2) In a case where the statement under section 1 is given in instalments, subsection (1) applies—
 - (a) in relation to—
 - (i) matters particulars of which are required to be (whether they are or not) included in the instalment comprising the principal statement, and
 - (ii) other matters particulars of which are included or referred to in that instalment;
 - (b) in relation to matters particulars of which are included or referred to in any other instalment; and
 - (c) in relation to any change occurring after the end of the two-month period within which a statement under section 1 is required to be given in matters particulars of which were required to be included in the statement given under section 1 but which were not included in any instalment;as it applies in relation to matters particulars of which are required to be included or referred to in a statement under section 1 not given in instalments.
- (3) A statement under subsection (1)—
 - (a) may refer the employee to the provisions of some other document which—
 - (i) the employee has reasonable opportunities of reading in the course of his employment, or
 - (ii) is made reasonably accessible to him in some other way,for a change in any of the matters specified in sections 1(3)(d) (ii) and (iii) and 3(1)(a) and (c), and
 - (b) may refer the employee to the law, or, subject to subsection (4), to the provisions of any collective agreement which directly affects the terms and conditions of the employment, for a change in either of the matters specified in section 1(3)(e).

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- (4) A statement under subsection (1) may refer the employee to the provisions of a collective agreement under subsection (3)(b) if, and only if, it is an agreement which—
- (a) the employee has reasonable opportunities of reading in the course of his employment, or
 - (b) is made reasonably accessible to him in some other way.
- (5) Where after an employer has given to an employee a statement under section 1—
- (a) either—
 - (i) 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
 - (ii) the identity of the employer is changed in circumstances in which the continuity of the employee's period of employment is not broken, and
 - (b) the change does not involve any change in any of the matters (other than the names of the parties) particulars of which are required by sections 1 to 3 to be included in the statement,
- the person who immediately after the change is the employer shall not be required to give to the employee a statement under section 1 but the change shall be treated as a change falling within subsection (1) of this section.
- (6) A statement under subsection (1) which informs an employee of a change such as is referred to in subsection (5)(a)(ii) shall specify the date on which the employee's period of continuous employment began.

Textual Amendments

F7 Ss. 1-6 substituted (30.11.1993) by 1993 c. 19, ss. 26, 50, Sch.4, **Sch. 9 para. 3**; S.I. 1993/2503, art. 2(2), **Sch.2**.

Modifications etc. (not altering text)

C5 Ss. 1-4 excluded (30.11.1993) by 1993 c. 19, s. 50, **Sch. 9 para. 3(2)**; S.I. 1993/2503, art. 2(2), **Sch.2**.

C6 S. 4 applied (30.11.1993) by 1993 c. 19, s. 50, **Sch. 9 para. 3(3)**; S.I. 1993/2503, art. 2(2), **Sch.2**.

C7 S. 4 extended (6.1.1994) by 1993 c. 43, ss. **93(5)**, 150(1)(d); S.I. 1993/3237, art. **2(2)**.

C8 S. 4(1) modified (30.11.1993) by 1993 c. 19, s. 50, **Sch. 9 para. 3(5)**; S.I. 1993/2503, art. 2(2), **Sch.2**.

C9 S. 4(5) modified (30.11.1993) by 1993 c. 19, s. 50, **Sch. 9 para. 3(5)**; S.I. 1993/2503, art. 2(2), **Sch.2**.

^{F8}5 Exclusion of sections 1 to 4 in case of certain employees.

- (1) Sections 1 to 4 shall not apply to an employee if—
- (a) his employment continues for less than one month, ^{F9} . . .
 - ^{F10}(b)
- (2) Sections 1 to 4 shall apply to an employee who at any time comes or ceases to come within the exceptions from those sections provided for by ^{F11} . . . sections 141 and 144, and under section 149, as if his employment with his employer terminated or began at that time.
- (3) The fact that section 1 is directed by subsection (2) to apply to an employee as if his employment began on his ceasing to come within the exceptions referred to in that subsection shall not affect the obligation under section 1(2)(b) to specify the date on which his employment actually began.

Status: Point in time view as at 13/04/1995.

Changes to legislation: There are currently no known outstanding effects for the Employment Protection (Consolidation) Act 1978, Part 1. (See end of Document for details)

Textual Amendments

- F8** Ss. 1-6 substituted (30.11.1993) by 1993 c. 19, ss. 26, 50, Sch. 4, **Sch. 9 para. 3**; S.I. 1993/2503, art. 2(2), **Sch. 2**.
- F9** Word in s. 5(1)(a) repealed (6.2.1995) by S.I. 1995/31, reg. 6, **Sch.**
- F10** S. 5(1)(b) repealed (6.2.1995) by S.I. 1995/31, regs. 2, 6, **Sch.**
- F11** Words in s. 5(2) repealed (6.2.1995) by S.I. 1995/31, reg. 6, **Sch.**

F13 6 Power of Secretary of State to require particulars of further matters.

The Secretary of State may by order provide that section 1 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 section; and, for that purpose, the order may include such provisions amending that section as appear to the Secretary of State to be expedient.

Textual Amendments

- F13** Ss. 1-6 substituted (30.11.1993) by 1993 c. 19, ss. 26, 50, Sch.4, **Sch. 9 para. 3**; S.I. 1993/2503, art. 2(2), **Sch.2**.

Modifications etc. (not altering text)

- C10** S. 6 excluded (30.11.1993) by 1993 c. 19, s. 50, **Sch. 9 para. 3(2)**; S.I. 1993/2503, art. 2(2), **Sch.2**.

F14 7

Textual Amendments

- F14** Ss. 3, 7 repealed by **Employment Act 1982 (c. 46, SIF 43:5)**, **Sch. 4**

Itemised pay statements

8 Right to itemised pay statement.

Every employee shall have the right to be given by his employer at or before the time at which any payment of wages or salary is made to him an itemised pay statement, in writing, containing the following particulars, that is to say,—

- (a) the gross amount of the wages or salary;
- (b) the amounts of any variable and, subject to section 9, any fixed deductions from that gross amount and the purposes for which they are made;
- (c) the net amount of wages or salary payable; and
- (d) where different parts of the net amount are paid in different ways, the amount and method of payment of each part-payment.

Status: Point in time view as at 13/04/1995.

*Changes to legislation: There are currently no known outstanding effects for the
 Employment Protection (Consolidation) Act 1978, Part 1. (See end of Document for details)*

9 Standing statement of fixed deductions.

- (1) A pay statement given in accordance with section 8 need not contain separate particulars of a fixed deduction if it contains instead an aggregate amount of fixed deductions, including that deduction, and the employer has given to the employee, at or before the time at which that pay statement is given, a standing statement of fixed deductions, in writing, which contains the following particulars of each deduction comprised in that aggregate amount, that is to say,—
 - (a) the amount of the deduction;
 - (b) the intervals at which the deduction is to be made; and
 - (c) the purpose for which it is made,
 and which, in accordance with subsection (4), is effective at the date on which the pay statement is given.
- (2) A standing statement of fixed deductions may be amended, whether by addition of a new deduction or by a change in the particulars or cancellation of an existing deduction, by notice in writing, containing particulars of the amendment, given by the employer to the employee.
- (3) An employer who has given to an employee a standing statement of fixed deductions shall, within the period of twelve months beginning with the date on which the first standing statement was given and at intervals of not more than twelve months thereafter, re-issue it in a consolidated form incorporating any amendments notified in accordance with subsection (2).
- (4) A standing statement of fixed deductions shall become effective, for the purposes of subsection (1), on the date on which it is given to the employee and shall cease to have effect on the expiration of the period of twelve months beginning with that date, or, where it is re-issued in accordance with subsection (3), the expiration of the period of twelve months beginning with the date on which it was last re-issued.

10 Power to amend ss. 8 and 9.

The Secretary of State may by order—

- (a) vary the provisions of section 8 and 9 as to the particulars which must be included in a pay statement or a standing statement of fixed deductions by adding items to or removing items from the particulars listed in those sections or by amending any such particulars; and
- (b) vary the provisions of section 9(3) and (4) so as to shorten or extend the periods of twelve months referred to in those subsections, or those periods as varied from time to time under this section.

Enforcement of rights under Part 1

11 References to industrial tribunals.

- (1) Where an employer does not give an employee a statement as required by section 1 or 4(1) or 8, [^{F15}(that is to say, either because he gives him no statement or because the statement he gives does not comply with those requirements)] the employee may require a reference to be made to an industrial tribunal to determine what particulars ought to have been included or referred to in a statement so as to comply with the requirements of the relevant section.

Status: Point in time view as at 13/04/1995.

Changes to legislation: There are currently no known outstanding effects for the Employment Protection (Consolidation) Act 1978, Part I. (See end of Document for details)

(2) Where—

- (a) a statement purporting to be a statement under section 1 or 4(1), or
- (b) a pay statement, or a standing statement of fixed deductions, purporting to comply with section 8 or 9(1),

has been given to an employee, and a question arises as to the particulars which ought to have been included or referred to in the statement so as to comply with the requirements of this Part, either the employer or the employee may require that question to be referred to and determined by an industrial tribunal.

^{F16}(3)

(4) In this section, a question as to the particulars which ought to have been included—

- (a) in a pay statement, or in a standing statement of fixed deductions, does not include a question solely as to the accuracy of an amount stated in any such particulars;
- (b) in [^{F17}the note required by section 3 to be included in the statement under section 1] does not include any question whether the employment is, has been or will be contracted-out employment for the purposes of [^{F18}Part III of the Pension Schemes Act 1993]

(5) Where, on a reference under subsection (1), an industrial tribunal determines particulars as being those which ought to have been included or referred to in a statement given under section 1 or 4(1) the employer shall be deemed to have given to the employee a statement in which those particulars were included, or referred to, as specified in the decision of the tribunal.

(6) On determining a reference under subsection (2)(a), an industrial tribunal may either confirm the particulars as included or referred to in the statement given by the employer, or may amend those particulars, or may substitute other particulars for them, as the tribunal may determine to be appropriate; and the statement shall be deemed to have been given by the employer to the employee in accordance with the decision of the tribunal.

^{F19}(7)

(8) Where on a reference under this section an industrial tribunal finds that an employer has failed to give an employee any pay statement in accordance with section 8 or that a pay statement or standing statement of fixed deductions does not, in relation to a deduction, contain the particulars required to be included in that statement by that section or section 9(1)—

- (a) the tribunal shall make a declaration to that effect; and
- (b) where the tribunal further finds that any unnotified deductions have been made from the pay of the employee during the period of thirteen weeks immediately preceding the date of the application for the reference (whether or not the deductions were made in breach of the contract of employment), the tribunal may order the employer to pay the employee a sum not exceeding the aggregate of the unnotified deductions so made.

In this subsection “unnotified deduction” means a deduction made without the employer giving the employee, in any pay statement or standing statement of fixed deductions, the particulars of that deduction required by section 8 or 9(1).

Status: Point in time view as at 13/04/1995.

Changes to legislation: There are currently no known outstanding effects for the Employment Protection (Consolidation) Act 1978, Part I. (See end of Document for details)

- (9) An industrial tribunal shall not entertain a reference under this section in a case where the employment to which the reference relates has ceased unless an application requiring the reference to be made was made
- [^{F20}(a)] before the end of the period of three months beginning with the date on which the employment ceased [^{F20}or—
- (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the application to be made before the end of that period of three months]

Textual Amendments

- F15** Words in s. 11(1) inserted (30.11.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 10(a)**; S.I. 1993/2503, art. 2(2), **Sch. 2**
- F16** S. 11(3) repealed (30.11.1993) by 1993 c. 19, s. 51, **Sch. 10**; S.I. 1993/2503, art. 2(2), **Sch. 2**
- F17** Words in s. 11(4)(b) substituted (30.11.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 10(b)**; S.I. 1993/2503, art. 2(2), **Sch. 2**
- F18** Words in s. 11(4)(b) substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 11**; S.I. 1994/86, **art. 2**
- F19** S. 11(7) repealed (30.11.1993) by 1993 c. 19, s. 51, **Sch. 10**; S.I. 1993/2503, art. 2(2), **Sch. 2**
- F20** Words in s. 11(9) inserted (30.11.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 10(c)**; S.I. 1993/2503, art. 2(2), **Sch. 2**

Status:

Point in time view as at 13/04/1995.

Changes to legislation:

There are currently no known outstanding effects for the Employment Protection (Consolidation) Act 1978, Part I.