



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART XIII

#### MISCELLANEOUS

### CHAPTER I

#### PARTICULAR TYPES OF EMPLOYMENT

#### *Crown employment etc.*

#### **191 Crown employment.**

- (1) Subject to sections 192 and 193, the provisions of this Act to which this section applies have effect in relation to Crown employment and persons in Crown employment as they have effect in relation to other employment and other employees or workers.
- (2) This section applies to—
  - (a) Parts I to III,
  - <sup>[F1]</sup>(aa) Part IVA,]
  - (b) Part V, apart from section 45,
  - <sup>[F2]</sup>(c) Parts 6 to 8A,]
  - (d) in Part IX, sections 92 and 93,
  - (e) Part X, apart from section 101, and
  - (f) this Part and Parts XIV and XV.
- (3) In this Act “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 a statutory provision.
- (4) For the purposes of the application of provisions of this Act in relation to Crown employment in accordance with subsection (1)—

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- (a) references to an employee or a worker shall be construed as references to a person in Crown employment,
  - (b) references to a contract of employment, or a worker's contract, shall be construed as references to the terms of employment of a person in Crown employment,
  - (c) references to dismissal, or to the termination of a worker's contract, shall be construed as references to the termination of Crown employment,
  - (d) references to redundancy shall be construed as references to the existence of such circumstances as are treated, in accordance with any arrangements falling within section 177(3) for the time being in force, as equivalent to redundancy in relation to Crown employment,<sup>F3</sup> . . .
  - [<sup>F4</sup>(da) the reference in section 98B(2)(a) to the employer's undertaking shall be construed as a reference to the national interest, and]
  - (e) [<sup>F5</sup>any other reference] to an undertaking shall be construed—
    - (i) in relation to a Minister of the Crown, as references to his functions or (as the context may require) to the department of which he is in charge, and
    - (ii) in relation to a government department, officer or body, as references to the functions of the department, officer or body or (as the context may require) to the department, officer or body.
- (5) Where the terms of employment of a person in Crown employment restrict his right to take part in—
- (a) certain political activities, or
  - (b) activities which may conflict with his official functions,
- nothing in section 50 requires him to be allowed time off work for public duties connected with any such activities.
- (6) Sections 159 and 160 are without prejudice to any exemption or immunity of the Crown.

#### Textual Amendments

- F1** S. 191(1)(aa) inserted (2.7.1999) by 1998 c. 23, s. 10; S.I. 1999/1547, art. 2
- F2** S. 191(2)(c) substituted (6.4.2003) by Employment Act 2002 (c. 22), s. 53, Sch. 7 para. 41; S.I. 2002/2866, art. 2(3), Sch. 1 Pt. 3
- F3** Word in s. 191(4)(d) repealed (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1)(2), 59(2)-(4), Sch. 1 para. 34(2), Sch. 2; S.I. 2005/872, arts. 4, 5, Sch. (subject to arts. 6-12)
- F4** S. 191(4)(da) inserted (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), Sch. 1 para. 34(2); S.I. 2005/872, arts. 4, 5, Sch. (subject to arts. 6-12)
- F5** Words in s. 191(4)(e) substituted (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), Sch. 1 para. 34(3); S.I. 2005/872, arts. 4, 5, Sch. (subject to arts. 6-12)

#### Modifications etc. (not altering text)

- C1** S. 191(4) applied (31.3.2017) by The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 (S.I. 2017/353), regs. 1(1), 2(2) (with reg. 2(4)(5))

## 192 Armed forces.

- (1) Section 191—

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- (a) applies to service as a member of the naval, military or air forces of the Crown but subject to the following provisions of this section, and
  - (b) applies to employment by an association established for the purposes of Part XI of the <sup>M1</sup>Reserve Forces Act 1996.
- (2) The provisions of this Act which have effect by virtue of section 191 in relation to service as a member of the naval, military or air forces of the Crown are—
- (a) Part I,
    - [<sup>F6</sup>(aa) in Part V, [<sup>F7</sup>sections [<sup>F8</sup>43M,] 45A, 47C and 47D,] and sections 48 and 49 so far as relating to [<sup>F9</sup>those sections] ,]
    - [<sup>F10</sup>(ab) section 47C,]
  - (b) in Part VI, sections [<sup>F11</sup>55 to 57B],
  - (c) Parts VII and VIII,
  - (d) in Part IX, sections 92 and 93,
  - (e) Part X, apart from sections [<sup>F12</sup>98B(2) and (3),] 100 to 103 [<sup>F13</sup>, 104C][<sup>F14</sup>, 108(5)] and 134, and
  - (f) this Part and Parts XIV and XV.
- (3) Her Majesty may by Order in Council—
- (a) amend subsection (2) by making additions to, or omissions from, the provisions for the time being specified in that subsection, and
  - (b) make any provision for the time being so specified apply to service as a member of the naval, military or air forces of the Crown subject to such exceptions and modifications as may be specified in the Order in Council,
- but no provision contained in Part II may be added to the provisions for the time being specified in subsection (2).
- (4) Modifications made by an Order in Council under subsection (3) may include provision precluding the making of a complaint or reference to any [<sup>F15</sup>employment tribunal] unless [<sup>F16</sup>—
- (a) the person aggrieved has made [<sup>F17</sup>a service complaint] ; and
  - (b) the Defence Council have made a determination with respect to the [<sup>F18</sup>service complaint] .]
- [<sup>F19</sup>( 5 ) Where modifications made by an Order in Council under subsection (3) include provision such as is mentioned in subsection (4), the Order in Council shall also include provision—
- (a) enabling a complaint or reference to be made to an [<sup>F15</sup>employment tribunal] in such circumstances as may be specified in the Order, notwithstanding that provision such as is mentioned in subsection (4) would otherwise preclude the making of the complaint or reference; and
  - (b) where a complaint or reference is made to an [<sup>F15</sup>employment tribunal] by virtue of provision such as is mentioned in paragraph (a), enabling the [<sup>F20</sup>the service complaint procedures] to continue after the complaint or reference is made.]
- [<sup>F21</sup>(6A) In subsections (4) and (5)—
- “ service complaint ” means a complaint under section 334 of the Armed Forces Act 2006;
  - “ the service complaint procedures ” means the procedures prescribed by regulations under that section. ]

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- (7) No provision shall be made by virtue of subsection (4) which has the effect of substituting a period longer than six months for any period specified as the normal period for a complaint or reference.
- (8) In subsection (7) “the normal period for a complaint or reference”, in relation to any matter within the jurisdiction of an [<sup>F15</sup>employment tribunal], means the period specified in the relevant enactment as the period within which the complaint or reference must be made (disregarding any provision permitting an extension of that period at the discretion of the tribunal).

#### Textual Amendments

- F6** S. 192(2)(aa) inserted (1.10.1998) by S.I. 1998/1833, **reg. 31(4)**
- F7** Words in s. 192(2)(aa) substituted (1.9.2002 for certain purposes, otherwise prosp.) by Tax Credits Act 2002 (c. 21), s. 27, **Sch. 1 para. 1(5)(a)**; S.I. 2002/1727, **art. 2**
- F8** Words in s. 192(2)(aa) inserted (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 35(a)**; S.I. 2005/872, **arts. 4, 5, Sch.** (subject to arts. 6-12)
- F9** Words in s. 192(2)(aa) substituted (1.9.2002 for certain purposes, otherwise prosp.) by Tax Credits Act 2002 (c. 21), s. 27, **Sch. 1 para. 1(5)(b)**; S.I. 2002/1727, **art. 2**
- F10** S. 192(2)(ab) inserted (15.12.1999) by 1999 c. 26, s. 9, **Sch. 4 Pt. III para. 31(a)**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with Sch. 3 paras. 10, 11)
- F11** Words in s. 192(2)(b) substituted (15.12.1999) by 1999 c. 26, s. 9 **Sch. 4 Pt. III para. 31(b)**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with Sch. 3 paras. 10, 11)
- F12** Words in s. 192(2)(e) inserted (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 35(b)**; S.I. 2005/872, **arts. 4, 5, Sch.** (subject to arts. 6-12)
- F13** Words in s. 192(2)(e) inserted (6.4.2003) by Employment Act 2002 (c. 22), s. 53, **Sch. 7 para. 42**; S.I. 2002/2866, **art. 2(3)**, Sch. 1 Pt. 3
- F14** Word in s. 192(2)(e) inserted (1.10.2014) by Defence Reform Act 2014 (c. 20), **ss. 48(3)**, 50(1); S.I. 2014/2370, art. 4(d)
- F15** Words in s. 192(4)(5)(a)(b)(8) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F16** Paras. (a)(b) substituted for words in s. 192(4) (1.10.1997) by 1996 c. 46, **s. 26(2)**; S.I. 1997/2164, **art. 2**
- F17** Words in s. 192(4)(a) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 136(a)(i)**; S.I. 2007/2913, **art. 3**
- F18** Words in s. 192(4)(b) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 136(a)(ii)**; S.I. 2007/2913, **art. 3**
- F19** S. 192(5) substituted (1.10.1997) by 1996 c. 46, **s. 26(3)**; S.I. 1997/2164, **art. 2**
- F20** Words in s. 192(5)(b) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 136(b)**; S.I. 2007/2913, **art. 3**
- F21** S. 192(6A) substituted (1.1.2008) for s. 192(6) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 136(e)**; S.I. 2007/2913, **art. 3**

#### Modifications etc. (not altering text)

- C2** As s. 31 of the Trade Union Reform and Employment Rights Act 1993 has not come into force before the commencement of this Act (22.8.1996), this Act shall have effect until the relevant commencement date as if for section 192 there were substituted the words expressed in Sch. 2 Part II para. 16(1) of this Act. The relevant commencement date is defined by Sch. 2 Part II para 16(2) of this Act.
- C3** As Part XI of the Reserve Forces Act 1996 has not come into force before the commencement of this Act (22.8.1996), section 192 of this Act shall have effect until the relevant commencement date as if for "Part XI of the Reserve Forces Act 1996" there were substituted "Part VI of the Reserve Forces Act 1980". The relevant commencement date is defined by Sch. 2 Part II para 17(2).

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**C4** S. 192(4) modified (24.4.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), [art. 196\(1\)\(f\)](#)

**C5** S. 192(5) modified (24.4.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), [art. 196\(2\)\(f\)](#)

#### Marginal Citations

**M1** 1996 c. 14.

### [<sup>F22</sup>193 National security.

Part IVA and section 47B of this Act do not apply in relation to employment for the purposes of—

- (a) the Security Service,
- (b) the Secret Intelligence Service, or
- (c) the Government Communications Headquarters.]

#### Textual Amendments

**F22** S. 193 substituted (16.7.2001) by [1999 c. 26, s. 41, Sch. 8 para. 1; S.I. 2001/1187, art. 3\(a\)](#) as amended by [S.I. 2001/1461, art. 2\(2\)](#)

### *Parliamentary staff*

### 194 House of Lords staff.

(1) The provisions of this Act to which this section applies have effect in relation to employment as a relevant member of the House of Lords staff as they have effect in relation to other employment.

(2) This section applies to—

- (a) Part I,
- (b) Part III,
- (c) in Part V, [<sup>F23</sup>sections [<sup>F24</sup>43M,] 44, 45A [<sup>F25</sup>, 47 [<sup>F26</sup>, 47C [<sup>F27</sup>, 47D and 47E]]]], and sections 48 and 49 so far as relating to those sections,
- (d) Part VI, apart from sections 58 to 60,
- [<sup>F28</sup>(e) Parts [<sup>F29</sup>6A,] 7, 8 and 8A,]
- (f) in Part IX, sections 92 and 93,
- (g) Part X, apart from sections 101 and 102, and
- (h) this Part and Parts XIV and XV.

[<sup>F30</sup>(2A) For the purposes of the application of section 98B(2) in relation to a relevant member of the House of Lords staff, the reference to the employer's undertaking shall be construed as a reference to the national interest or, if the case so requires, the interests of the House of Lords.]

(3) For the purposes of the application of [<sup>F31</sup>the other provisions] of this Act to which this section applies in relation to a relevant member of the House of Lords staff references to an undertaking shall be construed as references to the House of Lords.

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- (4) Nothing in any rule of law or the law or practice of Parliament prevents a relevant member of the House of Lords staff from bringing before the High Court or [<sup>F32</sup>the county court]—
- (a) a claim arising out of or relating to a contract of employment or any other contract connected with employment, or
  - (b) a claim in tort arising in connection with employment.
- (5) Where the terms of the contract of employment of a relevant member of the House of Lords staff restrict his right to take part in—
- (a) certain political activities, or
  - (b) activities which may conflict with his official functions,
- nothing in section 50 requires him to be allowed time off work for public duties connected with any such activities.
- (6) In this section “relevant member of the House of Lords staff” means any person who is employed under a contract of employment with the Corporate Officer of the House of Lords.
- (7) For the purposes of the application of—
- (a) the provisions of this Act to which this section applies, or
  - (b) a claim within subsection (4),
- in relation to a person continuously employed in or for the purposes of the House of Lords up to the time when he became so employed under a contract of employment with the Corporate Officer of the House of Lords, his employment shall not be treated as having been terminated by reason only of a change in his employer before or at that time.

#### Textual Amendments

- F23** Words in s. 194(2)(c) substituted (1.10.1998) by S.I. 1998/1833, **reg. 31(5)**
- F24** Words in s. 194(2)(c) inserted (6.4.2005) by **Employment Relations Act 2004 (c. 24)**, ss. 57(1), 59(2)-(4), **Sch. 1 para. 36(2)**; S.I. 2005/872, **arts. 4, 5**, Sch. (subject to arts. 6-12)
- F25** Words in s. 194(2)(c) substituted (15.12.1999) by 1999 c. 26, s. 9, **Sch. 4 Pt. III para. 32**; S.I. 1999/2830, **art. 2(2)**, **Sch. 1 Pt. II** (with Sch. 3 paras. 10, 11)
- F26** Words in s. 194(2)(c) substituted (1.9.2002 for certain purposes, otherwise prosp.) by **Tax Credits Act 2002 (c. 21)**, s. 27, **Sch. 1 para. 1(6)(a)**; S.I. 2002/1727, **art. 2**; and those same words substituted (6.4.2003) by **Employment Act 2002 (c. 22)**, s. 53, **Sch. 7 para. 43(a)**; S.I. 2002/2866, **art. 2(3)**, Sch. 1 Pt. 3
- F27** Words in s. 194(2)(c) substituted (6.4.2005) by **Employment Relations Act 2004 (c. 24)**, ss. 41(7), 59(2)-(4); S.I. 2005/872, **arts. 4, 5**, Sch. (subject to arts. 6-12)
- F28** S. 194(2)(e) substituted (6.4.2003) by **Employment Act 2002 (c. 22)**, s. 53, **Sch. 7 para. 43(b)**; S.I. 2002/2866, **art. 2(3)**, Sch. 1 Pt. 3
- F29** Words in s. 194(2)(e) inserted (6.4.2010 for certain purposes and otherwise prosp.) by virtue of **Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)**, ss. 40, 269(4), **Sch. 1 para. 5**; S.I. 2010/303, **art. 4**, Sch. 3 (with arts. 8-14) (as amended by S.I. 2010/1151, art. 22)
- F30** S. 194(2A) inserted (6.4.2005) by **Employment Relations Act 2004 (c. 24)**, ss. 57(1), 59(2)-(4), **Sch. 1 para. 36(3)**; S.I. 2005/872, **arts. 4, 5**, Sch. (subject to arts. 6-12)
- F31** Words in s. 194(3) substituted (6.4.2005) by **Employment Relations Act 2004 (c. 24)**, ss. 57(1), 59(2)-(4), **Sch. 1 para. 36(4)**; S.I. 2005/872, **arts. 4, 5**, Sch. (subject to arts. 6-12)

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**F32** Words in s. 194(4) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

**Modifications etc. (not altering text)**

**C6** S. 194(7) applied (1.12.2003) by [The Employment Equality \(Sexual Orientation\) Regulations 2003 \(S.I. 2003/1661\), reg. 38\(2\)](#)

**C7** S. 194(7) applied (2.12.2003) by [The Employment Equality \(Religion or Belief\) Regulations 2003 \(S.I. 2003/1660\), reg. 38\(2\)](#)

**C8** S. 194(7) applied (1.10.2006) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\), regs. 1\(1\), 46\(2\)](#) (with [regs. 44-46](#))

**195 House of Commons staff.**

(1) The provisions of this Act to which this section applies have effect in relation to employment as a relevant member of the House of Commons staff as they have effect in relation to other employment.

(2) This section applies to—

(a) Part I,

(b) Part III,

(c) in Part V, [<sup>F33</sup>sections [<sup>F34</sup>43M,] 44, 45A [<sup>F35</sup>, 47 [<sup>F36</sup>, 47C [<sup>F37</sup>, 47D and 47E]]]], and sections 48 and 49 so far as relating to those sections,

(d) Part VI, apart from sections 58 to 60,

[<sup>F38</sup>(e) Parts [<sup>F39</sup>6A,] 7, 8 and 8A,]

(f) in Part IX, sections 92 and 93,

(g) Part X, apart from sections 101 and 102, and

(h) this Part and Parts XIV and XV.

[<sup>F40</sup>(2A) For the purposes of the application of section 98B(2) in relation to a relevant member of the House of Commons staff, the reference to the employer's undertaking shall be construed as a reference to the national interest or, if the case so requires, the interests of the House of Commons.]

(3) For the purposes of the application of the provisions of this Act to which this section applies in relation to a relevant member of the House of Commons staff—

(a) references to an employee shall be construed as references to a relevant member of the House of Commons staff,

(b) references to a contract of employment shall be construed as including references to the terms of employment of a relevant member of the House of Commons staff,

(c) references to dismissal shall be construed as including references to the termination of the employment of a relevant member of the House of Commons staff, and

(d) references to an undertaking [<sup>F41</sup>(other than in section 98B)] shall be construed as references to the House of Commons.

(4) Nothing in any rule of law or the law or practice of Parliament prevents a relevant member of the House of Commons staff from bringing before the High Court or [<sup>F42</sup>the county court]—

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- (a) a claim arising out of or relating to a contract of employment or any other contract connected with employment, or
  - (b) a claim in tort arising in connection with employment.
- (5) In this section “relevant member of the House of Commons staff” means any person—
- (a) who was appointed by the House of Commons Commission or is employed in the refreshment department, or
  - (b) who is a member of the Speaker’s personal staff.
- (6) Subject to subsection (7), for the purposes of—
- (a) the provisions of this Act to which this section applies,
  - (b) Part XI (where applicable to relevant members of the House of Commons staff), and
  - (c) a claim within subsection (4),
- the House of Commons Commission is the employer of staff appointed by the Commission and the Speaker is the employer of his personal staff and of any person employed in the refreshment department and not appointed by the Commission.
- (7) Where the House of Commons Commission or the Speaker designates a person to be treated for all or any of the purposes mentioned in subsection (6) as the employer of any description of staff (other than the Speaker’s personal staff), the person so designated shall be treated for those purposes as their employer.
- (8) Where any proceedings are brought by virtue of this section against—
- (a) the House of Commons Commission,
  - (b) the Speaker, or
  - (c) any person designated under subsection (7),
- the person against whom the proceedings are brought may apply to the court or [<sup>F43</sup>employment tribunal] concerned to have some other person against whom the proceedings could at the time of the application be properly brought substituted for him as a party to the proceedings.
- (9) For the purposes mentioned in subsection (6)—
- (a) a person’s employment in or for the purposes of the House of Commons shall not (provided he continues to be employed in such employment) be treated as terminated by reason only of a change in his employer, and
  - (b) (provided he so continues) his first appointment to such employment shall be deemed after the change to have been made by his employer for the time being.
- (10) In accordance with subsection (9)—
- (a) an employee shall be treated for the purposes mentioned in subsection (6) as being continuously employed by his employer for the time being from the commencement of his employment until its termination, and
  - (b) anything done by or in relation to his employer for the time being in respect of his employment before the change shall be so treated as having been done by or in relation to the person who is his employer for the time being after the change.
- (11) In subsections (9) and (10) “employer for the time being”, in relation to a person who has ceased to be employed in or for the purposes of the House of Commons, means the person who was his employer immediately before he ceased to be so employed,



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except that where some other person would have been his employer for the time being if he had not ceased to be so employed it means that other person.

- (12) If the House of Commons resolves at any time that any provision of subsections (5) to (8) should be amended in its application to any member of the staff of that House, Her Majesty may by Order in Council amend that provision accordingly.

#### Textual Amendments

- F33** Words in s. 195(2)(c) substituted (1.10.1998) by S.I. 1998/1833, **reg. 31(5)**
- F34** Words in s. 195(2)(c) inserted (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 37(2)**; S.I. 2005/872, **arts. 4, 5, Sch.** (subject to arts. 6-12)
- F35** Words in s. 195(2)(c) substituted (15.12.1999) by 1999 c. 26, s. 9, **Sch. 4 Pt. III para. 33**; S.I. 1999/2830, **art. 2(2), Sch. 1 Pt. II** (with Sch. 3 paras. 10, 11)
- F36** Words in s. 195(2)(c) substituted (1.9.2002 for certain purposes, otherwise prosp.) by Tax Credits Act 2002 (c. 21), s. 27, **Sch. 1 para. 1(6)(b)**; S.I. 2002/1727, **art. 2**; and those same words substituted (6.4.2003) by Employment Act 2002 (c. 22), s. 53, **Sch. 7 para. 43(a)**; S.I. 2002/2866, **art. 2(3), Sch. 1 Pt. 3**
- F37** Words in s. 195(2)(c) substituted (6.4.2005) by Employment Relations Act 2004 (c. 24), **ss. 41(7), 59(2)-(4)**; S.I. 2005/872, **arts. 4, 5, Sch.** (subject to arts. 6-12)
- F38** S. 195(2)(e) substituted (6.4.2003) by Employment Act 2002 (c. 22), s. 53, **Sch. 7 para. 43(b)**; S.I. 2002/2866, **art. 2(3), Sch. 1 Pt. 3**
- F39** Words in s. 195(2)(e) inserted (6.4.2010 for certain purposes and otherwise prosp.) by virtue of Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 40, 269(4), **Sch. 1 para. 6**; S.I. 2010/303, **art. 4, Sch. 3** (with arts. 8-14) (as amended by S.I. 2010/1151, art. 22)
- F40** S. 195(2A) inserted (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 37(3)**; S.I. 2005/872, **arts. 4, 5, Sch.** (subject to arts. 6-12)
- F41** Words in s. 195(3)(d) inserted (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 37(4)**; S.I. 2005/872, **arts. 4, 5, Sch.** (subject to arts. 6-12)
- F42** Words in s. 195(4) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, **art. 2(c)** (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F43** Words in s. 195(8) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, **art. 2(1), Sch. 1**

#### Modifications etc. (not altering text)

- C9** S. 195(6)-(8) applied (22.8.1996) by 1996 c. 17, **ss. 39(5), 46** (with s. 38)
- C10** S. 195(6)-(12) applied (with modifications) (1.12.2003) by The Employment Equality (Sexual Orientation) Regulations 2003 (S.I. 2003/1661), **reg. 37(2)**
- C11** S. 195(6)-(12) applied (with modifications) (2.12.2003) by The Employment Equality (Religion or Belief) Regulations 2003 (S.I. 2003/1660), **reg. 37(2)**
- C12** S. 195(6)-(12) applied (with modifications) (1.10.2006) by The Employment Equality (Age) Regulations 2006 (S.I. 2006/1031), **regs. 1(1), 45(3)** (with regs. 44-46)

#### Excluded classes of employment

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#### Textual Amendments

**F44** S. 196 repealed (25.10.1999) by 1999 c. 26, ss. 32(3), 44, **Sch. 9(9)**; S.I. 1999/2830, art. 2(1)(3), Sch. 1 Pt. I, **Sch. 2 Pt. I** (with Sch. 3 para. 7(2))

#### <sup>F45</sup>197 Fixed-term contracts.

.....

#### Textual Amendments

**F45** S. 197 ceased to have effect (1.10.2002) by virtue of The Fixed-term **Employees (Prevention of Less Favourable Treatment) Regulations 2002** (S.I. 2002/2034), reg. 11, **Sch. 2 Pt. 1 para. 3(15)** (with regs. 13-20 and subject to transitional provisions in Sch. 2 Pt. 2)

#### <sup>F46</sup>198 Short-term employment.

.....

#### Textual Amendments

**F46** S. 198 repealed (6.4.2020) by **The Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018** (S.I. 2018/1378), regs. 1, 7

#### 199 Mariners.

- (1) Sections 1 to 7, Part II and sections 86 to 91 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 [<sup>F47</sup> or an agreement specified in regulations under section 32(a) of the Merchant Shipping Act 1995].
- (2) Sections 8 to 10, Part III, sections 44, 45, 47, [<sup>F48</sup>47C, [<sup>F49</sup>[<sup>F50</sup>47E], [<sup>F51</sup>47F,]] 50 to 57B] and 61 to 63, [<sup>F52</sup>Parts [<sup>F53</sup>6A,] 7, 8 and 8A], sections 92 and 93 and <sup>F54</sup>... [<sup>F55</sup>Part X] do not apply to employment as master, or as a member of the crew, of a fishing vessel where the employee is remunerated only by a share in the profits or gross earnings of the vessel.
- <sup>F56</sup>(3) .....
- (4) Sections 8 to 10 and 50 to 54 <sup>F57</sup>... do not apply to employment as a merchant seaman.
- (5) In subsection (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

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(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.

(6) <sup>F58</sup> .....

[<sup>F59</sup>(7) The provisions mentioned in subsection (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 Great Britain 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 Great Britain, and
- (c) the person employed is ordinarily resident in Great Britain.

<sup>F59</sup>(8) The provisions are—

- (a) sections 8 to 10,
- (b) Parts II, III and V,
- (c) Part VI, apart from sections 58 to 60,
- [ Parts [<sup>F61</sup>6A,] 7, 8 and 8A,]
- <sup>F60</sup>(d)
- (e) sections 92 and 93, and
- (f) Part X.]

#### Textual Amendments

- F47** Words in s. 199(1) inserted (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Consequential and Minor Amendments\) Regulations 2014](#) (S.I. 2014/1614), regs. 1, 3
- F48** Words in s. 199(2) substituted (15.12.1999) by 1999 c. 26, s. 9, [Sch. 4 Pt. III para. 34\(a\)](#); S.I. 1999/2830, art. 2(2), [Sch. 1 Pt. II](#) (with Sch. 3 paras. 8, 10, 11)
- F49** Word in s. 199(2) inserted (6.4.2003) by [Employment Act 2002](#) (c. 22), s. 53, [Sch. 7 para. 44\(2\)\(a\)](#); S.I. 2002/2866, [art. 2\(3\)](#), Sch. 1 Pt. 3
- F50** Word in s. 199(2) substituted (6.4.2005) by [Employment Relations Act 2004](#) (c. 24), ss. 41(8), 59(2)-(4); S.I. 2005/872, [arts. 4, 5](#), Sch. (subject to arts. 6-12)
- F51** Words in s. 199(2) inserted (6.4.2010 for certain purposes and otherwise prosp.) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), ss. 40, 269(4), [Sch. 1 para. 7\(a\)](#); S.I. 2010/303, [art. 4](#), Sch. 3 (with arts. 8-14) (as amended by S.I. 2010/1151, art. 22)
- F52** Words in s. 199(2) substituted (6.4.2003) by [Employment Act 2002](#) (c. 22), s. 53, [Sch. 7 para. 44\(2\)\(b\)](#); S.I. 2002/2866, [art. 2\(3\)](#), Sch. 1 Pt. 3
- F53** Words in s. 199(2) inserted (6.4.2010 for certain purposes and otherwise prosp.) by virtue of [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), ss. 40, 269(4), [Sch. 1 para. 7\(b\)](#); S.I. 2010/303, [art. 4](#), Sch. 3 (with arts. 8-14) (as amended by S.I. 2010/1151, art. 22)
- F54** Words in s. 199(2) repealed (15.12.1999) by 1999 c. 26, ss. 9, 44, Sch. 4 Pt. III para. 34(b), [Sch. 9\(2\)](#); S.I. 1999/2830, art. 2(2)(3), Sch. 1 Pt. II, [Sch. 2 Pt. II](#) (with Sch. 3 paras. 8, 10, 11)
- F55** Words in s. 199(2) substituted (13.4.2018) by [The Seafarers \(Insolvency, Collective Redundancies and Information and Consultation Miscellaneous Amendments\) Regulations 2018](#) (S.I. 2018/407), regs. 1(1), [2\(2\)](#) (with reg. 2(4)(5))
- F56** S. 199(3) repealed (15.12.1999) by 1999 c. 26, ss. 9, 44, Sch. 4 Pt. III para. 34(c), [Sch. 9\(2\)](#); S.I. 1999/2830, art. 2(1)-(3), Sch. 1 Pt. II, [Sch. 2 Pt. II](#) (with transitional provisions in Sch. 3 paras. 8, 10, 11)

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- F57** Words in s. 199(4) omitted (13.4.2018) by virtue of [The Seafarers \(Insolvency, Collective Redundancies and Information and Consultation Miscellaneous Amendments\) Regulations 2018](#) (S.I. 2018/407), regs. 1(1), **2(3)**
- F58** S. 199(6) omitted (1.10.2002) by virtue of [The Fixed-term Employees \(Prevention of Less Favourable Treatment\) Regulations 2002](#) (S.I. 2002/2034), reg. 11, **Sch. 2 Pt. 1 para. 3(16)** (with regs. 13-20 and subject to transitional provisions in [Sch. 2 Pt. 2](#))
- F59** S. 199(7)(8) inserted (25.10.1999) by 1999 c. 26, s. **32(4)**; S.I. 1999/2830, art. 2(1)(2), **Sch. 1 Pt. I** (with transitional provisions in [Sch. 3 para. 7\(2\)](#))
- F60** S. 199(8)(d) substituted (6.4.2003) by [Employment Act 2002](#) (c. 22), s. 53, **Sch. 7 para. 44(3)**; S.I. 2002/2866, **art. 2(3)**, [Sch. 1 Pt. 3](#)
- F61** Words in s. 199(8)(d) inserted (6.4.2010 for certain purposes and otherwise prosp.) by virtue of [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), ss. 40, 269(4), **Sch. 1 para. 7(c)**; S.I. 2010/303, **art. 4**, [Sch. 3](#) (with arts. 8-14) (as amended by S.I. 2010/1151, art. 22)

## 200 Police officers.

- (1) Sections 8 to 10, Part III <sup>F62</sup> . . . , sections [<sup>F63</sup>43M,]<sup>F64</sup> . . . , 45, [<sup>F65</sup>45A,] 47 <sup>F62</sup> . . . , [<sup>F66</sup>47C,]50 [<sup>F67</sup>to 57B] and 61 to 63, Parts VII and VIII, sections 92 and 93 [<sup>F68</sup>and], Part X [<sup>F69</sup>(except sections 100 [<sup>F70</sup>, 103A] and 134A 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 section 100 [<sup>F71</sup>or 103A])]. . . do not apply to employment under a contract of employment in police service or to persons engaged in such employment.
- (2) In subsection (1) “police service” means—
- (a) service as a member of a constabulary maintained by virtue of an enactment, or
  - (b) subject to section 126 of the <sup>M2</sup>Criminal Justice and Public Order Act 1994 (prison staff 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.

### Textual Amendments

- F62** Words in s. 200(1) repealed (1.4.2004) by [Police Reform Act 2002](#) (c. 30), ss. 37(2)(a), 107, 108(2)-(5), **Sch. 8**; S.I. 2004/913, **art. 2(b)(f)(v)**
- F63** Words in s. 200(1) inserted (6.4.2005) by [Employment Relations Act 2004](#) (c. 24), ss. 57(1), 59(2)-(4), **Sch. 1 para. 38**; S.I. 2005/872, **arts. 4, 5**, [Sch.](#) (subject to arts. 6-12)
- F64** Word in s. 200(1) repealed (1.7.1998) by 1997 c. 42, s. **6(2)(a)**; S.I. 1998/1542, **art. 2**
- F65** Word in s. 45A inserted (1.10.1998) by S.I. 1998/1833, **reg. 31(6)**
- F66** Words in s. 200(1) inserted (15.12.1999) by 1999 c. 26, s. 9, **Sch. 4 Pt. III para. 35(a)**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with [Sch. 3 paras. 10, 11](#))
- F67** Words in s. 200(1) substituted (15.12.1999) by 1999 c. 26, s. 9, **Sch. 4 Pt. III para. 35(b)**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with [Sch. 3 paras. 10, 11](#))
- F68** Word in s. 200(1) inserted (15.12.1999) by 1999 c. 26, s. 9, **Sch. 4 Pt. III para. 35(c)**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with [Sch. 3 paras. 10, 11](#))
- F69** Words in s. 200(1) inserted (1.7.1998) by 1997 c. 42, s. **6(2)(b)**; S.I. 1998/1542, **art. 2**
- F70** Words in s. 200(1) inserted (1.4.2004) by [Police Reform Act 2002](#) (c. 30), **ss. 37(2)(b)**, 108(2)-(5); S.I. 2004/913, **art. 2(b)**
- F71** Words in s. 200(1) inserted (1.4.2004) by [Police Reform Act 2002](#) (c. 30), **ss. 37(2)(c)**, 108(2)-(5); S.I. 2004/913, **art. 2(b)**

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#### **Modifications etc. (not altering text)**

- C13** S. 200 modified (1.10.2002 for certain purposes, otherwise 1.4.2004) by [Police Reform Act 2002](#) (c. 30), s. 13, [Sch. 3 Pt. 3 para. 19\(5\)\(b\)](#) (with s. 14(1)); S.I. 2002/2306, [art. 4\(e\)](#); S.I. 2004/913, [art. 2\(d\)](#)
- C14** S. 200 modified (7.4.2010) by [The UK Border Agency \(Complaints and Misconduct\) Regulations 2010](#) (S.I. 2010/782), [reg. 42\(4\)\(b\)](#)

#### **Marginal Citations**

- M2** 1994 c. 33.

### *Offshore employment*

#### **201 Power to extend employment legislation to offshore employment.**

- (1) In this section “offshore employment” means employment for the purposes of activities—
- in the territorial waters of the United Kingdom
  - connected with the exploration of the sea-bed or subsoil, or the exploitation of their natural resources, in the United Kingdom sector of the continental shelf, or
  - connected with the exploration or exploitation, in a foreign sector of the continental shelf, of a cross-boundary petroleum field.
- (2) Her Majesty may by Order in Council provide that—
- the provisions of this Act, and
  - any Northern Ireland legislation making provision for purposes corresponding to any of the purposes of this Act,
- apply, to such extent and for such purposes as may be specified in the Order (with or without modification), to or in relation to a person in offshore employment.
- (3) An Order in Council under this section—
- may make different provision for different cases,
  - may provide that all or any of the provisions referred to in subsection (2), as applied by such an Order in Council, apply—
    - to individuals whether or not they are British subjects, and
    - to bodies corporate whether or not they are incorporated under the law of a part of the United Kingdom,and apply even where the application may affect their activities outside the United Kingdom,
  - may make provision for conferring jurisdiction on any court or class of court specified in the Order in Council, or on [<sup>F72</sup>employment tribunals], in respect of offences, causes of action or other matters arising in connection with offshore employment,
  - may (without prejudice to subsection (2) and paragraph (a)) provide that the provisions referred to in subsection (2), as applied by the Order in Council, apply in relation to any person in employment in a part of the areas referred to in subsection (1)(a) and (b),
  - may exclude from the operation of section 3 of the <sup>M3</sup>Territorial Waters Jurisdiction Act 1878 (consents required for prosecutions) proceedings for

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offences under the provisions referred to in subsection (2) in connection with offshore employment,

- (f) may provide that such proceedings shall not be brought without such consent as may be required by the Order in Council,
- (g) may (without prejudice to subsection (2)) modify or exclude the operation of any or all of sections <sup>F73</sup> . . . 199 and 215(2) to (6) or of any corresponding Northern Ireland legislation.

[<sup>F74</sup>(3A) Where an Order in Council under this section confers jurisdiction on an employment tribunal, the jurisdiction conferred includes power to make an order under section 12A of the Employment Tribunals Act 1996 (financial penalties), and that section applies accordingly.]

(4) Any jurisdiction conferred on a court or tribunal under this section is without prejudice to jurisdiction exercisable apart from this section by that or any other court or tribunal.

(5) In this section—

“cross-boundary petroleum field” means a petroleum field that extends across the boundary between the United Kingdom sector of the continental shelf and a foreign sector of the continental shelf,

“foreign sector of the continental shelf” means an area outside the territorial waters of any state, within which rights with respect to the sea-bed and subsoil and their natural resources are exercisable by a state other than the United Kingdom,

“petroleum field” means a geological structure identified as an oil or gas field by the Order in Council concerned, and

“United Kingdom sector of the continental shelf” means the area designated under section 1(7) of the <sup>M4</sup>Continental Shelf Act 1964.

#### Textual Amendments

- F72** Words in s. 201(3)(c) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(b) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F73** Word in s. 201(3)(g) repealed (25.10.1999) by 1999 c. 26, s. 44, **Sch. 9(9)**; S.I. 1999/2830, art. 2(3), **Sch. 2 Pt. I** (with **Sch. 3 para. 7(2)**)
- F74** S. 201(3A) inserted (E.W.S.) (6.4.2014) by **Enterprise and Regulatory Reform Act 2013 (c. 24)**, s. 103(3), **Sch. 3 para. 5** (with s. 24(5)); S.I. 2014/253, art. 3(h)

#### Modifications etc. (not altering text)

- C15** S. 201 applied by 1993 c. 48, s. 165(7) (as substituted (E.W.S.) (6.2.2018) by **The Seafarers (Transnational Information and Consultation, Collective Redundancies and Insolvency Miscellaneous Amendments) Regulations 2018 (S.I. 2018/26)**, regs. 1(1), **4(2)** (with reg. 4(4)))

#### Marginal Citations

- M3** 1878 c. 73.  
**M4** 1964 c. 29.

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**Changes to legislation:**

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