



# 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,
  - (b) Part V, apart from section 45,
  - (c) Parts VI to VIII,
  - (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, and
  - (e) references 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.

## **192 Armed forces**

- (1) Section 191—
- (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 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,
  - (b) in Part VI, sections 55 to 57,
  - (c) Parts VII and VIII,
  - (d) in Part IX, sections 92 and 93,
  - (e) Part X, apart from sections 100 to 103 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

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- (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 industrial tribunal unless the person aggrieved has availed himself of the service redress procedures applicable to him.
- (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 designed to secure that the service redress procedures result in a determination, or what is to be treated under the Order in Council as a determination, in sufficient time to enable a complaint or reference to be made to an industrial tribunal.
- (6) In subsections (4) and (5) “the service redress procedures” means the procedures, excluding those which relate to the making of a report on a complaint to Her Majesty, referred to in—
  - (a) sections 180 and 181 of the Army Act 1955,
  - (b) sections 180 and 181 of the Air Force Act 1955, and
  - (c) section 130 of the Naval Discipline Act 1957.
- (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 industrial 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).

### **193 National security**

- (1) The provisions of this Act to which this section applies do not have effect in relation to any Crown employment in respect of which there is in force a certificate issued by or on behalf of a Minister of the Crown certifying that employment of a description specified in the certificate, or the employment of a particular person so specified, is (or, at a time specified in the certificate, was) required to be excepted from those provisions for the purpose of safeguarding national security.
- (2) This section applies to—
  - (a) Part I, so far as it relates to itemised pay statements,
  - (b) Part III,
  - (c) in Part VI, sections 50 to 54,
  - (d) in Part VII, sections 64 and 65, and sections 69 and 70 so far as relating to those sections,
  - (e) in Part IX, sections 92 and 93, except where they apply by virtue of section 92(4),
  - (f) Part X, except so far as relating to a dismissal which is treated as unfair—
    - (i) by section 99(1) to (3), 100 or 103, or

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- (ii) by subsection (1) of section 105 by reason of the application of subsection (2), (3) or (6) of that section, and
  - (g) this Part and Parts XIV and XV (so far as relating to any of the provisions specified in paragraphs (a) to (f)).
- (3) Any document purporting to be a certificate issued as mentioned in subsection (1)—
  - (a) shall be received in evidence, and
  - (b) unless the contrary is proved, shall be deemed to be such a certificate.