



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART XIII

#### MISCELLANEOUS

### CHAPTER I

#### PARTICULAR TYPES OF EMPLOYMENT

#### *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>F1</sup>sections [<sup>F2</sup>43M,] 44, 45A [<sup>F3</sup>, 47 [<sup>F4</sup>, 47C [<sup>F5</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>F6</sup>(e) Parts [<sup>F7</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>F8</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.]

*Status: Point in time view as at 06/02/2018.*

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- (3) For the purposes of the application of [<sup>F9</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.
- (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>F10</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

- F1** Words in s. 194(2)(c) substituted (1.10.1998) by S.I. 1998/1833, **reg. 31(5)**
- F2** 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)
- F3** 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)
- F4** 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
- F5** 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)
- F6** 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
- F7** 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)
- F8** 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)

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- F9** 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)
- F10** 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)**

- C1** S. 194(7) applied (1.12.2003) by [The Employment Equality \(Sexual Orientation\) Regulations 2003 \(S.I. 2003/1661\), reg. 38\(2\)](#)
- C2** S. 194(7) applied (2.12.2003) by [The Employment Equality \(Religion or Belief\) Regulations 2003 \(S.I. 2003/1660\), reg. 38\(2\)](#)
- C3** 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—
- Part I,
  - Part III,
  - in Part V, [<sup>F11</sup>sections [<sup>F12</sup>43M,] 44, 45A [<sup>F13</sup>, 47 [<sup>F14</sup>, 47C [<sup>F15</sup>, 47D and 47E]]], and sections 48 and 49 so far as relating to those sections,
  - Part VI, apart from sections 58 to 60,
  - <sup>F16</sup>(e) Parts [<sup>F17</sup>6A,] 7, 8 and 8A,]
  - in Part IX, sections 92 and 93,
  - Part X, apart from sections 101 and 102, and
  - this Part and Parts XIV and XV.
- <sup>F18</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—
- references to an employee shall be construed as references to a relevant member of the House of Commons staff,
  - 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,
  - 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
  - references to an undertaking [<sup>F19</sup>(other than in section 98B)] shall be construed as references to the House of Commons.

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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 Commons staff from bringing before the High Court or [<sup>F20</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) 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>F21</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.

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- (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, 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

- F11** Words in s. 195(2)(c) substituted (1.10.1998) by S.I. 1998/1833, **reg. 31(5)**
- F12** 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)
- F13** 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)
- F14** 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
- F15** 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)
- F16** 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
- F17** 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)
- F18** 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)
- F19** 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)
- F20** 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)
- F21** 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)

- C4** S. 195(6)-(8) applied (22.8.1996) by 1996 c. 17, **ss. 39(5), 46** (with s. 38)
- C5** 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)**
- C6** 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)**
- C7** 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)

**Status:**

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**Changes to legislation:**

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