

SCHEDULE 5

Duty to consider working beyond retirement

Dismissal before request considered

10.—(1) This paragraph applies where—

- (a) by virtue of paragraph 6 an employer is under a duty to consider a request;
- (b) the employer dismisses the employee;
- (c) that dismissal is the contemplated dismissal to which the request relates; and
- (d) the operative date of termination would, but for sub-paragraph (3), fall on or before the day on which the employer gives notice in accordance with paragraph 7(6).

(2) Subject to paragraph (4), the contract of employment shall continue in force for all purposes, including the purpose of determining for any purpose the period for which the employee has been continuously employed, until the day following that on which the notice under paragraph 7(6) is given.

(3) The day following the day on which that notice is given shall supersede—

- (a) the date mentioned in sub-paragraph (1)(d) as the operative date of termination; and
- (b) the date defined as the intended date of retirement in head (a), (b) or (c) of paragraph 1(2) as the intended date of retirement.

(4) Any continuation of the contract of employment under sub-paragraph (2) shall be disregarded when determining the operative date of termination for the purposes of Articles 130ZA to 130ZH of the 1996 Order⁽¹⁾.

(1) Articles 130ZA to 130ZH are inserted by regulation 53 of, and paragraph 3(4) of Schedule 7 to, these Regulations