

Status: This version of this schedule contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the
 Employment Act (Northern Ireland) 2016, SCHEDULE 2. (See end of Document for details)

SCHEDULES

PROSPECTIVE

SCHEDULE 2

Section 2.

EXTENSION OF LIMITATION PERIODS TO ALLOW FOR CONCILIATION

Equal Pay Act (Northern Ireland) 1970 (c. 32)

1. In section 2ZA (“qualifying date” under section 2(4)), in subsections (3) to (6), for “section ZAA” substitute “ sections 2ZAA and 2ZAB ”.
2. After section 2ZAA insert—

“Extension of time limits to facilitate conciliation before institution of proceedings

2ZAB.—(1) This section applies for the purpose of determining the qualifying date under section 2ZA in relation to proceedings on a complaint under section 2(1) which are relevant proceedings within the meaning of Article 20 of the Industrial Tribunals (Northern Ireland) Order 1996.

But it does not apply in relation to a dispute that is (or to so much of a dispute that is) a relevant cross-border dispute within the meaning of section 2ZAA.

(2) In this section—

- (a) Day A is the day on which the complainant concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the complainant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(3) In determining the qualifying date under section 2ZA, the period beginning with the day after Day A and ending with Day B is not to be counted.

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(4) If the qualifying date would (if not extended by this subsection) fall during the period beginning with Day A and ending one month after Day B, the qualifying date falls instead at the end of that period.”.

Sex Discrimination (Northern Ireland) Order 1976 (NI 15)

3. In Article 76 (period within which proceedings must be brought), after paragraph (1) insert—

“(1A) Article 249B of the Employment Rights (Northern Ireland) Order 1996 (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (1)(a).

(1B) Paragraphs (1) and (1A) shall be treated as provisions of the Employment Rights (Northern Ireland) Order 1996 for the purposes of Article 249B of that Order.”.

Trade Union and Labour Relations (Northern Ireland) Order 1995 (NI 12)

4. In Article 33 (complaint of infringement of right under Article 31), after paragraph (2) insert—

“(2A) Article 147A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

5. In Article 36 (complaint of infringement of rights under Article 35), after paragraph (1) insert—

“(1A) Article 147A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (1) (a).”.

6.—(1) Article 39 (time limit for proceedings under Article 38) is amended as follows.

(2) The existing text becomes paragraph (1).

(3) After that paragraph insert—

“(2) Article 147A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (1).”.

7. In Article 44C (Article 44B: complaint to industrial tribunal), after paragraph (2) insert—

“(2A) Article 147A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

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8. In Article 61 (complaint in respect of employer's failure under Article 60), after paragraph (2) insert—

“(2A) Article 147A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”

9. After Article 147 (employment governed by foreign law) insert—

“Extension of certain time limits

Extension of time limits to facilitate conciliation before institution of proceedings

147A.—(1) This Article applies where this Order provides for it to apply for the purposes of a provision of this Order (a “relevant provision”).

(2) In this Article—

(a) Day A is the day on which the complainant concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and

(b) Day B is the day on which the complainant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(3) In working out when a time limit set by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(4) If a time limit set by a relevant provision would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(5) Where an industrial tribunal has power under this Order to extend a time limit set by a relevant provision, the power is exercisable in relation to the time limit as extended by this Article.”

10. In Schedule 1A (collective bargaining: recognition), in paragraph 157 (complaint to industrial tribunal: contravention of paragraph 156), after subparagraph (3) add—

“(4) Article 147A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of sub-paragraph (1)(a).”

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Disability Discrimination Act 1995 (c. 50)

11. In Part 1 of Schedule 3 (enforcement and procedure), in paragraph 3, after sub-paragraph (1) insert—

“(1A) Article 249B of the Employment Rights (Northern Ireland) Order 1996 (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of sub-paragraph (1)(a).

(1B) Sub-paragraphs (1) and (1A) shall be treated as provisions of the Employment Rights (Northern Ireland) Order 1996 for the purposes of Article 249B of that Order.”.

Employment Rights (Northern Ireland) Order 1996 (NI 16)

12. In Article 28 (complaint to industrial in respect of employer's failure under Article 26 or 27), after paragraph (4) add—

“(5) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

13. In Article 43 (references to industrial tribunals: contravention of Articles 33, 36 and 40), after paragraph (4) add—

“(5) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (4) (a).”.

14. In Article 55 (complaints to industrial tribunals: contravention of Article 45, 47, 50(1) or 53(1)), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2).”.

15. In Article 66 (complaints to industrial tribunals: guarantee payments), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

16. In Article 71 (complaints to industrial tribunals: rights not to suffer detriment), after paragraph (3) insert—

“(3A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (3) (a).”.

(17) In Article 74 (complaints to industrial tribunal in respect of employer's failure under Article 73), after paragraph (2) insert—

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“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

18.—(1) Article 77C (time limit for proceedings under Articles 77A and 77B) is amended as follows.

(2) The existing text becomes paragraph (1).

(3) After that paragraph add—

“(2) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (1) (a).”.

19. In Article 79 (complaints to industrial tribunals: contravention of Article 78), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

20. In Article 82 (complaints to industrial tribunals: contravention of Article 80 or 81), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

21. In Article 85 (complaints to industrial tribunals: contravention of Article 83 or 84), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

22. In Article 85ZC (complaints to industrial tribunals: contravention of Article 85ZA or 85ZB), after paragraph (3) insert—

“(3A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (3).”.

23. In Article 85ZF (right to time off to accompany to ante-natal appointments), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

24. In Article 85ZH (complaint to industrial tribunal: agency workers), after paragraph (3) insert—

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“(3A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (3) (a).”.

25. In Article 85ZM (complaint to industrial tribunal: contravention of Article 85ZJ, 85ZK or 85ZL), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

26. In Article 85ZQ (complaint to industrial tribunal: contravention of Article 85ZN, 85ZO or 85ZP), after paragraph (3) insert—

“(3A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (3) (a).”.

27. In Article 85B (complaints to industrial tribunals: contravention of Article 85A), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

28. In Article 88 (complaints to industrial tribunals: contravention of Article 86 or 87), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

29. In Article 91 (complaints to industrial tribunals: contravention of Article 89 or 90), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

30. In Article 91C (complaints to industrial tribunals: contravention of Article 91A or 91B), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

31. In Article 95 (complaints to industrial tribunals in respect of employer's failure under Articles 92 to 94), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”.

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32. In Article 95F (complaints to industrial tribunals: contravention of Article 95C(4), (5) or (6) or 95F(1)(b)), after paragraph (5) insert—

“(5A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (5) (a).”

33. In Article 102 (complaints to industrial tribunals: contravention of Articles 96 or 100), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”

34. In Article 102A (complaints to industrial tribunals: contravention of Article 100C), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”

35. In Article 112 (complaints to industrial tribunals: parental leave), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”

36. In Article 112H (complaints to industrial tribunals: contravention of Article 112G(1) or 112H(1)(b)), after paragraph (6) add—

“(7) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (5) (a).”

37. In Article 145 (complaints to industrial tribunals: unfair dismissal), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”

38. In Article 199 (claims for redundancy payment), after paragraph (3) add—

“(4) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraphs (1)(c) and (2).”

39. In Article 217 (complaint in respect of failure to comply with Article 216 or 216A), after paragraph (5) insert—

“(5A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (5) (b).”

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40. In Article 220 (complaint by employee to industrial tribunal), after paragraph (2) insert—

“(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2) (a).”

41. After Article 249A (time limits in relation to certain mediated cross-border disputes) insert—

“Extension of certain time limits

Extension of time limits to facilitate conciliation before institution of proceedings

249B.—(1) This Article applies where this Order provides for it to apply for the purposes of a provision of this Order (a “relevant provision”). But it does not apply to a dispute which is a relevant cross-border dispute for the purposes of Article 249A.

(2) In this Article—

- (a) Day A is the day on which the complainant concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the complainant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(3) In working out when a time limit set by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(4) If a time limit set by a relevant provision would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(5) Where an industrial tribunal has power under this Order to extend a time limit set by a relevant provision, the power is exercisable in relation to the time limit as extended by this Article.”

Race Relations (Northern Ireland) Order 1997 (NI 6)

42. In Article 65 (period within which proceedings to be brought), after paragraph (1) insert—

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“(1A) Article 249B of the Employment Rights (Northern Ireland) Order 1996 (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (1)(a).

(1B) Paragraphs (1) and (1A) shall be treated as provisions of the Employment Rights (Northern Ireland) Order 1996 for the purposes of Article 249B of that Order.”.

National Minimum Wage Act 1998 (c. 39)

43. In section 11 (failure of employer to allow access to records), after subsection (4A) insert—

“(4B) Where the complaint is presented to an industrial tribunal in Northern Ireland, Article 249B of the Employment Rights (Northern Ireland) Order 1996 applies for the purposes of subsection (3) and that subsection and this subsection are to be treated as provisions of that Order for the purposes of that Article.”.

Employment Relations (Northern Ireland) Order 1999 (NI 9)

44. In Article 13 (complaint to industrial tribunal), after paragraph (2) insert—

“(2A) Article 249B of the Employment Rights Order (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2)(a).

(2B) Paragraphs (2) and (2A) shall be treated as provisions of the Employment Rights Order for the purposes of Article 249B of that Order.”.

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