

SCHEDULES

SCHEDULE 3

EMPLOYMENT RIGHTS IN HEALTH AND SAFETY CASES

PART IV

ARTICLES 39 TO 41 OF THE NO. 1 ORDER, AS SUBSTITUTED

Interim relief

Interim relief pending determination of complaint of unfair dismissal

39.—(1) An employee who presents a complaint to an industrial tribunal under Article 29 alleging—

- (a) that the dismissal is unfair by virtue of Article 22A; or
- (b) that the reason (or, if more than one, the principal reason) for the dismissal was one of those specified in Article 22B(1)(a) and (b),

may apply to the tribunal for interim relief.

(2) The tribunal shall not entertain an application for interim relief unless it is presented to the tribunal before the end of the period of seven days immediately following the effective date of termination (whether before, on or after that date).

(3) In a case where the employee relies on Article 22A(1)(a) or (b) the tribunal shall not entertain an application for interim relief unless before the end of that period there is also so presented a certificate in writing signed by an authorised official of the independent trade union of which the employee was or proposed to become a member stating—

- (a) that on the date of the dismissal the employee was or proposed to become a member of the union; and
- (b) that there appear to be reasonable grounds for supposing that the reason for his dismissal (or, if more than one, the principal reason) was one alleged in the complaint.

(4) An “authorised official” means an official of the trade union authorised by it to act for the purposes of this Article.

(5) A document purporting to be an authorisation of an official by a trade union to act for the purposes of this Article and to be signed on behalf of the union shall be taken to be such an authorisation unless the contrary is proved; and a document purporting to be a certificate signed by such an official shall be taken to be signed by him unless the contrary is proved.

(6) For the purposes of paragraph (3) the date of dismissal shall be taken to be—

- (a) where the employee’s contract of employment was terminated by notice (whether given by his employer or by him), the date on which the notice was given; and
- (b) in any other case, the effective date of termination.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(7) The tribunal shall determine the application for interim relief as soon as practicable after receiving the application and, where appropriate, the requisite certificate.

(8) The tribunal shall give to the employer (not later than seven days before the date of the hearing) a copy of the application and of any certificate together with notice of the date, time and place of the hearing.

(9) If a request under Article 38A is made three days or more before the date of the hearing, the tribunal shall also give to the person to whom the request relates, as soon as reasonably practicable, a copy of the application and of any certificate, together with notice of the date, time and place of the hearing.

(10) The tribunal shall not exercise any power it has of postponing the hearing of an application for interim relief except where it is satisfied that special circumstances exist which justify it in doing so.