

SCHEDULES

SCHEDULE 2

Article 30

AMENDMENTS

The Industrial Relations (Northern Ireland) Order 1992 (NI 5)

1. In Article 92A (proceedings of the Court under Schedule 1A to the 1995 Order), after paragraph (10) add—

“(11) The reference in paragraph (1) to the Court’s functions under Schedule 1A to the Trade Union and Labour Relations Order does not include a reference to its functions under paragraph 166 of that Schedule.”

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

2. In Article 21(3) (time limit for applications under Article 22 or 23 of that Order), for “No such application” substitute “Where an election has been held, no application under those Articles with respect to that election”.

3. In Article 34(6) (remedies for infringement of right not to be unjustifiably disciplined) for “Article 40(6)” substitute “Article 40(7)”.

4. In Article 57 (rules as to a union’s political fund), for paragraph (4) substitute—

“(4A) Where an order has been made under this Article, any person who is a member of the union and was a member at the time it was made is entitled to enforce obedience to the order as if he had made the complaint on which it was made.

(4B) An order made by the Certification Officer under this Article may be enforced in the same way as an order of the county court”.

5. In Article 84 (complaints as regards passing of resolution on amalgamation or transfer of engagements) in paragraph (8) for “application” substitute “complaint”.

6. In Article 110(5) (statement which must appear on voting paper in ballot for industrial action) for “eight” substitute “12”.

7. In Article 116 (calling of industrial action with the support of a ballot), in paragraph (3)(b), for “take place” substitute “begin”.

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

8. In Article 73 (action short of dismissal on grounds related to union membership or activities), in each of paragraphs (1), (3) and (4), for “the purpose” substitute “the sole or main purpose”.

9. In Article 75 (consideration of complaint), in paragraph (1), for “the purpose” substitute “what was the sole or main purpose”.

10. In Article 77 (awards against third parties), in paragraph (1)(a), for “the purpose” substitute “the sole or main purpose”.

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11. In Article 130(6) (provisions to which provision about determination of fairness of dismissal is subject), for “and 144” substitute “, 144 and 144A”.

12. In Article 140(3) (exceptions to one year qualifying period of continuous employment for claims for unfair dismissal), for sub-paragraph (b) substitute—

“(b) paragraph (1) of Article 131 (read with any regulations made under that Article) applies.”.

13. In Article 141(2) (exceptions to upper age limit for claims for unfair dismissal), for sub-paragraph (b) substitute—

“(b) paragraph (1) of Article 131 (read with any regulations made under that Article) applies.”.

14.—(1) Article 161 (matters to be disregarded in assessing contributory fault) is amended as follows.

(2) In paragraph (2), omit the word “or” at the end of sub-paragraph (b) and at the end of sub-paragraph (c) insert

“, or

(d) not to make use of services made available by any trade union or by a particular trade union or by one of a number of particular trade unions.”

(3) After that paragraph insert—

“(2A) Conduct or action of the complainant shall be disregarded in so far as it constitutes acceptance of or failure to accept an offer made in contravention of Article 77A or 77B.”

15. In Article 163(3) (application for interim relief), for “Article 136(1)(a) or (b)” substitute “Article 136(1)(a), (b) or (ba), or on Article 136(1)(bb) otherwise than in relation to an offer made in contravention of Article 77A(1)(d).”.

16.—(1) Article 236 (Crown employment) is amended as follows.

(2) In paragraph (4) omit the word “and” at the end of sub-paragraph (d) and after that sub-paragraph insert—

“(dd) the reference in Article 130B(2)(a) to the employer’s undertaking shall be construed as a reference to the national interest, and”.

(3) In that paragraph, in sub-paragraph (e), for “references” substitute “any other reference”.

17. In paragraph (2) of Article 237 (armed forces)—

(a) in sub-paragraph (aa), after “Articles” , where it first occurs, insert “67M”; and

(b) in sub-paragraph (e), after “Articles” insert “130B(2)”.

18.—(1) Article 239 (employment outside Northern Ireland) is amended as follows.

(2) In paragraph (2)(b), for “Chapter II” substitute “Chapters II and III”.

(3) After that paragraph add—

“(3) Chapters II and III of Part VI do not apply to employment where under his contract personally to do work or perform services a worker who is not an employee works outside Northern Ireland.”

19. In Article 242 (mariners) in paragraph (2) after “the employee” insert “(or, in the case of Articles 73 to 77F), the worker”.

20. In Article 243 (police) in paragraph (1) after Part “VA,” insert “Article 67M”.

- 21.**—(1) Article 244 (national security, etc) is amended as follows.
- (2) In paragraph (2)(b) after “Articles” where it first occurs insert “67M”.
- (3) In paragraph (2)(g)—
- (a) in head (i) after “Article” where it first occurs insert “130B”;
- (b) in head (ii) for “(2)” substitute “(2A)”.

22. In Article 248 and 249(1) (death of employee or employer) after “employee”, wherever occurring, insert “or worker”.

The Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)

- 23.** In Article 12(1) (action taken for purpose of safeguarding national security), for sub-paragraph (a) substitute—
- “(a) Article 74, 77A or 77B of the Employment Rights Order (inducements and detriments in respect of trade union membership etc.),”.

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

- 24.**—(1) Article 33 (indexation of amounts) is amended as follows.
- (2) In paragraph (1)(a) for “40(6)” substitute “40(7)”.
- (3) In paragraph (1), after sub-paragraph (c) insert—
- “(ca) Article 77E(3) of that Order (unlawful inducements: amount of award);”.
- (4) In paragraph (3)(a), after “paragraph (1)(a),” insert “, (ca),”.

The Employment (Northern Ireland) Order 2003 (NI 15)

- 25.** In each of Schedules 2, 3 and 4 (tribunal jurisdictions to which Articles 17, 19 and 27 apply), after the entry relating to Article 74 of the Employment Rights (Northern Ireland) Order 1996 insert—
- “Article 77A of that Order (inducements relating to union membership or activities)
Article 77B of that Order (inducements relating to collective bargaining)”.