

SCHEDULES

SCHEDULE 3

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

MINOR AMENDMENTS

Unfair dismissal: effective date of termination

1 In section 55 of the 1978 Act (meaning of "dismissal") for subsection (5) there shall be substituted the following—

“(5) Where the contract of employment is terminated by the employer and the notice required by section 49 to be given by an employer would, if duly given on the material date, expire on a date later than the effective date of termination (as defined by subsection (4)) then, for the purposes of sections 53(2), 64(1)(a), 64A and 73(3) and paragraph 8(3) of Schedule 14, the later date shall be treated as the effective date of termination in relation to the dismissal.

- (6) Where the contract of employment is terminated by the employee and—
- (a) the material date does not fall during a period of notice given by the employer to terminate that contract ; and
 - (b) had the contract been terminated not by the employee but by notice given on the material date by the employer, that notice would have been required by section 49 to expire on a date later than the effective date of termination (as defined by subsection (4)),

then, for the purposes of sections 64(1)(a), 64A and 73(3) and paragraph 8(3) of Schedule 14, the later date shall be treated as the effective date of termination in relation to the dismissal.

- (7) " Material date " means—
- (a) in subsection (5), the date when notice of termination was given by the employer or (where no notice was given) the date when the contract of employment was terminated by the employer ; and
 - (b) in subsection (6), the date when notice of termination was given by the employee or (where no notice was given) the date when the contract of employment was terminated by the employee.”.

Continuity of employment in certain schools

2 (1) In section 81 of the 1978 Act (general provisions as to right to redundancy payment) the following subsection shall be inserted after subsection (2)—

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“(2A) For the purposes of subsection (2) the activities carried on by a local education authority with respect to the schools maintained by it and the activities carried on by the governors of those schools shall be treated as one business unless either of the conditions specified in subsection (2) would be satisfied without so treating them.”.

(2) In paragraph 17(1) of Schedule 13 to the 1978 Act, for the words " paragraph 18 " there shall be substituted the words " paragraphs 18 and 18A ".

(3) After paragraph 18 of that Schedule there shall be inserted the following paragraph—

“18A (1) If an employee of one of the employers described in sub-paragraph (2) is taken into the employment of another of those employers, his period of employment at the time of the change of employer shall count as a period of employment with the second employer and the change shall not break the continuity of the period of employment.

(2) The employers referred to in sub-paragraph (1) are the governors of the schools maintained by a local education authority and that authority.”.

Insolvent employers: payments to employees

3 For subsection (2) of section 122 of the 1978 Act (definition of " relevant date " in relation to certain debts due from insolvent employers to their employees) there shall be substituted the following subsection—

“(2) In this section the ' relevant date', in relation to a debt, means whichever is the latest of—

- (a) the date on which the employer became insolvent;
- (b) the date of the termination of the employee's employment ; or
- (c) where the debt falls within section 121(2)(d) or subsection (3)(d), the date on which the award was made.”.

4 (1) Section 122(3) of the 1978 Act (debts to which the provisions of section 122 about employees' rights on insolvency of employers apply) shall be amended as follows.

(2) For paragraph (a) there shall be substituted the following paragraph—

“(a) any arrears of pay in respect of one or more (but not more than eight) weeks ;”.

(3) For paragraph (c) there shall be substituted the following paragraph—

- “(c) any holiday pay—
- (i) in respect of a period or periods of holiday not exceeding six weeks in all; and
 - (ii) to which the employee became entitled during the twelve months ending with the relevant date ;”.

5 (1) Sections 122(11) and 123(9) of the 1978 Act (employee's rights on insolvency of employer and payment of unpaid contributions to occupational pension scheme) shall be amended as follows.

(2) In paragraph (a) for the words from the beginning to " was " there shall be substituted in each case the words " the application for a payment under this section has been ".

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- (3) In paragraph (c) for the word " further " there shall be substituted in each case the word " unreasonable ".

Application of the 1978 Act to employed spouses

- 6 Section 146(1) of the 1978 Act (which provides that certain provisions of that Act do not apply to employment where the employer is the husband or wife of the employee) shall cease to have effect.

Interest on awards made by or on appeal from industrial tribunals

- 7 In Schedule 9 to the 1978 Act (industrial tribunals), after paragraph 6 there shall be inserted the following paragraph—

“Interest on sums awarded

- 6A (1) The Secretary of State may by order made with the approval of the Treasury provide that sums payable in pursuance of decisions of industrial tribunals shall carry interest at such rate and between such times as may be prescribed by the order.
- (2) Any interest due by virtue of such an order shall be recoverable as a sum payable in pursuance of the decision.
- (3) The power conferred by sub-paragraph (1) includes power—
- (a) to specify cases or circumstances in which interest shall not be payable;
 - (b) to provide that interest shall be payable only on sums exceeding a specified amount or falling between specified amounts;
 - (c) to make provision for the manner in which and the periods by reference to which interest is to be calculated and paid ;
 - (d) to provide that any enactment shall or shall not apply in relation to interest payable by virtue of an order under sub-paragraph (1) or shall apply to it with such modifications as may be specified in the order;
 - (e) to make provision for cases where sums are payable in pursuance of decisions or awards made on appeal from industrial tribunals ;
 - (f) to make such incidental or supplemental provision as the Secretary of State considers necessary.
- (4) Without prejudice to the generality of sub-paragraph (3). an order under sub-paragraph (1) may provide that the rate of interest shall be the rate specified in section 17 of the Judgments Act 1838 as that enactment has effect from time to time.”.

Employment Appeal Tribunal

- 8 (1) In paragraph 18 of Schedule 11 to the 1978 Act (rules governing proceedings before the Employment Appeal Tribunal), after paragraph (d) there shall be inserted the following paragraph—

Status: This is the original version (as it was originally enacted).

- “(e) for interlocutory proceedings to be dealt with otherwise than in accordance with paragraph 16.”.
- (2) Where, before the commencement of any rules made by virtue of sub-paragraph (1) above, interlocutory proceedings before the Appeal Tribunal have been dealt with otherwise than in accordance with paragraph 16 of Schedule 11, those proceedings shall be taken to have been dealt with in accordance with the requirements of that paragraph.
- 9 In paragraph 21A of that Schedule (enforcement of awards of Employment Appeal Tribunal under section 5 of the 1980 Act) after sub-paragraph (2) there shall be added the following sub-paragraph—
- “(3) Any sum payable in pursuance of an award of the Appeal Tribunal under section 5 of the Employment Act 1980 shall be treated as if it were a sum payable in pursuance of a decision of an industrial tribunal for the purposes of paragraph 6A of Schedule 9 (interest on industrial tribunal awards).”.