
Changes to legislation: There are currently no known outstanding effects for the National Heritage (Scotland) Act 1985, Paragraph 16. (See end of Document for details)

SCHEDULES

SCHEDULE 1

THE BOARDS

PART II

ROYAL BOTANIC GARDEN, EDINBURGH

Staff

- 16 (1) The Board shall make, not later than such date as the Secretary of State may determine, an offer of employment by the Board to each person employed immediately before that date in the civil service of the State for the purposes of the institution known as the Royal Botanic Garden, Edinburgh.
- (2) The terms of the offer shall be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
- (3) In determining whether the terms of an offer are more or less favourable to that person than those enjoyed by him on the date of the offer no account shall be taken of the fact that employment with the Board is not employment in the service of the Crown.
- (4) An offer made in pursuance of this paragraph shall not be revocable during the period of 3 months commencing with the date on which it is made.
- (5) Where a person becomes an employee of the Board in consequence of this paragraph, then for the purposes of [F1the Employment Rights Act 1996], the period of employment in the civil service of the State shall count as a period of employment by the Board and the change of employment shall not break the continuity of the period of employment.
- (6) Where an offer is made to any person in pursuance of this paragraph, none of the agreed redundancy procedures applicable to persons employed in the civil service of the State shall apply to him; and if he ceases to be employed as mentioned in sub-paragraph (1) above—
- (a) on becoming a member of the staff of the Board in consequence of this paragraph; or
 - (b) having unreasonably refused an offer made to him in pursuance of this paragraph, he shall not be treated for the purposes of any scheme under section 1 of the Superannuation Act 1972 as having been retired on redundancy.
- (7) Without prejudice to sub-paragraph (6) above, where a person has unreasonably refused an offer made to him in pursuance of this paragraph, the Secretary of State

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shall not terminate that person's employment unless he has first had regard to the feasibility of employing him in a suitable alternative position in the civil service.

- (8) Where a person continues in employment in the civil service either—
- (a) not having unreasonably refused an offer made to him in pursuance of this paragraph, or
 - (b) having been placed in a suitable alternative position as mentioned in sub-paragraph (7) above, he shall be treated for all purposes as if the offer mentioned in sub-paragraph (1) had not been made.
- (9) Any dispute arising under this paragraph as to whether or not the terms of any employment offered by the Board are, taken as a whole, less favourable than those applying to a person's employment in the civil service of the State shall be referred to and determined by an [F²employment tribunal].
- (10) An [F²employment tribunal] shall not consider a complaint whereby a dispute mentioned in sub-paragraph (9) is referred to it unless the complaint is presented to the tribunal before the end of the period of 3 months beginning with the date of the offer of employment or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of 3 months.
- (11) An appeal shall lie to the Employment Appeal Tribunal on a question of law arising from any decision of, or arising in proceedings before, an [F²employment tribunal] under this paragraph; and no appeal shall lie except to the Employment Appeal Tribunal from any decision of an [F²employment tribunal] under this paragraph.

Textual Amendments

- F1** Words in [Sch. 1 Pt. II para. 16\(5\)](#) substituted (22.8.1996) by [1996 c. 18 ss. 240, 243, Sch. 1 para. 24\(b\)](#) (with ss. 191, 192, 193, 194, 195, 202)
- F2** Words in [Sch. 1 Pt. II para. 16\(9\)\(10\)\(11\)](#) substituted (1.8.1998) by [1998 c. 8, s. 1\(2\)\(a\)](#) (with s. 16(2)); [S.I. 1998/1658, art. 2\(1\)](#), [Sch. 1](#)

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