Employment Act (Northern Ireland) 2016

2016 CHAPTER 15

An Act to make provision relating to conciliation and other matters in connection with industrial tribunals and the Fair Employment Tribunal, including power to refer to chairmen as employment judges; to amend the law relating to protected disclosures; to make provision for disclosure of gender pay information; to make provision for zero hours contracts; to confer power on the Department for Employment and Learning in connection with careers guidance and apprenticeships; to correct references relating to statutory shared parental pay; to make other provision relating to employment; and for connected purposes. [22nd April 2016]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

VALID FROM 27/01/2020

Industrial tribunals

Conciliation before and after institution of proceedings

1.—(1) After Article 20 of the Industrial Tribunals (Northern Ireland) Order 1996 insert—

"**Requirement to contact Labour Relations Agency before instituting proceedings**

20A.—(1) Before a person ("the prospective claimant") presents an application to institute relevant proceedings relating to any matter, the prospective claimant must provide to the Agency prescribed information, in the prescribed manner, about that matter.

This is subject to paragraph (7).

(2) On receiving the prescribed information in the prescribed manner, the Agency shall send a copy of it to a conciliation officer.

(3) The conciliation officer shall, during the prescribed period, endeavour to promote a settlement between the persons who would be parties to the proceedings.

(4) If—

(a) during the prescribed period the conciliation officer concludes that a settlement is not possible, or

(b) the prescribed period expires without a settlement having been reached,

the conciliation officer shall issue a certificate to that effect, in the prescribed manner, to the prospective claimant.

(5) The conciliation officer may continue to endeavour to promote a settlement after the expiry of the prescribed period.

(6) In paragraphs (3) to (5) "settlement" means a settlement that avoids proceedings being instituted.

(7) A person may institute relevant proceedings without complying with the requirement in paragraph (1) in prescribed cases.

The cases that may be prescribed include (in particular)—

(a) cases where the requirement is complied with by another person instituting relevant proceedings relating to the same matter;

(b) cases where proceedings that are not relevant proceedings are instituted by means of the same form as proceedings that are;

(c) cases where Article 20B applies because the Agency has been contacted by a person against whom relevant proceedings are being instituted.

(8) A person who is subject to the requirement in paragraph (1) may not present an application to institute relevant proceedings without a certificate under paragraph (4).

(9) Where a conciliation officer acts under this Article in a case where the prospective claimant has ceased to be employed by the employer

and the proposed proceedings are proceedings under Article 145 of the Employment Rights Order, the conciliation officer may in particular—

(a) seek to promote the reinstatement or re-engagement of the prospective claimant by the employer, or by a successor of the employer or by an associated employer, on terms appearing to the conciliation officer to be equitable, or

(b) where the prospective claimant does not wish to be reinstated or re-engaged, or where reinstatement or re-engagement is not practicable, seek to promote agreement between them as to a sum by way of compensation to be paid by the employer to the prospective claimant.

(10) In paragraphs (1) to (7) "prescribed" means prescribed in industrial tribunal procedure regulations.

(11) Industrial tribunal procedure regulations may make such further provision as appears to the Department to be necessary or expedient with respect to the conciliation process provided for by paragraphs (1) to (8).

(12) Industrial tribunal procedure regulations may (in particular) make provision—

(a) authorising the Department to prescribe, or prescribe requirements in relation to, any form which is required by such regulations to be used for the purpose of providing information to the Agency under paragraph (1) or issuing a certificate under paragraph (4);

(b) requiring the Agency to give a person any necessary assistance to comply with the requirement in paragraph (1);

(c) for the extension of the period prescribed for the purposes of paragraph (3);

(d) treating the requirement in paragraph (1) as complied with, for the purposes of any provision extending the time limit for instituting relevant proceedings, by a person who is relieved of that requirement by virtue of paragraph (7)(a).

Conciliation before institution of proceedings: other Agency duties

20B.—(1) This Article applies where—

(a) a person contacts the Agency requesting the services of a conciliation officer in relation to a matter that (if not settled) is likely to give rise to relevant proceedings against that person, and

(b) the Agency has not received information from the prospective claimant under Article 20A(1).

(2) This Article also applies where—

(a) a person contacts the Agency requesting the services of a conciliation officer in relation to a matter that (if not settled) is likely to give rise to relevant proceedings by that person, and

(b) the requirement in Article 20A(1) would apply to that person but for Article 20A(7).

(3) Where this Article applies a conciliation officer shall endeavour to promote a settlement between the persons who would be parties to the proceedings.

(4) If at any time—

(a) the conciliation officer concludes that a settlement is not possible, or

(b) a conciliation officer comes under the duty in Article 20A(3) to promote a settlement between the persons who would be parties to the proceedings,

the duty in paragraph (3) ceases to apply at that time.

(5) In paragraphs (3) and (4) "settlement" means a settlement that avoids proceedings being instituted.

(6) Paragraph (9) of Article 20A applies for the purposes of this Article as it applies for the purposes of that Article.

Conciliation after institution of proceedings

20C.—(1) Where an application instituting relevant proceedings has been presented to an industrial tribunal, and a copy of it has been sent to a conciliation officer, the conciliation officer shall endeavour to promote a settlement—

(a) if requested to do so by the person by whom and the person against whom the proceedings are brought, or

(b) if, in the absence of any such request, the conciliation officer considers that the officer could act under this Article with a reasonable prospect of success.

(2) Where a person who has presented a complaint to an industrial tribunal under Article 145 of the Employment Rights Order has ceased to be employed by the employer against whom the complaint was made, the conciliation officer may in particular—

(a) seek to promote the reinstatement or re-engagement of the complainant by the employer, or by a successor of the employer or by an associated employer, on terms appearing to the conciliation officer to be equitable, or

(b) where the complainant does not wish to be reinstated or re-engaged, or where reinstatement or re-engagement is not

practicable, and the parties desire the conciliation officer to act, seek to promote agreement between them as to a sum by way of compensation to be paid by the employer to the complainant.

(3) In paragraph (1) "settlement" means a settlement that brings proceedings to an end without their being determined by an industrial tribunal.".

(2) Schedule 1 (conciliation: minor and consequential amendments) shall have effect.

Extension of limitation periods to allow conciliation

2 Schedule 2 (extension of limitation periods to allow for conciliation) shall have effect.

Extended power to define "relevant proceedings" for conciliation purposes

3.—(1) Article 20 of the Industrial Tribunals (Northern Ireland) Order 1996 (conciliation) is amended as follows.

(2) In paragraph (8) (power to amend list in paragraph (1) of Article 20), for sub-paragraphs (a) and (b) substitute " amend the definition of "relevant proceedings" in paragraph (1) by adding to or removing from the list in that paragraph particular types of industrial tribunal proceedings. ".

(3) After paragraph (8) insert—

"(8A) An order under paragraph (8) that adds industrial tribunal proceedings to the list in paragraph (1) may amend any statutory provision so as to extend the time limit for instituting those proceedings in such a way as appears necessary or expedient in order to facilitate the conciliation process provided for by Article 20A.

(8B) An order under paragraph (8) that removes industrial tribunal proceedings from the list in paragraph (1) may—

(a) repeal or revoke any statutory provision that, for the purpose mentioned in paragraph (8A), extends the time limit for instituting those proceedings;

(b) make further amendments which are consequential on that repeal or revocation.".

VALID FROM 20/09/2021

Power to require party to proceedings to pay deposit

4.—(1) Article 11 of the Industrial Tribunals (Northern Ireland) Order 1996 (pre-hearing reviews and preliminary matters), in paragraph (2)(a) (power to require party to proceedings to pay deposit)—

(a) omit “, if he wishes to continue to participate in those proceedings,”;

(b) after “£500” add “ as a condition of continuing to participate in those proceedings or doing such other thing as may be prescribed in the regulations ”.

(2) In Article 25 of that Order (regulations and orders)—

(a) in paragraph (1), for “All” substitute “ Subject to paragraph (1A), all ”;

(b) after paragraph (1) insert—

“(1A) Regulations which include provision under Article 11(2)(a) shall not be made unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.”.

VALID FROM 27/01/2020

Fair Employment Tribunal

Conciliation before and after complaint to Fair Employment Tribunal

5.—(1) The Fair Employment and Treatment (Northern Ireland) Order 1998 is amended as follows.

(2) After Article 88 insert—

“**Requirement to contact Labour Relations Agency before complaint to Tribunal**

88ZA.—(1) Subject to paragraph (7), before a person (“the prospective complainant”) presents a complaint to the Tribunal under Article 38 relating to any matter, the prospective complainant must provide to the Agency prescribed information, in the prescribed manner, about that matter.

(2) On receiving the prescribed information in the prescribed manner, the Agency shall send a copy of it to a conciliation officer.

(3) The conciliation officer shall, during the prescribed period, endeavour to promote a settlement between the persons who would be

the complainant and the respondent if a complaint were presented to the Tribunal under Article 38.

(4) If—

(a) during the prescribed period the conciliation officer concludes that a settlement is not possible, or

(b) the prescribed period expires without a settlement having been reached,

the conciliation officer shall issue a certificate to that effect, in the prescribed manner, to the prospective complainant.

(5) The conciliation officer may continue to endeavour to promote a settlement after the expiry of the prescribed period.

(6) In paragraphs (3) to (5) "settlement" means a settlement that avoids a complaint being presented to the Tribunal under Article 38.

(7) A person may present a complaint to the Tribunal under Article 38 without complying with the requirement in paragraph (1) in prescribed cases.

The cases that may be prescribed include (in particular)—

(a) cases where the requirement is complied with by another person presenting a complaint to the Tribunal under Article 38 relating to the same matter;

(b) cases where prescribed proceedings are instituted by means of the same form as the complaint;

(c) cases where Article 88ZB applies because the Agency has been contacted by a person who is the respondent on a complaint presented to the Tribunal under Article 38.

(8) A person who is subject to the requirement in paragraph (1) may not present a complaint to the Tribunal under Article 38 without a certificate under paragraph (4).

(9) In paragraphs (1) to (7) "prescribed" means prescribed in regulations under Article 84.

(10) Regulations under Article 84 may make such further provision as appears to the Department to be necessary or expedient with respect to the conciliation process provided for by paragraphs (1) to (8).

(11) Regulations under Article 84 may (in particular) make provision—

(a) authorising the Department to prescribe, or prescribe requirements in relation to, any form which is required by such regulations to be used for the purpose of providing information to the Agency under paragraph (1) or issuing a certificate under paragraph (4);

(b) requiring the Agency to give a person any necessary assistance to comply with the requirement in paragraph (1);

(c) for the extension of the period prescribed for the purposes of paragraph (3);

(d) treating the requirement in paragraph (1) as complied with, for the purposes of any provision extending the time limit for presenting a complaint to the Tribunal under Article 38, by a person who is relieved of that requirement by virtue of paragraph (7)(a).

Conciliation before complaint to Tribunal: other Labour Relations Agency duties

88ZB.—(1) This Article applies where—

(a) a person contacts the Agency requesting the services of a conciliation officer in relation to a matter that (if not settled) is likely to give rise to a complaint being presented to the Tribunal under Article 38 against that person, and

(b) the Agency has not received information from the prospective complainant under Article 88ZA(1).

(2) This Article also applies where—

(a) a person contacts the Agency requesting the services of a conciliation officer in relation to a matter that (if not settled) is likely to give rise to a complaint being presented to the Tribunal under Article 38 by that person, and

(b) the requirement in Article 88ZA(1) would apply to that person but for Article 88ZA(7).

(3) Where this Article applies a conciliation officer shall endeavour to promote a settlement between the persons who would be the complainant and the respondent if a complaint were presented to the Tribunal under Article 38.

(4) If at any time—

(a) the conciliation officer concludes that a settlement is not possible, or

(b) a conciliation officer comes under the duty in Article 88ZA(3) to promote a settlement between the persons who would be the complainant and the respondent,

the duty in paragraph (3) ceases to apply at that time.

(5) In paragraphs (3) and (4) "settlement" means a settlement that avoids a complaint being presented to the Tribunal under Article 38.

Conciliation after complaint presented

88ZC Where a complaint has been presented to the Tribunal under Article 38, the Tribunal shall send a copy of the complaint to the Agency and it shall be the duty of the Agency—

(a) if it is requested to do so by both the complainant and the respondent; or

(b) if, in the absence of any such request, the Agency considers that it could act under this Article with a reasonable prospect of success,

to endeavour to promote a settlement of the complaint without its being determined by the Tribunal.".

(3) In consequence of subsection (2)—

(a) in Article 84 (tribunal procedure), in paragraph (2A)(b), after "form" insert " (including certificates issued under Article 88ZA or 88ZB) ";

(b) in Article 88 (conciliation)—

(i) omit paragraphs (1) and (2);

(ii) in paragraph (3), for "paragraph (1) or (2)" substitute " any of Articles 88ZA to 88ZC ";

(iii) in paragraph (4), after "this Article" insert " or any of Articles 88ZA to 88ZC ";

(c) in Article 88A (conciliation: recovery of sums payable under compromises), in paragraph (1)(a)(i), for "Article 88" substitute " any of Articles 88ZA to 88ZC ";

(d) in Article 100 (restrictions on contracting out), in paragraph (2)(a), for "Article 88(1) or (2)" substitute " any of Articles 88ZA to 88ZC ".

Extension of time limit to allow conciliation

6.—(1) In Article 46 of the Fair Employment and Treatment (Northern Ireland) Order 1998 (period within which proceedings must be brought), in paragraph (1), for "to Article 46A" substitute " and to Articles 46A and 46B ".

(2) After Article 46A insert—

"**Extension of time limit to allow conciliation**

46B.—(1) This Article applies for the purposes of Article 46(1)(a).

But it does not apply to a dispute which is a relevant cross-border dispute for the purposes of Article 46A.

(2) In this Article—

(a) Day A is the day on which the complainant concerned complies with the requirement in paragraph (1) of Article 88ZA

(requirement to contact Agency before complaint to Tribunal) in relation to the matter in respect of which the complaint is 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 (10) of that Article) the certificate issued under paragraph (4) of that Article.

(3) In working out when the time limit set by Article 46(1)(a) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(4) If the time limit set by Article 46(1)(a) 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) Any power of the Tribunal to extend the time limit set by Article 46(1)(a) is exercisable in relation to the time limit as extended by this Article.”.

VALID FROM 20/09/2021

Power to require party to proceedings to pay deposit

7.—(1) In Article 84B of the Fair Employment and Treatment (Northern Ireland) Order 1998 (pre-hearing reviews and preliminary matters), in paragraph (2)(a) (power to require party to proceedings to pay deposit)—

(a) omit “, if he wishes to continue to participate in those proceedings,”;

(b) after “£500” add “ as a condition of continuing to participate in those proceedings or doing such other thing as may be prescribed in the regulations ”.

(2) In Article 104 of that Order (regulations and orders)—

(a) in paragraph (1), after “101(1)” insert “ and no regulations which include provision under Article 84B(2)(a) ”;

(b) in paragraph (2), after “Schedule 1” insert “ and regulations which include provision under Article 84B(2)(a) ”.

PROSPECTIVE

Assessment of matters relating to tribunal proceedings

Assessment of matters relating to tribunal proceedings

8.—(1) The Department may by regulations make provision for a prescribed person to provide relevant parties with an assessment in accordance with the regulations of prescribed matters in connection with any tribunal proceedings which might be or have been instituted by one or more of those parties.

(2) In this section—

"prescribed" means prescribed by regulations under this section;

"relevant parties" means such persons as may be prescribed;

"tribunal proceedings" means prescribed proceedings before an industrial tribunal or the Fair Employment Tribunal.

(3) Regulations under this section are subject to negative resolution.

VALID FROM 27/01/2020

Reviews

Review of early conciliation

9.—(1) The Department must review the operation of—

(a) Articles 20 to 20C of the Industrial Tribunals (Northern Ireland) Order 1996;

(b) Articles 46B and 88ZA to 88ZC of the Fair Employment and Treatment (Northern Ireland) Order 1996; and

(c) the amendments made by Schedules 1 and 2,

at the end of the period of one year beginning with the commencement of this section.

(2) The Department shall, having consulted with relevant stakeholders including employers, lay the findings of this review in a report to the Assembly.

(3) The report shall in particular include—

(a) a synopsis of consultation responses;

(b) an assessment and evaluation of the effectiveness of these provisions;

(c) the number of cases overall, the number of cases dealt with by early conciliation, the average length of time taken to deal with cases and the outcome of cases;

(d) any savings directly attributable to the introduction of these provisions.

(4) The Department shall also review and report as in subsections (2) and (3) at the end of the period of three years beginning with the coming into operation of early conciliation.

PROSPECTIVE

Review of Section 8: assessment of matters relating to tribunal proceedings

10.—(1) The Department must review the operation of section 8 at the end of the period of one year beginning with the commencement of that section.

(2) The Department shall, having consulted with relevant stakeholders including employers, lay the findings of this review in a report to the Assembly.

(3) The report shall in particular include—

(a) a synopsis of consultation responses;

(b) an assessment and evaluation of the effectiveness of section 8;

(c) the number of cases overall, the number dealt with in accordance with regulations under section 8, the average length of time taken to deal with cases and the outcomes of the cases;

(d) any savings directly attributable to the introduction of regulations under section 8.

(4) The Department shall also review and report as in subsections (2) and (3) at the end of the period of three years beginning with the coming into operation of section 8.

VALID FROM 27/01/2020

Employment judges

Employment judges: industrial tribunals

11 In Article 3 of the Industrial Tribunals (Northern Ireland) Order 1996 (industrial tribunals), after paragraph (2) add—

"(3) Regulations under paragraph (1) may provide that—

(a) the President and Vice-President of the Industrial Tribunals and the Fair Employment Tribunal, and

(b) any person who is a member of a panel of chairmen of tribunals which is appointed in accordance with regulations made under that paragraph,

may be referred to as an employment judge.".

Employment judges: Fair Employment Tribunal

12 In Article 82 of the Fair Employment and Treatment (Northern Ireland) Order 1998 (President, Vice-President and Chairmen), in paragraph (5), after the words "regulations under Article 81" add " and regulations under that Article may provide that a person so appointed may be referred to as an employment judge ".

VALID FROM 01/10/2017

Protected disclosures

Disclosures not protected unless believed to be made in the public interest

13 In Article 67B of the Employment Rights (Northern Ireland) Order 1996 (disclosures qualifying for protection), in paragraph (1), after "in the reasonable belief of the worker making the disclosure," insert " is made in the public interest and ".

Power to reduce compensation where disclosure not made in good faith

14.—(1) Omit the words "in good faith" in the following provisions of Part 5A of the Employment Rights (Northern Ireland) Order 1996 (protected disclosures)—

(a) paragraph (1) of Article 67C (disclosure to employer or other responsible person);

(b) paragraph (b) of Article 67E (disclosure to Minister of the Crown or Northern Ireland department);

(c) paragraph (1)(a) of Article 67F (disclosure to prescribed person).

(2) In Article 67G of that Order (disclosure in other cases), in paragraph (1)—

(a) omit sub-paragraph (a);

(b) in sub-paragraph (b), for "he" substitute " the worker ".

(3) In Article 67H of that Order (disclosure of exceptionally serious failures), in paragraph (1)—

(a) omit sub-paragraph (a);

(b) in sub-paragraph (b), for "he" substitute " the worker ".

(4) In Article 72 of that Order (remedies), after paragraph (6) insert—

"(6A) Where—

(a) the complaint is made under Article 71(1A), and

(b) it appears to the tribunal that the protected disclosure was not made in good faith,

the tribunal may, if it considers it just and equitable in all the circumstances to do so, reduce any award it makes to the worker by no more than 25%.".

(5) In Article 157 of that Order (compensatory award), after paragraph (6) insert—

"(6A) Where—

(a) the reason (or principal reason) for the dismissal is that the complainant made a protected disclosure; and

(b) it appears to the tribunal that the disclosure was not made in good faith,

the tribunal may, if it considers it just and equitable in all the circumstances to do so, reduce any award it makes to the worker by no more than 25%.".

Protected disclosures: reporting requirements

15 After Article 67F of the Employment Rights (Northern Ireland) Order 1996 (disclosure to prescribed person) insert—

"**Prescribed persons: duty to report on disclosure of information**

67FA.—(1) The Department may make regulations requiring a person prescribed for the purposes of Article 67F to produce an annual report on disclosures of information made to the person by workers.

(2) The regulations must set out the matters that are to be covered in a report, but must not require a report to provide detail that would enable either of the following to be identified—

(a) a worker who has made a disclosure;

(b) an employer or other person in respect of whom a disclosure has been made.

(3) The regulations must make provision about the publication of a report, and such provision may include (but is not limited to) any of the following requirements—

(a) to send the report to the Department for laying before the Assembly or to the Secretary of State for laying before both Houses of Parliament;

(b) to include the report in another report or in information required to be published by the prescribed person;

(c) to publish the report on a website.

(4) The regulations may make provision about the time period within which a report must be produced and published.".

Worker subjected to detriment by co-worker or agent of employer

16.—(1) In Article 70B of the Employment Rights (Northern Ireland) Order 1996 (protected disclosures), after paragraph (1) insert—

"(1A) A worker ("W") has the right not to be subjected to any detriment by any act, or any deliberate failure to act, done—

(a) by another worker of W's employer in the course of that other worker's employment, or

(b) by an agent of W's employer with the employer's authority,

on the ground that W has made a protected disclosure.

(1B) Where a worker is subjected to detriment by anything done as mentioned in paragraph (1A), that thing is treated as also done by the worker's employer.

(1C) For the purposes of paragraph (1B), it is immaterial whether the thing is done with the knowledge or approval of the worker's employer.

(1D) In proceedings against W's employer in respect of anything alleged to have been done as mentioned in paragraph (1A)(a), it is a defence for the employer to show that the employer took all reasonable steps to prevent the other worker—

(a) from doing that thing, or

(b) from doing anything of that description.

(1E) A worker or agent of W's employer is not liable by reason of paragraph (1A) for doing something that subjects W to detriment if—

(a) the worker or agent does that thing in reliance on a statement by the employer that doing it does not contravene this Order, and

(b) it is reasonable for the worker or agent to rely on the statement.

But this does not prevent the employer from being liable by reason of paragraph (1B).".

(2) In Article 71 of that Order (complaints to industrial tribunals), in paragraph (5)—

(a) for "includes, where" substitute "includes—

"(a) where";

(b) at the end insert—

"(b) in the case of proceedings against a worker or agent under Article 70B(1A), the worker or agent.".

Extension of meaning of "worker"

17.—(1) Article 67K of the Employment Rights (Northern Ireland) Order 1996 (extension of meaning of "worker") is amended as follows.

(2) In paragraph (1), after sub-paragraph (c) insert—

"(ca) is or was provided with work experience provided pursuant to a course of education or training approved by, or under arrangements with, the Nursing and Midwifery Council in accordance with Article 15(6)(a) of the Nursing and Midwifery Order 2001 (S.I. 2002/253); or".

(3) In paragraph (2)(c), after "sub-paragraph" insert " (ca) or ".

(4) After paragraph (3) add—

"(4) The Department may by order make amendments to this Article as to what individuals count as "workers" for the purposes of this Part (despite not being within the definition in Article 3(3)).

(5) An order under paragraph (4) may not make an amendment that has the effect of removing a category of individual unless the Department is satisfied that there are no longer any individuals in that category.".

VALID FROM 20/09/2021

Zero hours workers

Zero hours workers

18 After Article 59 of the Employment Rights (Northern Ireland) Order 1996 (meaning of "wages" etc.) insert—

"PART IVA

ZERO HOURS WORKERS

Zero hours workers

59A.—(1) The Department may by regulations make such provision as the Department considers appropriate for the purpose of preventing abuses arising out of or in connection with the use of—

(a) zero hours contracts;

(b) non-contractual zero hours arrangements; or

(c) worker's contracts of a kind specified by the regulations.

(2) In this Article—

"non-contractual zero hours arrangement" means an arrangement other than a worker's contract under which—

(a) an employer and an individual agree terms on which the individual will do any work where the employer makes it available to the individual and the individual agrees to do it, but

(b) the employer is not required to make any work available to the individual, nor the individual required to accept it;

and in this Article "employer", in relation to a non-contractual zero hours arrangement, is to be read accordingly;

"zero hours contract" means a contract of employment or other worker's contract under which—

(a) the undertaking to do or perform work is an undertaking to do so conditionally on the employer making work available to the worker; and

(b) there is no certainty that any such work will be made available to the worker.

(3) For the purposes of this Article—

(a) an employer makes work available to a worker if the employer requests or requires the worker to do the work; and

(b) references to work and doing work include references to services and performing them.

(4) The worker's contracts which may be specified under paragraph (1)(c) are those in relation to which the Department considers it appropriate for provision made by the regulations to apply, having regard, in particular, to provision made by the worker's contracts as to income, rate of pay or working hours.

(5) Regulations under this Article may amend or repeal any statutory provision (including paragraphs (2) to (4)).”.

PROSPECTIVE

Gender pay and disclosure of information

Gender pay gap information

19.—(1) Employers must, in accordance with regulations to be made by the Department under this section, publish—

(a) information relating to the pay of employees for the purpose of showing whether, by reference to factors of such description as is prescribed, there are differences in the pay of male and female employees; and

(b) details of the methodology used to calculate any statistics contained in the information.

(2) Where there are differences in the pay of male and female employees, an employer must publish an action plan to eliminate those differences.

(3) A copy must be sent to all employees and any trade union recognised by the employer.

(4) The Department may prescribe by regulations a limit to the total number of employees and workers in an organisation below which this section does not apply.

(5) Regulations under subsection (4) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(6) The regulations must prescribe—

(a) descriptions of employer;

(b) descriptions of employee;

(c) how to calculate the number of employees that an employer has;

(d) a standardised method for calculating any differences in the pay of male and female employees;

(e) descriptions of information;

(f) a requirement that information include statistics on workers within each pay band in relation to—

(i) ethnicity, and

(ii) disability;

(g) the time at which information is to be published; and

(h) the form and manner in which it is to be published.

(7) The first regulations under this section must be made by 30 June 2017.

(8) Regulations under subsection (6)(g) may not require an employer, after the first publication of information, to publish information more frequently than at intervals of 12 months or less frequently than at intervals of 36 months.

(9) The regulations shall make provision for a failure to comply with the regulations—

(a) to be an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale for every employee;

(b) to be enforced, otherwise than as an offence, by such means as are prescribed.

(10) The reference to a failure to comply with the regulations includes a reference to a failure by a person acting on behalf of an employer.

(11) Within 18 months of the day on which this Act receives Royal Assent, the Department must, in consultation with trade unions, publish a strategy including an action plan, on eliminating differences in the pay of male and female employees.

[[F1](12) For the purposes of this section, "the Department" means the Department for Communities.**]**

Textual Amendments

F1 S. 19(12) substituted (2.6.2021) by The Departments (Transfer of Functions) Order (Northern Ireland) 2021 (S.R. 2021/114), art. 1(2), **Sch. para. 1** (with art. 2(2)(a)(b))

Modifications etc. (not altering text)

C1 S. 19: Transfer of functions (2.6.2021) by The Departments (Transfer of Functions) Order (Northern Ireland) 2021 (S.R. 2021/114), arts. 1(2), **3** (with art. 2(2)(a)(b))

VALID FROM 20/09/2021

Careers guidance

Careers guidance

20 In section 1 of the Employment and Training Act (Northern Ireland) 1950 (general functions of Department as to employment and training for employment), after subsection (3) insert—

"(4) The Department must make arrangements under this section for providing careers guidance for such persons as the Department considers appropriate.

(5) The guidance must—

(a) be provided in an impartial manner; and

(b) be in the best interests of the person receiving it.

(6) The Department may by regulations make such provision concerning arrangements under subsection (4) as the Department considers appropriate, including provision requiring the guidance to be delivered or otherwise provided by a person who has such qualifications as the Department may determine.

(7) In this section "careers guidance" means guidance on—

(a) what employments are available to and suitable for the persons receiving the guidance; and

(b) what education and training may be available to those persons to prepare them for those employments"

VALID FROM 20/09/2021

Apprenticeships

Apprenticeships

21 In section 1 of the Employment and Training Act (Northern Ireland) 1950 (general functions of Department as to employment and training for employment), after subsection (7) (inserted by section 20) add—

"(8) The Department may by regulations provide that arrangementsmust be made under this section for providing apprenticeships and traineeships for such persons as may be specified in the regulations subject to such conditions as may be so specified.

(9) Regulations under subsection (8) may make provision as to the components of apprenticeships and traineeships.".

VALID FROM 30/03/2018

Miscellaneous

Indexation of amounts: timing and rounding

22.—(1) Article 33 of the Employment Relations (Northern Ireland) Order 1999 (indexation of amounts, etc.) is amended as follows.

(2) In paragraph (2)—

(a) omit the words "as soon as practicable";

(b) at the end add " and the order shall come into operation on the following 6th April ".

(3) In paragraph (3), for the words after "the Department shall" substitute " round the result to the nearest whole pound, taking 50p as nearest to the next whole pound above ".

(4) In paragraph (6), for "this Article" substitute " paragraph (2) ".

(5) After paragraph (6) add—

"(7) The Department may at any time make an order increasing or decreasing any sum to which this Article applies if a draft of the order has been laid before, and approved by resolution of, the Assembly.

(8) An order under paragraph (7) may exclude the application of paragraph (2) in relation to any sum increased or decreased by the order for such period as may be specified in the order.".

VALID FROM 27/01/2020

Prohibition on disclosure of information held by the Labour Relations Agency

23 After Article 90A of the Industrial Relations (Northern Ireland) Order 1992 (fees for exercise of functions by the Labour Relations Agency) insert—

"**Prohibition on disclosure of information**

90B.—(1) Information held by the Agency shall not be disclosed if the information—

(a) relates to a worker, an employer of a worker or a trade union (a "relevant person"); and

(b) is held by the Agency in connection with the provision of a service by the Agency or its officers.

This is subject to paragraph (2).

(2) Paragraph (1) does not prohibit the disclosure of information if—

(a) the disclosure is made for the purpose of enabling or assisting the Agency to carry out any of its functions;

(b) the disclosure is made for the purpose of enabling or assisting an officer of the Agency to carry out the functions of a conciliation officer under any statutory provision;

(c) the disclosure is made for the purpose of enabling or assisting—

(i) a person appointed by the Agency under paragraph 9(1) of Schedule 4; or

(ii) an arbitrator appointed by the Agency under any statutory provision,

to carry out functions specified in the appointment;

(d) the disclosure is made for the purposes of a criminal investigation or criminal proceedings (whether or not within the United Kingdom);

(e) the disclosure is made in order to comply with a court order;

(f) the disclosure is made in a manner that ensures that no relevant person to whom the information relates can be identified; or

(g) the disclosure is made with the consent of each relevant person to whom the information relates.

(3) Paragraph (2) does not authorise the making of a disclosure which contravenes the Data Protection Act 1998.

(4) A person who discloses information in contravention of this Article commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) Proceedings for an offence under this Article may be instituted only by or with the consent of the Director of Public Prosecutions for Northern Ireland.

(6) For the purposes of this Article information held by—

(a) a person appointed by the Agency under paragraph 9(1) of Schedule 4 in connection with functions specified in the appointment; or

(b) an arbitrator appointed by the Agency under any statutory provision in connection with functions specified in the appointment,

is information that is held by the Agency in connection with the provision of a service by the Agency.”.

VALID FROM 20/09/2021

Variation in procedures for certain orders and regulations

24.—(1) Article 251 of the Employment Rights (Northern Ireland) Order 1996 (orders and regulations) is amended as follows.

(2) In paragraph (1), for "paragraph (1A)" substitute " paragraphs (1A), (1B) and (7) ".

(3) After paragraph (1A) insert—

"(1B) Subject to paragraph (1C), regulations under Article 59A or 67FA shall not be made unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(1C) Paragraph (1B) does not apply to regulations under Article 67FA that contain only the provision mentioned in Article 67FA(2), (3) or (4).".

(4) At the end of paragraph (3)(b) add " or an order under paragraph (1)(c) of that Article which falls within paragraph (5A) ".

(5) In paragraph (5A) for "under Article 85ZS(6) or 107AB(4)" substitute " to which this paragraph applies ".

(6) After paragraph (5A) insert—

"(5B) Paragraph (5A) applies to—

(a) an order under Article 67K(4), 85ZS(6) or 107AB(4);

(b) an order under Article 250(1)(c) which varies or excludes the operation of Article 124(3) or 140(1).".

(7) After paragraph (6) add—

"(7) Regulations to which this paragraph applies shall not be subject to negative resolution but shall be subject to the confirmatory procedure.

(8) Paragraph (7) applies to regulations under this Order which—

(a) but for that paragraph would be subject to negative resolution; and

(b) are contained in a statutory rule which includes regulations subject to the confirmatory procedure.

(9) In this Article "the confirmatory procedure" means the procedure described in paragraph (1A).".

VALID FROM 27/01/2020

Statutory shared parental pay: correction of references

25.—(1) Part 12ZC of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (statutory shared parental pay) is amended as follows.

(2) In—

(a) section 167ZV(2)(a), and

(b) section 167ZX(2)(a),

for "(2)(h) or, as the case may be, (4)(i)" substitute " (2)(g) or, as the case may be, (4)(h) ".

(3) In section 167ZZ(1)(a)—

(a) in sub-paragraph (i) for "(o)" substitute " (n) ";

(b) in sub-paragraph (ii) for "(p)" substitute " (o) ";

(c) in sub-paragraph (v) for "(o)" substitute " (n) ";

(d) in sub-paragraph (vi) for "(p)" substitute " (o) ".

VALID FROM 27/01/2020

References to tribunal jurisdictions to which Articles 17 and 27 of the Employment (Northern Ireland) Order 2003 apply

26.—(1) In Schedule 2 to the Employment (Northern Ireland) Order 2003 (tribunal jurisdictions to which Article 17 of that Order applies)—

(a) omit the entry relating to regulation 45 of the European Public Limited-Liability Company Regulations (Northern Ireland) 2004; and

(b) after the entry relating to regulation 17 of the Cross-border Railways Services (Working Time) Regulations (Northern Ireland) 2008 insert— " Regulation 32 of the European Public Limited-Liability Company (Employment Involvement) (Northern Ireland) Regulations 2009 ".

(2) Subsection (1) does not affect the power of the Department to make orders under Article 17(7) of the Employment (Northern Ireland) Order 2003.

(3) In Schedule 4 to the Employment (Northern Ireland) Order 2003 (tribunal jurisdictions to which Article 27 of that Order applies)—

(a) omit the entry relating to regulation 45 of the European Public Limited-Liability Company Regulations (Northern Ireland) 2004; and

(b) after the entry relating to regulation 17 of the Cross-border Railways Services (Working Time) Regulations (Northern Ireland) 2008 insert— " Regulation 32 of the European Public Limited-Liability Company (Employment Involvement) (Northern Ireland) Regulations 2009 ".

(4) Subsection (3) does not affect the power of the Department to make orders under Article 27(8) of the Employment (Northern Ireland) Order 2003.

Supplementary

VALID FROM 01/10/2017

Repeals

27 The statutory provisions set out in Schedule3 are repealed to the extent specified in the second column of that Schedule.

Interpretation

28 In this Act, except in section 19, "the Department" means the Department for Employment and Learning.

Commencement

29.—(1) This section, section 28 and section 30 come into operation on the day after the day on which this Act receives Royal Assent.

(2) The other provisions of this Act come into operation on such day or days as the Department may by order appoint.

Short title

30 This Act may be cited as the Employment Act (Northern Ireland) 2016.

VALID FROM 01/10/2017

SCHEDULES

VALID FROM 27/01/2020

SCHEDULE 1

Section 1(2).

CONCILIATION: MINOR AND CONSEQUENTIAL AMENDMENTS

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

1 In Article 245 (restrictions on contracting out), in paragraph (2)(e), for "Article 20" substitute " any of Articles 20A to 20C ".

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

2 In Article 9 (industrial tribunal procedure regulations), in paragraph (3ZA)(b), after "form" insert " (including certificates issued under Article 20A(4)) ".

3.—(1) Amend Article 20 (conciliation) as follows.

(2) At the end of the heading add " : relevant proceedings etc. ".

(3) In paragraph (1), for the words before sub-paragraph (a) substitute " In this Article and Articles 20A to 20C "relevant proceedings" means industrial tribunal proceedings— ".

(4) In paragraph (1)(b)—

(a) after "38" insert " , 44B ";

(b) after "Order 1995" insert " or paragraph 156 of Schedule 1A to that Order ".

(5) In paragraph (1)(cc), for "20(1)(b)" substitute " 19D(1)(b) ".

(6) In paragraph (1) omit sub-paragraphs (e) and (m).

(7) After paragraph (1) insert—

"(1A) Articles 20A and 20B apply in the case of matters which could be the subject of relevant proceedings, and Article 20C applies in the case of relevant proceedings themselves.".

(8) Omit paragraphs (2) to (5).

(9) In paragraphs (6) and (7), for "this Article" substitute " any of Articles 20A to 20C ".

4 In Article 21A (conciliation: recovery of sums payable under compromises), in paragraph (1)(a)(i), for "Article 20" substitute " any of Articles 20A to 20C ".

National Minimum Wage Act 1998 (c. 39)

5 In section 49 (restrictions on contracting out), in subsection (2)(b), for "Article 20" substitute " any of Articles 20A to 20C ".

Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13)

6 In section 58 (restrictions on agreements to limit the operation of Part 1 of that Act), in subsection (3), for "Article 20" substitute " any of Articles 20A to 20C ".

VALID FROM 27/01/2020

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—

"**2ZAB Extension of time limits to facilitate conciliation before institution of proceedings**

(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.

(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).".

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 sub-paragraph (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).".

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—

"(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—

"(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).".

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).".

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—

"(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.".

SCHEDULE 3 Section 27.

REPEALS

. . . . . .

Status:
Point in time view as at 23/04/2016. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
There are currently no known outstanding effects for the Employment Act (Northern Ireland) 2016.