

*Status: Point in time view as at 01/10/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Employment Act (Northern Ireland) 2016. (See end of Document for details)*

## 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 ”.

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**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 ”.

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## 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

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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).

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(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

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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—

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“(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—

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“(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).”.

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**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—



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“(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

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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).

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(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

##### Commencement Information

**II** [Sch. 3](#) in operation at 1.10.2017 for specified purposes by [S.R. 2017/199](#), [art. 2\(2\)](#)

Short Title	Extent of Repeal
Employment Rights (Northern Ireland) Order 1996 (NI 16)	<p>In Article 67C(1), the words “in good faith”.</p> <p>In Article 67E(b), the words “in good faith”.</p> <p>In Article 67F(1)(a), the words “in good faith”.</p> <p>In Article 67G(1), sub-paragraph (a).</p> <p>In Article 67H(1), sub-paragraph (a).</p> <p>In Article 67K(1), the word “or” at the end of sub-paragraph (c).</p>
Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)	<p>In Article 11(2)(a), the words “, if he wishes to continue to participate in those proceedings,”.</p> <p>In Article 20, in paragraph (1), sub-paragraphs (e) and (m) and paragraphs (2) to (5).</p>
Fair Employment and Treatment (Northern Ireland) Order 1998 (NI 21)	<p>Article 38(1A).</p> <p>In Article 46(1), the words from “and to any regulations” to “2003”.</p> <p>In Article 84B(2)(a), the words “, if he wishes to continue to participate in those proceedings,”.</p> <p>In Article 88, paragraphs (1) and (2).</p>

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Employment Relations (Northern Ireland) Order 1999 (NI 9)	In Article 33(2), the words “as soon as practicable”.
Employment (Northern Ireland) Order 2003 (NI 15)	In Schedule 2, the entry relating to regulation 45 of the European Public Limited-Liability Company Regulations (Northern Ireland) 2004.  In Schedule 4, the entry relating to regulation 45 of the European Public Limited-Liability Company Regulations (Northern Ireland) 2004.  In Schedule 5, paragraph 4(1) and (2).
Employment Act (Northern Ireland) 2011 (c. 13)	Sections 8 and 9.  Sections 12 and 13.

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