

SCHEDULES

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Article 4.

COMPENSATION FOR CERTAIN DISMISSALS

Power of Department to make payments

1. The Department may, if it thinks fit, pay to a person who satisfies the conditions specified in paragraph 2 an amount not exceeding that specified in paragraph 3.

Conditions of eligibility

2. A person may apply for compensation under this Schedule where—
- (a) he was dismissed from his employment on or after 1st October 1976 (when Article 22(6) of the No. 1 Order came into force) and before 4th May 1982 (when the amendments of Article 22 of the No. 1 Order made by Article 8 of and Schedule 2 to the 1982 Order came into force);
 - (b) he did not bring, or brought but did not succeed in, a complaint of unfair dismissal; and
 - (c) if the amendments referred to in sub-paragraph (a) had been in force in relation to his dismissal (the law otherwise being as it was at the time), he would have been entitled by virtue of those amendments to succeed in a complaint of unfair dismissal.

Maximum amount of compensation

3. The maximum amount which the Department may pay to a person in respect of his dismissal is the amount which that person would have been awarded if he had brought a successful complaint of unfair dismissal—
- (a) disregarding any question of an order for reinstatement or re-engagement; and
 - (b) taking into account the actual loss sustained by him rather than such loss as might have been foreseen at the time, together with interest from the date of the dismissal calculated at the rate from time to time in force in relation to interest on amounts awarded by decree in the county court.

Construction of references to date of dismissal

4.—(1) Subject to sub-paragraph (2), references in paragraph 2 to the date of a dismissal are to the effective date of termination in relation to that dismissal as defined in Article 21(4) of the No. 1 Order.

(2) Where the notice required to be given by an employer by section 1(1) of the Act of 1965 (minimum period of notice) would, if duly given when notice of termination was given by the employer, or (where no notice was given) when the contract of employment was terminated by the employer, have expired on a date later than the effective date of termination as defined by Article 21(4) of the No. 1 Order, then, in ascertaining for the purposes of paragraph 2(a) whether a person was dismissed before 4th May 1982, that later date shall be treated as the date of the dismissal.

Making an application

5. An application for compensation under this Schedule must be made in writing to the Department within twelve months from the making of this Order or such further period as the Department may allow.

Reference of questions to appointed person

6.—(1) The Department may, if it thinks fit, before deciding an application for compensation under this Schedule, refer any question arising in connection with the application for inquiry and report by a person appointed by it under this paragraph.

(2) In any such case the applicant shall be informed of the identity of the appointed person and of the question or questions referred and shall be given an opportunity to make representations to the appointed person including oral representations if he so wishes.

(3) The Department may pay to any person attending at any place for the purpose of making such representations such travelling and other allowances as would be payable in connection with attendance at an industrial tribunal.

(4) A person may be appointed by the Department under this paragraph either for the purposes of a particular reference or for the purpose of such references as may from time to time be made to him; and the Department may pay to a person so appointed such remuneration and such travelling and other allowances as it may determine with the approval of the Department of Finance and Personnel.

Consideration of application

7. In considering an application for compensation under this Schedule, the Department shall have regard to, but shall not be bound by—

- (a) the findings of any industrial tribunal in proceedings arising out of the dismissal in question; and
- (b) any report made in relation to the application by a person appointed under paragraph 6.

Notification of decision

8.—(1) The Department shall notify the applicant in writing of its decision.

(2) The notification shall be accompanied by a copy of any report made in relation to the application by a person appointed under paragraph 6.

Reconsideration of decision

9.—(1) The Department may, of its own motion or on the request of the applicant, reconsider its decision on any application for compensation under this Schedule on the ground that the decision was made in ignorance of, or was based on a mistake as to, some material fact.

(2) Where the Department decides of its own motion to reconsider a decision, it shall inform the applicant of that fact and of the grounds for reopening the case.

(3) A request by the applicant for reconsideration of the decision on his application must be made in writing to the Department within three months from the date on which the decision was notified to him, or such further period as the Department may allow.

(4) The provisions of paragraphs 6 to 8 shall, with the necessary modifications, apply in relation to the reconsideration of an application as they apply in relation to the original consideration of an application.

Liability to repay in certain cases

10.—(1) Where, for the purpose of obtaining compensation under this Schedule for himself or for another, any person misrepresents or fails to disclose any material fact, whether fraudulently or otherwise, the person to whom any such payment is in consequence made shall be liable to repay so much of it as the Department may direct, unless he can show that the misrepresentation or failure occurred without his connivance or consent.

(2) Except as provided by this paragraph, the reconsideration of a decision under paragraph 9 shall not give rise to a liability to repay.

(3) Any sum received by the Department by virtue of this paragraph shall be paid into the Consolidated Fund.

False statement an offence

11.—(1) It is an offence for a person to make, for the purpose of obtaining compensation under this Schedule for himself or for another, a statement which is false in a material particular and which he knows to be so false.

(2) An offence under this paragraph is punishable on summary conviction with a fine not exceeding level 5 on the standard scale.