

SCHEDULES

SCHEDULE 4

Article 19(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 (c. 19)

1.—(1) Section 42 (payments out of Redundancy Fund to employees) shall be amended as follows.

(2) After subsection (1) insert—

“(1A) In this Act “employer’s payment”, in relation to an employee, means—

- (a) a redundancy payment which his employer is liable to pay to him under Part II; or
- (b) a payment which his employer is, under an agreement in respect of which an order is in force under section 21, liable to make to him on the termination of his contract of employment.

(1B) In relation to a case where, under section 14, 20 or 47, an industrial tribunal determines that an employer is liable to pay only part of a redundancy payment, the reference in subsection (1A)(a) to a redundancy payment shall be construed as a reference to that part of the redundancy payment.”.

(3) In subsection (2), for “section 40(1)” substitute “subsection (1A)”.

(4) Omit subsection (4).

2. For section 44 substitute—

“44 References to tribunal relating to payments out of fund.

(1) Where on an application to the Department for a payment under section 42 it is claimed that an employer is liable to pay an employer’s payment, there shall be referred to an industrial tribunal—

- (a) any question as to the liability of the employer to pay the employer’s payment; and
- (b) any question as to the amount of the sum payable in accordance with Schedule 7.

(2) For the purposes of any reference under this section an employee who has been dismissed by his employer shall, unless the contrary is proved, be presumed to have been so dismissed by reason of redundancy.”.

3. For section 46(4) (meaning of employer’s payment) substitute—

“(4) In this Part “employer’s payment” has the meaning given by section 42(1A) and (1B).”.

4.—(1) Schedule 7 (calculation of payments out of Redundancy Fund) shall be amended as follows.

(2) In paragraph 1(2), for “section 40(5)” substitute “section 42(1B)”.

(3) For paragraph 2 substitute—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“2.—(1) Where the employer’s payment is not a redundancy payment or part of a redundancy payment, the sum referred to in section 42(2) is a sum equal to—

- (a) the amount of the employer’s payment, or
- (b) the amount of the relevant redundancy payment,

whichever is less.

(2) The reference in sub-paragraph (1)(b) to the amount of the relevant redundancy payment is a reference to the amount of the redundancy payment which the employer would have been liable to pay to the employee if—

- (a) the order in force in respect of the agreement as mentioned in section 42(1A)(b) had not been made;
- (b) the circumstances in which the employer’s payment is payable had been such that the employer was liable to pay a redundancy payment to the employee in those circumstances;
- (c) the relevant date, in relation to any such redundancy payment, had been the date on which the termination of the employee’s contract of employment is treated for the purposes of the agreement as having taken effect; and
- (d) in so far as the provisions of the agreement which relate to the following matters, that is to say—
 - (i) the circumstances in which the continuity of an employee’s period of employment is to be treated as broken, and
 - (ii) the weeks which are to count in computing a period of employment,are inconsistent with the provisions of Schedule 1 as to those matters, those provisions of the agreement were substituted for those provisions of that Schedule.

(3) In sub-paragraph (2) “the agreement” means the agreement falling within section 42(1A)(b) by reference to which the employer’s payment is payable.”.

Factories Act (Northern Ireland) 1965 (c. 20)

5.—(1) In sections 123(2)(aa) and (3)(b), 124(2)(aa) and 125(2)(aa) for “sections 10A and 117A” substitute “section 10A”.

(2) In section 176(5) (application of provisions of Act to young persons employed outside factories) for the words from “the provisions” to “expressly provided” substitute “section 117 shall not apply”.

Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 (NI 15)

6. In paragraph 16A(1) of Schedule 1 (discrimination required by public entertainment licences)

- (a) at the beginning insert “Without prejudice to the generality of Article 3(1) of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990,”; and
- (b) omit the words from “, apart from” to “authority,”.