

## SCHEDULES

### SCHEDULE 5

Article 108(1).

### AMENDMENTS

### PART I

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *The Social Security Pensions (Northern Ireland) Order 1975 (NI 15)*

1. In Article 33(8) in the definition of “independent trade union” for the words from “means” to the end substitute “has the meaning assigned to it by Article 2(2) of the Industrial Relations (Northern Ireland) Order 1992”.

#### *The Industrial Relations (Northern Ireland) Order 1976 (NI 16)*

2.—(1) In Article 2(2), in the appropriate place in alphabetical order, insert the following definition—

““recognised”, in relation to a trade union, has the meaning assigned to it by Article 42(a) of the No. 2 Order”.

(2) In Article 2(2) for the definitions of “collective agreement” and “collective bargaining” substitute—

““collective agreement” and “collective bargaining” have the meanings assigned to them by Article 2(2) of the Industrial Relations (Northern Ireland) Order 1992”.

(3) In Article 2(2) for the definition of “trade dispute” substitute—

““trade dispute” has the meaning assigned to it by Article 2(4) to (7) of the Industrial Relations (Northern Ireland) Order 1992 for the purposes of that Order (except Part XI)”.

(4) In Article 22A for paragraph (15) substitute—

“(15) In this Article references to being, becoming or ceasing to remain a member of a trade union shall include references to being, becoming or ceasing to remain a member of a particular branch or section of that union and to being, becoming or ceasing to remain a member of one of a number of particular branches or sections of that union, and references to taking part in the activities of a trade union shall be similarly construed.”.

(5) In Article 62(1) for sub-paragraph (aa) substitute—

“(aa) arising out of a contravention, or alleged contravention, of Article 29 of the Industrial Relations (Northern Ireland) Order 1992 or of an infringement, or alleged infringement, of the right conferred by Article 34 of that Order; or”.

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*The Industrial Relations (No. 2) (Northern Ireland) Order 1976 (NI 28)*

3.—(1) In Article 33 for paragraph (8) substitute—

“(8) In this Article references to being, becoming or ceasing to remain a member of a trade union shall include references to being, becoming or ceasing to remain a member of a particular branch or section of that union and to being, becoming or ceasing to remain a member of one of a number of particular branches or sections of that union, and references to taking part in the activities of a trade union shall be similarly construed.”.

(2) In Articles 37(2) and 38(3) for “Article 14A of the No. 1 Order” substitute “Article 90 of the Industrial Relations (Northern Ireland) Order 1992”.

(3) In Article 42 for paragraph (a) substitute—

“(a) a trade union shall be taken to be recognised by an employer if it is recognised by him, to any extent, for the purpose of collective bargaining”.

(4) In Article 60(4)—

(a) in the definition of “the corresponding Great British legislation” after “means” insert “the Employment Protection Act 1975 and”;

(b) in the definition of “the relevant Northern Irish legislation” after sub-paragraph (c) add  
“and

(d) Part V of the Industrial Relations (Northern Ireland) Order 1992;”.

*The Wages (Northern Ireland) Order 1988 (NI 7)*

4.—(1) In paragraph (6) of Article 3 at the end add—

“; and where a certificate has been given by a worker to his employer for the purposes of Article 65 of the Industrial Relations (Northern Ireland) Order 1992 (deduction of contributions to a trade union’s political fund), nothing in the worker’s contract, or in any agreement or consent signified by the worker, shall be taken for the purposes of this Article as authorising the making of deductions in contravention of any obligation imposed on the employer in consequence of the giving of that certificate.”.

(2) After paragraph (3) of Article 7 insert—

“(3A) Where a deduction has been made in contravention of an obligation imposed on an employer in consequence of the giving of any certificate for the purposes of Article 65 of the Industrial Relations (Northern Ireland) Order 1992 (deduction of contributions to a trade union’s political fund)—

(a) no complaint under this Article shall be presented in respect of that deduction unless a declaration has been made under paragraph (4) of that Article, either before or after the date of payment of the wages from which the deduction was made, that the employer has failed to comply with the obligation imposed in consequence of the giving of that certificate; and

(b) paragraph (2) shall be read, in relation to any complaint in respect of that deduction or of a series of deductions of which that is the last, as referring, if it is later, to the date of the declaration instead of to the date of payment of the wages from which the deduction was made.”.

(3) Nothing in this paragraph shall affect the operation of the Wages (Northern Ireland) Order 1988 in relation to any deduction from wages paid before the appointed day.

## PART II

### PRE-CONSOLIDATION AMENDMENTS

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

- 5.—(1) The following provisions shall cease to have effect—
- (a) section 6(2), (5), (6), (7) and (8);
  - (b) section 7;
  - (c) in section 8 the words “any contract made before they come into force, and in relation to”;
  - (d) section 9(2);
  - (e) section 25(1);
  - (f) in section 25(2) the words “Without prejudice to subsection (1),”;
  - (g) in section 25(3) the words “, in the case of a contract made after the passing of this Act,”;
  - (h) section 26(5), (6) and (7);
  - (i) section 52(7);
  - (j) section 55(3);
  - (k) section 60(1) to (3) and (4)(a);
  - (l) section 63(2) and (4);
  - (m) section 64;
  - (n) in Schedule 1, paragraphs 4D(2) and (4) and 5(3);
  - (o) in Schedule 3, paragraph 9;
  - (p) Schedule 9.
- (2) In section 4 after subsection (11A) insert—
- “(11AA) References in subsections (9) to (11A) to weeks are to weeks within the meaning of Schedule 1.”.
- (3) In section 8 for “transferred” substitute “statutory”.
- (4) In section 25(2) after “or more” insert “entered into after 5th December 1965”.
- (5) In section 26 after subsection (4) insert—
- “(4A) In subsection (4) “overseas territory” means any territory or country outside the United Kingdom; and the reference to the Government of an overseas territory includes a reference to a Government constituted for two or more overseas territories and to any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more such territories.”.
- (6) In section 30(3) for “, seaman or apprentice” substitute “or a seaman”.
- (7) In section 32(1) for “enactment” substitute “statutory provision”.
- (8) After section 58 insert—

#### **“Power to amend Act.**

**58A.** The Department may by order—

- (a) provide that any provision contained in this Act which is specified in the order shall not apply to persons or to employments of such classes as may be prescribed by the

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order, or shall apply to persons or employments of such classes as may be prescribed by the order subject to such exceptions and modifications as may be so prescribed;

- (b) add to, vary, revoke or exclude the operation of any of the provisions of section 1(4A), 4(9) to (11A), 6(1) or 26(1) to (4).”.

- (9) Renumber section 59 as subsection (1) of that section and after that subsection insert—

“(2) An order under section 58A or paragraph 4D(1) of Schedule 1 shall come into operation on such date as is specified in the order and shall be laid before the Assembly as soon as may be after it is made, but shall cease to have effect upon the expiration of a period of six months from the date on which it came into operation unless, before the expiration of that period, it is approved by a resolution of the Assembly.

(3) Regulations and orders under this Act may contain incidental, supplementary and transitional provisions.”.

- (10) In section 63(1) for the definition of “tribunal” substitute—

““tribunal” means an industrial tribunal”.

- (11) In section 63 for subsection (3) substitute—

“(3) Subject to subsection (3A), the provisions of Article 2(2) to (9) of the Industrial Relations (Northern Ireland) Order 1976, in so far as those provisions relate to the definition or interpretation of words or expressions used in that Order and in this Act, shall apply for the purposes of this Act as they apply for the purposes of that Order.

(3A) For the purposes of this Act the definition of “employee” in Article 2(2) of that Order shall have effect with the omission of the words “otherwise than in police service”.

- (12) In Schedule 1 in paragraph 10(2) and (3) for “transferred provision” substitute “statutory provision”.

- (13) In Schedule 8 insert the following entries at the appropriate places—

“Section 24(3)	The reference to the employer.
Section 47(2)	The third reference to the employer.
Section 47(5) and (6)	The references to the employer.”.

### *The Industrial Relations (Northern Ireland) Order 1976 (NI 16)*

- 6.—(1) The following shall cease to have effect—

- (a) in Article 24(3) the words “or Article 24A(1)”;
- (b) Article 24A;
- (c) Article 25(a);
- (d) Article 30(2)(b);
- (e) in Article 39(10) in sub-paragraph (a) the word “employer's”;
- (f) in Article 43(4) the words “maternity pay under Part II of the No. 2 Order”;
- (g) Article 45(3C);
- (h) in Article 68(2) the words “or 24A” where they twice occur;
- (i) in Article 76(8) the words “, as an apprentice to the sea service,”;
- (j) Article 82(3);
- (k) Schedule 7.

- (2) Renumber Article 25 as paragraph (1) of that Article and after that paragraph add—  
“(2) Such an agreement as is mentioned in paragraph (1)(b) may be contained either in the contract itself or in a separate agreement.”.
- (3) In Article 38(2) for “in an action” substitute “on a complaint”.
- (4) In Article 41(4) for “President of Industrial Tribunals” substitute “President or Vice-President of the Industrial Tribunals and the Fair Employment Tribunal”.
- (5) In Article 42 for paragraph (6) substitute—  
“(6) A sum shall be taken to be reasonable for the purposes of paragraph (3)(e) in a case where a trustee in bankruptcy or liquidator has been or is required to be appointed if it is admitted to be reasonable by the trustee in bankruptcy or liquidator under Article 319 of the Insolvency (Northern Ireland) Order 1989 (effect of bankruptcy on apprenticeships, etc.), whether as originally enacted or as applied to the winding up of a company by rules under Article 359 of that Order.”.
- (6) In Articles 42(7) and 43(6) for the words from “one of the following” to the end substitute “the official receiver or an insolvency practitioner (within the meaning of the Insolvency (Northern Ireland) Order 1989) is acting or has been or is required to be appointed in connection with the employer’s insolvency, and references in the following provisions of this Article to the “relevant officer” are references to the official receiver or such an insolvency practitioner”.
- (7) In Article 58(2) after “this Order” where it first occurs substitute “or the Act of 1965”.
- (8) In Article 59(11) after “paragraph (2)(c)” insert “or (fa)” and for “(2)(d) or (fa)” substitute “(2)(d)”.
- (9) In Article 76(9) for “an apprentice or” substitute “a”.
- (10) In Article 76(11)(a) at the end add “or provide that any such provision shall apply to persons or employments of such classes as may be prescribed by the order subject to such exceptions and modifications as may be so prescribed”.

*The Industrial Relations (No. 2) (Northern Ireland) Order 1976 (NI 28)*

- 7.—(1) The following shall cease to have effect—
- (a) in Article 32, paragraph (a) of the definition of “week”;
  - (b) Article 41A(13);
  - (c) in Article 49(10) the words “, as an apprentice to the sea service,”;
  - (d) Article 61;
  - (e) Article 65(3);
  - (f) in Schedule 2, in paragraph 2(3)(a) the words “(except in Article 39)”;
  - (g) Schedule 6.
- (2) In Article 8(1) for “on whose proposal the order was made” substitute “making the order”.
  - (3) In Article 30A(4) for “1972” substitute “1986”.
  - (4) In Article 41(11)(b) for “paragraph (7)” substitute “paragraph (10)”.
  - (5) In Article 49 after paragraph (8) insert—  
“(8A) References in paragraphs (5) to (8) to weeks are to weeks within the meaning of Schedule 1 to the Act of 1965.”.
  - (6) In Article 49(11)(a) at the end add “or provide that any such provision shall apply to persons or employments of such classes as may be prescribed by the order subject to such exceptions and modifications as may be so specified”.

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- (7) In Schedule 2, in paragraph 3(1)(b) for “sections 12(4)” substitute “sections 12(3)”.
- (8) In Schedule 2, in paragraph 3(3) for “26(1) and (2)” substitute “26(1)”.

*Industrial Relations (Northern Ireland) Order 1982 (NI 8)*

8.—(1) The following shall cease to have effect—

- (a) Article 10(1);
- (b) Article 16(2);
- (c) Articles 22 and 23(2);
- (d) in Schedule 2, the amendments to Articles 24(3), 68(2) and 78 of the No. 1 Order;
- (e) Schedule 3.

*Industrial Relations (Northern Ireland) Order 1987 (NI 9)*

9. The following shall cease to have effect—

- (a) Article 4;
- (b) Article 25(2);
- (c) Schedule 1;
- (d) in Schedule 3, paragraph 4(3);
- (e) Schedule 4.