

SCHEDULES

SCHEDULE 1

ARTICLES 14 TO 32 OF THE NO. 2 ORDER, AS SUBSTITUTED

Exclusion of Article 30(a) in certain cases

31.—(1) Article 30(a) shall not apply in relation to an employee if—

- (a) immediately before the end of her maternity leave period (or, if it ends by reason of dismissal, immediately before the dismissal) the number of employees employed by her employer, added to the number employed by any associated employer of his, did not exceed five; and
- (b) it is not reasonably practicable for the employer (who may be the same employer or a successor of his) to permit her to return to work in accordance with Article 20, or for him or an associated employer to offer her employment under a contract of employment satisfying the conditions specified in paragraph (3).

(2) Article 30(a) shall not apply in relation to an employee if—

- (a) it is not reasonably practicable for a reason other than redundancy for the employer (who may be the same employer or a successor of his) to permit her to return to work in accordance with Article 20; and
- (b) he or an associated employer offers her employment under a contract of employment satisfying the conditions specified in paragraph (3); and
- (c) she accepts or unreasonably refuses that offer.

(3) The conditions referred to in paragraphs (1) and (2) are—

- (a) that the work to be done under the contract is of a kind which is both suitable in relation to the employee and appropriate for her to do in the circumstances; and
- (b) that the provisions of the contract as to the capacity and place in which she is to be employed and as to the other terms and conditions of her employment are not substantially less favourable to her than if she had returned to work in accordance with Article 20.

(4) Paragraph (1) shall not apply in relation to the employment of a person by the managers of a voluntary school within the meaning of the Education and Libraries (Northern Ireland) Order 1986.

(5) Where on a complaint of unfair dismissal any question arises as to whether the operation of Article 30(a) is excluded by paragraph (1) or (2), it shall be for the employer to show that the provisions of that paragraph were satisfied in relation to the complainant.