

SCHEDULES

SCHEDULE 6

CONSEQUENTIAL AMENDMENTS

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

In Article 22(3) for “Article 14” substitute “Article 29”.

For Article 22C substitute—

“Dismissal on ground of redundancy

22C.—(1) Where the reason or principal reason for the dismissal of an employee was that the employee was redundant, but it is shown that the circumstances constituting the redundancy applied equally to one or more other employees in the same undertaking who held positions similar to that held by the employee and who have not been dismissed by the employer, and—

- (a) that the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in Article 22A(1); or
- (b) that the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in Article 22B(1) (read with (2) and (3)); or
- (c) that the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in Article 22D(1)(read with (2) and (3)); or
- (d) that the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in Article 29(a) to (e) of the No. 2 Order; or
- (e) that the employee was selected for dismissal in contravention of a customary arrangement or agreed procedure relating to redundancy and there were no special reasons justifying a departure from that arrangement or procedure in the case of the employee,

then, for the purposes of this Order, the dismissal shall be regarded as unfair.

(2) For the purposes of this Part “a redundancy case” means a case where the reason or principal reason for the dismissal was that the employee was redundant but the equal application of the circumstances to non-dismissed employees is also shown.”.

In Article 23 after paragraph (2) insert—

“(2A) Paragraph (2) does not apply to the dismissal of the employee if it is shown that the reason (or, if more than one, the principal reason) for the dismissal or, in a redundancy case, for selecting the employee for dismissal was one of those specified in Article 22B(1) (read with (2) and (3)) of this Order or in Article 29 of the No. 2 Order.”.

In Article 23(3) for “22C and of Article 14” substitute “22D and of Article 29”.

For Article 24 substitute—

Status: This is the original version (as it was originally made).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

“Qualifying period and upper age limit

24.—(1) Subject to the following provisions of this Article, Article 20 does not apply to the dismissal of an employee from any employment if the employee—

- (a) was not continuously employed for a period of not less than two years ending with the effective date of termination; or
- (b) attained the following age on or before the effective date of termination, that is to say—
 - (i) if in the undertaking in which he was employed there was a normal retiring age for an employee holding the position which he held and the age was the same whether the employee holding that position was a man or a woman, that normal retiring age; and
 - (ii) in any other case, the age of sixty-five.

(2) If an employee is dismissed by reason of any such requirement or recommendation as is referred to in Article 9(1) of the No. 2 Order, paragraph (1)(a) shall have effect in relation to that dismissal as if for the words “two years” there were substituted “one month”.

(3) Paragraph (1) shall not apply to the dismissal of an employee if it is shown that the reason (or, if more than one, the principal reason) for the dismissal or, in a redundancy case, for selecting the employee for dismissal was one of those specified—

- (a) in Article 22A(1);
- (b) in Article 22B(1) (read with (2) and (3));
- (c) in Article 22D(1) (read with (2) and (3)); or
- (d) in Article 29(a) to (e) of the No. 2 Order.

(4) Paragraph (1) shall not apply to a case falling within Article 29(f) of the No. 2 Order.

(5) The Department may by order add to, vary, revoke or exclude the operation of any of the provisions of paragraph (1).”.

In Article 26 at the end add—

“(4) Paragraph (3) shall not apply to the right conferred by Article 22D(1) (read with (2) and (3)) of this Order or by Article 29 of the No. 2 Order.”.

In Article 32(2)(b) for the words from the beginning to “or in which” substitute “unless the case is one where this sub-paragraph is excluded or”.

In Article 32 after paragraph (2) insert—

“(2A) Paragraph (2)(b) is excluded where the reason (or, if more than one, the principal reason) for the dismissal or, in a redundancy case, for selecting the employee for dismissal, was one of those specified in—

- (a) Article 22A(1); or
- (b) Article 22B(1)(a) and (b).”.

In Article 36(3) for “Article 35(6A) to (7)” substitute “Article 34(10) to (13)”.

In Article 36(7) for “Article 35(7)” substitute “Article 34(13)”.

In Article 37A(3) for “Article 34(6)” substitute “Article 34(8)”.

In Article 37A at the end add—

“(8) For the purposes of Part II of Schedule 2 as it applies for the calculation of a week’s pay for the purposes of this Article, the calculation date is—

- (a) where the dismissal was with notice, the date on which the employer’s notice was given;
- (b) where sub-paragraph (a) does not apply, the effective date of termination.”.

In Article 42(4) after sub-paragraph (c) insert—

“(ca) remuneration on suspension on maternity grounds under Article 28 of the No. 2 Order;”.

In Article 48 after paragraph (2A) insert—

“(2B) An employee shall be entitled (without making any request and irrespective of whether or not she has been continuously employed for any period) to be provided by her employer with a written statement giving particulars of the reasons for her dismissal if she is dismissed—

(a) at any time while she is pregnant; or

(b) after childbirth in circumstances in which her maternity leave period ends by reason of the dismissal.”.

In Article 48(4) for “refused to provide a written statement under paragraph (1)” substitute “failed to provide a written statement under this Article” and for “that paragraph” substitute “this Article”.

In Article 59(2A) for sub-paragraph (a) substitute—

“(a) for authorising the carrying out by an industrial tribunal of a preliminary consideration of any proceedings before it (“a pre-hearing review”); and”.

In Article 59 after paragraph (2C) insert—

“(2D) The regulations may also include provision for authorising an industrial tribunal to hear and determine any issue relating to the entitlement of any party to proceedings to bring or contest the proceedings in advance of the hearing and determination of the proceedings by that or any other industrial tribunal.”.

In Article 59(4)(b) for “confinement” substitute “childbirth”.

In Article 80(2) for “24(3)” substitute “24(5)”, for “34(5B)” substitute “34(7)” and after “56(4),” insert “58A(4),”.