

SCHEDULES

SCHEDULE 7

Article 18(3).

TRANSITIONAL PROVISIONS AND SAVINGS

General

1.—(1) An order under Article 1 may contain such transitional provisions and savings as appear to the Department of Economic Development to be appropriate.

(2) Nothing in the following provisions of this Schedule prejudices the generality of sub-paragraph (1).

(3) Nothing in this Schedule prejudices the operation of sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954⁽¹⁾.

Employment particulars

2.—(1) In this paragraph “existing employee” means an employee whose employment with his employer has begun before the day on which Article 4 comes into operation (“the appointed day”) (whether or not the provisions of section 4 of the Act of 1965 applied to him before that day).

(2) Subject to the following provisions of this paragraph, the provisions of Articles 43 to 43C of the No. 2 Order shall not apply to any existing employee.

(3) Where an existing employee, at any time—

(a) on or after the appointed day; and

(b) either before the end of his employment or within the period of three months beginning with the day on which his employment ends,

requests from his employer a statement under Article 43 of the No. 2 Order, the employer shall (subject to Article 43D of that Order and any other provision disapplying or having the effect of disapplying Article 43) be treated as being required by Article 43 to give him a written statement under that Article, in accordance with the provisions of the No. 2 Order, not later than two months after the request is made; and Article 43C of that Order shall, subject as aforesaid, apply in relation to the existing employee after he makes the request.

(4) An employer shall not be required to give a statement under Article 43 of the No. 2 Order by virtue of sub-paragraph (3) to an existing employee on more than one occasion by virtue of that sub-paragraph.

(5) Where—

(a) on or after the appointed day there is in the case of any existing employee a change in any of the matters particulars of which would, had he been given a statement of particulars as at that day under Article 43 of the No. 2 Order, have been included or referred to in the statement; and

(b) he has not previously requested a statement under sub-paragraph (3),

(1) 1954 c. 33 (N.I.)

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paragraphs (1) and (5) of Article 43C of the No. 2 Order shall be treated (subject to Article 43D of that Order and any other provision disapplying or having the effect of disapplying Article 43C) as requiring his employer to give him a written statement containing particulars of the change at the time specified in paragraph (1) of Article 43C; and paragraphs (3) and (6) of that Article shall apply accordingly.

(6) Nothing in any statutory provision providing for the application of Articles 43 to 43C of the No. 2 Order to a person who comes or ceases to come within any of the exceptions from those Articles specified in that Order shall have effect in relation to an existing employee by reason of his coming or ceasing to come within that exception by virtue of Article 4.

Wages Councils

3.—(1) Notwithstanding the repeal of Part III of the Wages (Northern Ireland) Order 1988(2) by Article 13, the provisions of that Part specified or referred to below shall continue to have effect, on and after the day on which that Article comes into operation (“the appointed day”), in accordance with the following provisions.

(2) Article 17 (effect and enforcement of wages orders under Article 15) shall have effect in relation to a failure occurring or continuing on or after the appointed day to pay, with respect to any period ending before that day, an amount equal to or exceeding the statutory minimum remuneration as it has effect in relation to such a failure before the appointed day; and, subject to the following provisions, the other Articles of Part III which relate to Article 17 shall continue to have effect accordingly.

(3) Article 20(1) and (4) (obligation to keep records etc.) shall have effect on and after the appointed day as if—

- (a) the reference to the provisions of Part III being complied with in relation to the payment of remuneration were a reference to their having been complied with in relation to payments of remuneration made—
 - (i) before the appointed day; or
 - (ii) on or after the appointed day with respect to any period ending before that day;
- (b) the reference to deductions or payments made were references to deductions or payments so made; and
- (c) in a case where the three-year retention period for records would end after the expiry of the period of six months beginning with the appointed day, the retention period were—
 - (i) that period of six months; or
 - (ii) if within that period of six months a court so orders, such longer period as is specified by the court;

and, subject to the following provisions, the other Articles of Part III which relate to Article 20 shall continue to have effect accordingly.

(4) Article 21 (officers) shall continue to have effect on and after the appointed day for the purposes of this paragraph; but—

- (a) the powers conferred by paragraphs (3) and (4) shall not be exercisable after the end of the period of six months beginning with the appointed day; and
- (b) paragraph (6) shall not authorise the institution of proceedings by an officer after the end of the period of six months beginning with the appointed day.

(2) 1988 NI 7

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(5) Paragraph 4 of Schedule 3 shall continue to have effect on and after the appointed day in relation to orders under Article 15 made before that day.

(6) In the operation of any provision of Part III by virtue of this paragraph, references to a wages order applying shall have effect as references to an order under Article 15 having applied at any time before the appointed day.