

SCHEDULES

SCHEDULE 1

MINOR AND CONSEQUENTIAL AMENDMENTS

The Employment Rights (Northern Ireland) Order 1996 (NI 16)

7.—(1) Article 15 (which enables the making of regulations for preserving continuity of employment etc. in the case of a person who is dismissed and then reinstated or re-engaged in consequence of action to which paragraph (2) of the Article applies) shall be amended as follows.

(2) In paragraph (1)—

- (a) the words “, in consequence of action to which paragraph (2) applies,” shall cease to have effect,
- (b) for “or re-engaged” substitute “, re-engaged or otherwise re-employed”, and
- (c) at the end insert “in any circumstances prescribed by the regulations.”

(3) Paragraphs (2) to (4) shall cease to have effect.

8. In Article 22(3) (which specifies the calculation date for a calculation for the purposes of Article 153 or 155 which involves the notion of a week’s pay), for “or 155” substitute “, 155 or 162A”.

9. In Article 55 (which makes provision for complaints to an industrial tribunal in respect of unlawful deductions from wages etc.), at the end add—

“(5) No complaint shall be presented under this Article in respect of any deduction made in contravention of Article 60 of the Trade Union and Labour Relations Order (wrongful deduction of political fund contribution).”

10. In Article 146(4) (which provides for the making of an award of compensation for unfair dismissal in accordance with Articles 152 to 162 where no order for reinstatement or order for re-engagement is made), for “162” substitute “162A”.

11. In Article 151(3)(a) (which provides for the making of an award of compensation for unfair dismissal in accordance with Articles 152 to 162 where a complainant is not reinstated or re-engaged in accordance with an order for reinstatement or an order for re-engagement), for “162” substitute “162A”.

12.—(1) Article 152 (which provides that an award of compensation for unfair dismissal shall consist of a basic award, a compensatory award and, in certain cases, a special award) shall be amended as follows.

(2) In paragraph (1)(b) (which provides that an award of compensation for unfair dismissal shall include a compensatory award calculated in accordance with Articles 157, 158 and 160 to 162) after “162” add “and 162A(1), (3) and (4)”.

(3) After paragraph (3) add—

“(4) Where Article 162A(2) applies, the award shall also include a supplementary award.”

Status: This is the original version (as it was originally made).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

13. In Article 156 (which makes provision for the reduction of the amount of a basic award of compensation for unfair dismissal), after paragraph (3) insert—

“(3A) Where the complainant has been awarded any amount in respect of the dismissal under a designated dismissal procedures agreement, the tribunal shall reduce or further reduce the amount of the basic award to such extent as it considers just and equitable having regard to that award.”.

14. In Article 157(1) (which makes provision for the calculation of a compensatory award in accordance with that Article but subject to Articles 158, 160 and 161), for “and 161” substitute “to 162 and 162A(1), (3) and (4)”.

15.—(1) Article 245 (which restricts contracting out of the provisions of the Order) shall be amended as follows.

(2) In paragraph (3)(b) (which provides that a compromise agreement must relate to the particular complaint), for “complaint” substitute “proceedings”.

(3) For paragraph (4) substitute—

“(3A) A person is a relevant independent adviser for the purposes of paragraph (3)(c)—

- (a) if he is a qualified lawyer;
- (b) if he is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union,
- (c) if he works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre, or
- (d) if he is a person of a description specified in an order made by the Department.

(3B) But a person is not a relevant independent adviser for the purposes of paragraph (3)

(c) in relation to the employee or worker—

- (a) if he is, is employed by or is acting in the matter for the employer or an associated employer,
- (b) in the case of a person within paragraph (3A)(b) or (c), if the trade union or advice centre is the employer or an associated employer,
- (c) in the case of a person within paragraph (3A)(c), if the employee or worker makes a payment for the advice received from him, or
- (d) in the case of a person of a description specified in an order under paragraph (3A) (d), if any condition specified in the order in relation to the giving of advice by persons of that description is not satisfied.

(4) In paragraph (3A)(a) “qualified lawyer” means a barrister (whether in practice as such or employed to give legal advice), or a solicitor who holds a practising certificate.”.