

SCHEDULES

SCHEDULE 9

Section 50.

TRANSITIONAL PROVISIONS AND SAVINGS

General

- 1 (1) An order under section 52 of this Act may contain such transitional provisions and savings as appear to the Secretary of State to be appropriate.
- (2) Nothing in the following provisions of this Schedule prejudices the generality of subparagraph (1) above.
- (3) Nothing in this Schedule prejudices the operation of sections 16 and 17 of the Interpretation Act 1978 (effect of repeals).

Deduction of trade union subscriptions

- 2 For the purposes of section 68 of the 1992 Act (as substituted by section 15 of this Act) a deduction representing a payment to a trade union in respect of a worker's membership which is made in accordance with arrangements existing between his employer and the union immediately before the day on which section 15 comes into force under which deductions were made in his case before that day shall be treated as an authorised deduction where—
 - (a) the day on which the deduction is made falls before the end of the period of one year beginning with the day on which section 15 comes into force, and
 - (b) written notice from the worker stating that he does not wish such deductions to be made has not been received by the employer in time for it to be reasonably practicable for him to secure that the deduction is not made.

Employment particulars

- 3 (1) In this paragraph “existing employee” means an employee whose employment with his employer has begun before the day on which section 26 of this Act comes into force (whether or not the provisions of sections 1 to 6 of the 1978 Act applied to him before that day).
- (2) Subject to the following provisions of this paragraph, the provisions substituted for sections 1 to 4 and 6 of the 1978 Act by section 26 of this Act shall not apply to any existing employee.
- (3) Where an existing employee, at any time—
 - (a) on or after the day on which section 26 of this Act comes into force, 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 section 1 of the 1978 Act (as substituted by section 26), the employer shall (subject to section 5 and any other provision

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disapplying or having the effect of disapplying section 1) be treated as being required by section 1 to give him a written statement under that section, in accordance with the provisions of the 1978 Act as so substituted, not later than two months after the request is made; and section 4 of that Act (as so substituted) 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 section 1 by virtue of sub-paragraph (3) above to an existing employee on more than one occasion by virtue of that sub-paragraph.
- (5) Where—
- (a) on or after the day on which section 26 of this Act comes into force 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 section 1 of the 1978 Act (as substituted by that section), have been included or referred to in the statement, and
 - (b) he has not previously requested a statement under sub-paragraph (3) above, subsections (1) and (5) of section 4 of the 1978 Act (as substituted by section 26 of this Act) shall be treated (subject to section 5 and any other provision disapplying or having the effect of disapplying section 4) as requiring his employer to give him a written statement containing particulars of the change at the time specified in subsection (1) of section 4; and subsections (3) and (6) of that section shall apply accordingly.
- (6) Nothing in any enactment providing for the application of sections 1 to 4 of the 1978 Act to a person who comes or ceases to come within any of the exceptions from those sections specified in that Act shall have effect in relation to an existing employee by reason of his coming or ceasing to come within that exception by virtue of any of the amendments of the 1978 Act made by this Act.

Transfers of undertakings

- 4 The amendments of the Transfer of Undertakings (Protection of Employment) Regulations 1981 made by section 33 of this Act shall not have effect in relation to any transfer of an undertaking taking place before the date on which that section comes into force; and, accordingly, the repeal by this Act of—
- (a) section 94 of the 1978 Act, and
 - (b) section 23 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965,
- shall have effect only in relation to any change in the ownership of a business occurring on or after that date.

Wages Councils

- 5 (1) Notwithstanding the repeal of Part II of the Wages Act 1986 by section 35 of this Act, the provisions of that Part specified or referred to below shall continue to have effect, on and after the day appointed for the repeal (“the appointed day”), in accordance with the following provisions.
- (2) Section 16 (effect and enforcement of wages orders under section 14) 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

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failure before the appointed day; and, subject to the following provisions, the other sections of Part II which relate to section 16 shall continue to have effect accordingly.

- (3) Section 19(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 II 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 sections of Part II which relate to section 19 shall continue to have effect accordingly.

- (4) Section 20 (wages inspectors) shall continue to have effect on and after the appointed day for the purposes of this paragraph; but—
- (a) the powers conferred by subsections (3) and (4) shall not be exercisable after the end of the period of six months beginning with the appointed day, and
 - (b) subsection (6) shall not authorise the institution of proceedings by a wages inspector after the end of the period of six months beginning with the appointed day.
- (5) Paragraph 4 of Schedule 3 shall continue to have effect on and after the appointed day in relation to orders under section 14 made before that day.
- (6) In the operation of any provision of Part II by virtue of this paragraph, references to a wages order applying shall have effect as references to an order under section 14 having applied at any time before the appointed day.