

## SCHEDULE 6

### Duty to consider working beyond retirement

#### Interpretation

**1.—(1)** In this Schedule—

“dismissal” means a dismissal within the meaning of section 95 of the 1996 Act<sup>(1)</sup>;

“employee” means a person to whom regulation 30 (exception for retirement) applies and references to “employer” shall be construed accordingly;

“intended date of retirement” has the meaning given by sub-paragraph (2);

“operative date of termination” means (subject to paragraph 10(3))—

- (a) where the employer terminates the employee’s contract of employment by notice, the date on which the notice expires, or
- (b) where the employer terminates the contract of employment without notice, the date on which the termination takes effect;

“request” means a request made under paragraph 5; and

“worker” has the same meaning as in section 230(3) of the 1996 Act.

**(2)** In this Schedule “intended date of retirement” means—

- (a) where the employer notifies a date in accordance with paragraph 2, that date;
- (b) where the employer notifies a date in accordance with paragraph 4 and either no request is made or a request is made after the notification, that date;
- (c) where,
  - (i) the employer has not notified a date in accordance with paragraph 2,
  - (ii) a request is made before the employer has notified a date in accordance with paragraph 4 (including where no notification in accordance with that paragraph is given),
  - (iii) the request is made by an employee who has reasonable grounds for believing that the employer intends to retire him on a certain date, and,
  - (iv) the request identifies that date,the date so identified;
- (d) in a case to which paragraph 3 has applied, any earlier or later date that has superseded the date mentioned in paragraph (a), (b) or (c) as the intended date of retirement by virtue of paragraph 3(3);
- (e) in a case to which paragraph 10 has applied, the later date that has superseded the date mentioned in paragraph (a), (b) or (c) as the intended date of retirement by virtue of paragraph 10(3)(b).

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(1) Employment Rights Act 1996 (c. 18); section 95 has been amended by section 57 of, and by Schedule 1, paragraph 29, and Schedule 2 to, the Employment Relations Act 2004 (c. 24), and by regulation 11 of, and paragraph 3(1) and (7) of Part 1 of Schedule 2 to, S.I.2002/2034.