

## SCHEDULE 7

Regulation 48

### Duty to consider working beyond retirement - transitional provisions

1. In paragraphs 2 to 6—
  - (a) “the expiry date” means the date on which notice of dismissal given by an employer expires; and
  - (b) words and expressions shall have the same meanings as they do in Schedule 6.
- 2.—(1) This paragraph applies in a case where—
  - (a) an employer has given notice of dismissal to the employee before the commencement date of—
    - (i) at least the period required by the contract of employment; or
    - (ii) where the period required by the contract exceeds four weeks, at least four weeks;
  - (b) the expiry date falls before 1st April 2007; and
  - (c) the employer has made the employee aware, before the commencement date, that the employer considers that the employee is being retired on the expiry date.

(2) Where this paragraph applies and the employer on or as soon as is practicable after the commencement date notifies the employee in writing of the employee’s right to make a request under paragraph 5 of Schedule 6—

  - (a) the employer shall be treated as complying with the duty in paragraph 2 of Schedule 6;
  - (b) a request shall be treated as being a request made under paragraph 5 of Schedule 6 provided it—
    - (i) is made after the employer notified the employee of his right to make a request;
    - (ii) satisfies the requirements of sub-paragraphs (2) and (3) of paragraph 5 of Schedule 6; and
    - (iii) is made—
      - (aa) where practicable, at least four weeks before the expiry date; or
      - (bb) where that is not practicable, as soon as reasonably practicable (whether before or after the expiry date) after the employer notified the employee of his right to make a request, but not more than four weeks after the expiry date.

(3) Where this paragraph applies and the employer does not, on or as soon as is practicable after the commencement date, notify the employee in writing of the employee’s right to make a request under paragraph 5 of Schedule 6—

  - (a) the duty to notify in accordance with paragraph 2 of Schedule 6 does not apply;
  - (b) the duty to notify in accordance with paragraph 4 of Schedule 6 applies as if—
    - (i) the employer had failed to notify in accordance with paragraph 2 of that Schedule; and
    - (ii) the duty was one to notify at any time before the expiry date;
  - (c) a request shall be treated as being a request made under paragraph 5 of Schedule 6 if it satisfies the requirements of sub-paragraphs (2) and (3) of that paragraph and is made—
    - (i) before any notification given in accordance with paragraph 4 of Schedule 6; or
    - (ii) after such notification and—
      - (aa) where practicable, at least four weeks before the expiry date; or

*Status: This is the original version (as it was originally made).*

- (bb) where that is not practicable, as soon as reasonably practicable (whether before or after the expiry date) after the employer notified the employee of his right to make a request, but not more than four weeks after the expiry date.

**3.—(1)** This paragraph applies in a case where the employer has given notice of dismissal to the employee before the commencement date and—

- (a) the expiry date falls before 1st April 2007, but
  - (b) the period of notice given is shorter than the minimum period of notice required by paragraph 2(1)(a) or the employer has not complied with paragraph 2(1)(c).
- (2) Where this paragraph applies—
- (a) the duty to notify in accordance with paragraph 2 of Schedule 6 does not apply;
  - (b) the duty to notify in accordance with paragraph 4 of Schedule 6 applies as if—
    - (i) the employer had failed to notify in accordance with paragraph 2 of that Schedule; and
    - (ii) the duty was one to notify at any time before the expiry date;
  - (c) a request shall be treated as being a request made under paragraph 5 of Schedule 6 if it satisfies the requirements of sub-paragraphs (2) and (3) of that paragraph and is made—
    - (i) before any notification given in accordance with paragraph 4 of Schedule 6; or
    - (ii) after such notification and—
      - (aa) where practicable, at least four weeks before the expiry date; or
      - (bb) where that is not practicable, as soon as reasonably practicable (whether before or after the expiry date) after the employer notified the employee of his right to make a request, but not more than four weeks after the expiry date.

**4.—(1)** This paragraph applies in a case where—

- (a) notice of dismissal is given on or after the commencement date of at least—
    - (i) the period required by the contract of employment; or
    - (ii) if longer, the period required by section 86 of the 1996 Act; and
  - (b) the expiry date falls before 1st April 2007.
- (2) Where this paragraph applies and the employer notifies the employee in writing of the employee's right to make a request under paragraph 5 of Schedule 6 before, or on the same day as, the day on which notice of dismissal is given—
- (a) the employer shall be treated as complying with the duty in paragraph 2 of Schedule 6;
  - (b) a request shall be treated as being a request made under paragraph 5 of Schedule 6 provided it—
    - (i) is made after the employer notified the employee of his right to make a request;
    - (ii) satisfies the requirements of sub-paragraphs (2) and (3) of paragraph 5 of Schedule 6; and
    - (iii) is made—
      - (aa) where practicable, at least four weeks before the expiry date; or
      - (bb) where that is not practicable, as soon as reasonably practicable (whether before or after the expiry date) after the employer notified the employee of

his right to make a request, but not more than four weeks after the expiry date.

(3) Where this paragraph applies but the employer does not notify the employee in writing of the employee's right to make a request under paragraph 5 of Schedule 6 before, or on the same day as, the day on which notice of dismissal is given—

- (a) the duty to notify in accordance with paragraph 2 of Schedule 6 does not apply;
- (b) the duty to notify in accordance with paragraph 4 of Schedule 6 applies as if—
  - (i) the employer had failed to notify in accordance with paragraph 2 of that Schedule; and
  - (ii) the duty was one to notify at any time before the expiry date;
- (c) a request shall be treated as being a request made under paragraph 5 of Schedule 6 if it satisfies the requirements of sub-paragraphs (2) and (3) of that paragraph and is made—
  - (i) before any notification given in accordance with paragraph 4 of Schedule 6; or
  - (ii) after such notification and—
    - (aa) where practicable, at least four weeks before the expiry date; or
    - (bb) where that is not practicable, as soon as reasonably practicable (whether before or after the expiry date) after the employer notified the employee of his right to make a request, but not more than four weeks after the expiry date.

5.—(1) This paragraph applies in a case where—

- (a) notice of dismissal is given on or after the commencement date and is for a period shorter than—
  - (i) the period required by the contract of employment; or
  - (ii) if longer, the period required by section 86 of the 1996 Act; and
- (b) the period of notice expires on a date falling before 1st April 2007.

(2) Where this paragraph applies—

- (a) the duty to notify in accordance with paragraph 2 of Schedule 6 does not apply;
- (b) the duty to notify in accordance with paragraph 4 of Schedule 6 applies as if—
  - (i) the employer had failed to notify in accordance with paragraph 2 of that Schedule; and
  - (ii) the duty was one to notify at any time before the expiry date;
- (c) a request shall be treated as being a request made under paragraph 5 of Schedule 6 if it satisfies the requirements of sub-paragraphs (2) and (3) of that paragraph and is made—
  - (i) before any notification given in accordance with paragraph 4 of Schedule 6; or
  - (ii) after such notification and—
    - (aa) where practicable, at least four weeks before the expiry date; or
    - (bb) where that is not practicable, as soon as reasonably practicable (whether before or after the expiry date) after the employer notified the employee of his right to make a request, but not more than four weeks after the expiry date.

6. In every case to which paragraph 2, 3, 4 or 5 applies—

- (a) paragraph 10 of Schedule 6 does not apply; and

**Status:** This is the original version (as it was originally made).

- (b) the employer is under a duty to consider any request which complies with the requirements of paragraph 2(2)(b), 2(3)(c), 3(2)(c), 4(2)(b), 4(3)(c) or 5(2)(c) in accordance with paragraphs 7 to 9 of Schedule 6.