

SCHEDULE 3

Regulation 2

APPLICATION OF THE REGULATIONS IN RELATION TO NORTHERN IRELAND

1. Regulations 8, 12 and 24 and paragraphs 2 and 6 of Schedule 1 shall apply in relation to any complaint by a Northern Ireland employee or any representative appointed or elected to act in Northern Ireland as if the reference to the CAC were a reference to the Industrial Court.

2. Regulation 11 shall apply in relation to any application by—

- (a) a Northern Ireland member of the special negotiating body;
- (b) a Northern Ireland employee or any representative appointed or elected to act in Northern Ireland; or
- (c) any participating individual resident in Northern Ireland or the competent organ of a participating legal entity or a concerned subsidiary with its registered office (or principal place of business if not a body corporate) in Northern Ireland,

as if any reference to the CAC were a reference to the Industrial Court.

3. Regulation 14 shall apply in relation to any complaint made by—

- (a) a Northern Ireland employee or any representative appointed or elected to act in Northern Ireland; or
- (b) a participating individual resident in Northern Ireland or participating legal entity with its registered office (or principal place of business if not body corporate) in Northern Ireland,

as if a reference to the CAC were a reference to the Industrial Court.

4. Regulation 20 shall apply in relation to a complaint by—

- (a) a Northern Ireland member of the special negotiating body; or
- (b) a Northern Ireland employee or a representative appointed or elected to act in Northern Ireland,

as if the reference to the CAC were a reference to the Industrial Court.

5.—(1) Regulation 22 shall apply in relation to a complaint made by —

- (a) a Northern Ireland employee;
- (b) a member of a representative body elected or appointed to act in Northern Ireland; or
- (c) an information and consultation representative elected or appointed to act in Northern Ireland,

as if any reference to the CAC were a reference to the Industrial Court.

(2) In relation to a complaint to the Industrial Court to which sub-paragraph (1) relates—

- (a) regulations 22(6) and (7) and 23(2) and (3) shall apply as if any reference to the Appeal Tribunal were a reference to the High Court in Northern Ireland;
- (b) regulations 22(7) and 23(5) and (7) shall apply as if any reference to the Secretary of State were a reference to the Department of Employment and Learning and any reference to the Consolidated Fund were a reference to the Consolidated Fund of Northern Ireland; and
- (c) regulations 22(7) and 23(4) shall apply as if a reference to the CAC were a reference to the Industrial Court.

6. Regulation 25 shall have effect as if the reference to the CAC included a reference to the Industrial Court.

7. Regulation 26 shall apply in relation to a recipient to whom—

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- (a) an SCE registered in Northern Ireland, or a subsidiary of such an SCE;
- (b) a participating individual resident in Northern Ireland; or
- (c) a participating legal entity or concerned subsidiary with its registered office (or principal place of business if not a body corporate) in Northern Ireland

has entrusted information or documents as if the reference to the CAC were a reference to the Industrial Court.

8. Where there is a dispute to which paragraph (2) of regulation 27 applies, that regulation shall apply in relation to—

- (a) any application made by an SCE registered in Northern Ireland, participating individual resident in Northern Ireland or participating legal entity with its registered office (or principal place of business if not a body corporate) in Northern Ireland; or
- (b) a Northern Ireland employee, a member of a representative body elected or appointed to act in Northern Ireland or an information and consultation representative elected or appointed to act in Northern Ireland,

as if the reference to the CAC were a reference to the Industrial Court.

9. Regulation 30 shall apply in relation to a complaint by a Northern Ireland employee as if the reference to an employment tribunal were a reference to an Industrial Tribunal.

10. Regulation 31 shall apply in relation to any Northern Ireland employee as if—

- (a) a reference to an employment tribunal included a reference to an Industrial Tribunal;
- (b) a reference to an entitlement to apply or complain included an entitlement to apply or complain to the Industrial Court or the High Court in Northern Ireland.
- (c) a reference to a right to appeal included a right to appeal to the High Court in Northern Ireland.

11. For regulation 32 there shall be substituted the following regulation—

“Subsidiary provisions relating to unfair dismissal: Northern Ireland

32.—(1) In Article 137 of the Employment Rights (Northern Ireland) Order 1996(1)—

- (a) in paragraph (1)(c) (which requires one of a specified group of paragraphs to apply for a person to be treated as unfairly dismissed) for “7F” substitute “7G”; and
- (b) after paragraph (7F) insert—

“(7G) This paragraph applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one specified in paragraph (3) or (6) of regulation 31 of the European Cooperative Society (Involvement of Employees) Regulations 2006 (read with paragraphs (4) and (7) of that regulation)”.

(2) In Article 140 of that Order(2) (exclusion of right: qualifying period of employment) in paragraph (3) (cases where no qualifying period of employment is required)—

- (a) omit the word “or” at the end of sub-paragraph (n); and
- (b) after sub-paragraph (o) insert—

(1) S.I.1996/1919 (NI 16). Article 137 has been amended on a number of occasions to specify additional circumstances in which the employee dismissed by reason of redundancy is to be regarded as unfairly dismissed.

(2) Article 140(1) was amended by S.R. 1999 No. 277. Article 140(3) has been amended on a number of occasions to specify additional cases in which no qualifying period of employment is required.

“or

(p) paragraph (3) or (6) of regulation 31 of the European Cooperative Society (Involvement of Employees) Regulations 2006 applies”.

(3) In Article 141 of that Order(3) (exclusion of right: upper age limit) in paragraph (2) (cases where upper age limit does not apply)—

- (a) omit the word “or” at the end of sub-paragraph (n); and
- (b) after sub-paragraph (o) insert—

“or

(p) paragraph (3) or (6) of regulation 31 of the European Cooperative Society (Involvement of Employees) Regulations 2006 applies”.

12. Regulation 33 shall apply in relation to any Northern Ireland employee as if—

- (a) any reference to an employment tribunal included a reference to an Industrial Tribunal;
- (b) any reference to an entitlement to apply or complain included an entitlement to apply or complain to the Industrial Court or the High Court in Northern Ireland; and
- (c) any reference to a right to appeal included a right of appeal to the High Court in Northern Ireland.

13.—(1) Regulation 34 shall apply in relation to a Northern Ireland employee as if reference to an employment tribunal were a reference to an Industrial Tribunal.

(2) For regulation 34(4) there shall be substituted—

“(4) At the end of each of the following Schedules to the Employment (Northern Ireland) Order 2003(4)—

- (a) Schedule 2 (tribunal jurisdictions to which Article 17 applies);
- (b) Schedule 3 (tribunal jurisdictions to which Article 19 applies); and
- (c) Schedule 4 (tribunal jurisdictions to which Article 27 applies),

insert—

“Regulation 34 of the European Cooperative Society (Involvement of Employees) Regulations 2006 (detriment in relation to involvement in a European Cooperative Society).”.

14. For regulation 35 there shall be substituted—

“**35.** In Article 20 of the Industrial Tribunals (Northern Ireland) Order 1996(5) (Conciliation) in paragraph (1) (which specifies the proceedings and claims to which the Article applies) after sub-paragraph (m) omit the word “or” and after sub-paragraph (n), insert—

“or

- (o) under regulation 30 or 34 of the European Cooperative Society (Involvement of Employees) Regulations 2006.”.

(3) Article 141(2) has been amended on a number of occasions to specify additional cases where the upper age limit does not apply.

(4) S.I. 2003/2902. Schedules 2, 3 and 4 to the 2003 Order have been amended on a number of occasions to specify additional tribunal jurisdictions to which Articles 17, 19 and 27 apply.

(5) S.I. 1996/1921. Article 20(1) has been amended on a number of occasions to specify additional proceedings and claims to which the Article applies.

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15. Regulation 36 shall have effect as if for the heading there were substituted—

“Industrial Court Proceedings“ and as if—

- (a) in paragraphs (1) and (2) the reference to the CAC included a reference to the Industrial Court;
- (b) after paragraph (4) there were inserted—
 - “(4A) in the case of a participating individual resident in Northern Ireland; an SCE with its registered office in Northern Ireland; or a participating legal entity or concerned subsidiary with its registered office (or principal place of business if not a body corporate) in Northern Ireland—
 - (a) a declaration made by an Industrial Court under these Regulations may be relied upon as if it were a declaration or order made by the High Court in Northern Ireland; and
 - (b) an order made by the Industrial Court under these Regulations may be enforced in the same way as an order of the High Court in Northern Ireland”;
 - and
- (c) paragraphs (5) and (6) shall apply as if a reference to the CAC were a reference to the Industrial Court and a reference to the Appeal Tribunal were a reference to the High Court in Northern Ireland.”.

16.—(1) Regulation 39 shall have effect as if a reference to an application or complaint received by the CAC included a reference to an application or complaint received by the Industrial Court under these Regulations (as modified by this Schedule) and in relation to such an application or complaint—

- (a) any reference to ACAS was a reference to the Labour Relations Agency; and
- (b) any other reference in the regulation to the CAC were a reference to the Industrial Court.

(2) Regulation 39 shall also have effect as if—

- (a) a reference to section 210 of the Trade Union and Labour Relations (Consolidation) Act 1992 were a reference to Article 84 of the Industrial Relations (Northern Ireland) Order 1992⁽⁶⁾ (functions of the Agency in relation to trade disputes); and
- (b) a reference to section 218 of that Act were a reference to Article 127 of the Trade Union and Labour Relations (Northern Ireland) Order 1995⁽⁷⁾.

17. Regulation 40 shall apply in relation to any agreement on contract enforceable under the law of Northern Ireland as if the reference to the CAC included a reference to the Industrial Court.

18.—(1) Regulation 41 shall apply in relation to any Northern Ireland employee as if—

- (a) a reference to an employment tribunal were a reference to an Industrial Tribunal; and
- (b) a reference to a conciliation officer were a reference to the Labour Relations Agency.

(2) Regulation 41(3) shall have effect as if for the reference to Section 18(1)(s) of the Employment Tribunals Act 1996 there were a reference to Article 20(1)(o) of the Industrial Tribunals (Northern Ireland) Order 1996.

(3) After regulation 41(7)(b) there shall be inserted—

“; and

⁽⁶⁾ S.I. 1992/807 (N.I. 5).

⁽⁷⁾ S.I. 1995/1980 (N.I. 12).

- (c) as respects Northern Ireland a barrister (whether in practice as such or employed to give legal advice) or a solicitor who holds a practising certificate.”.

19. Paragraph 5 of Schedule 1 shall apply in relation to an application presented by—

- (a) a Northern Ireland member of the special negotiating body;
- (b) a Northern Ireland employee or any representative appointed or elected to act in Northern Ireland, or
- (c) a competent organ or subsidiary of an SCE registered in Northern Ireland,

as if a reference to the CAC were a reference to the Industrial Court.

20. Paragraph 8 of Schedule 1 shall apply in relation to any complaint by—

- (a) an SCE registered in Northern Ireland; or
- (b) a Northern Ireland employee or any representative appointed or elected to act in Northern Ireland,

as if the reference to the CAC were a reference to the Industrial Court.

21. Paragraph 14 of Schedule 1 shall apply in relation to a complaint by—

- (a) a Northern Ireland member of a special negotiating body;
- (b) a Northern Ireland employee; or
- (c) a representative appointed or elected to act in Northern Ireland,

as if a reference to the CAC were a reference to the Industrial Court.

22. For any reference in these Regulations to a provision of the Employment Rights Act 1996 in column (1) of the following table there shall be substituted a reference to the provision in the Employment Rights (Northern Ireland) Order 1996 specified opposite thereto in column (2).

Table

Column (1)	Column (2)
Employment Rights Act 1996	Employment Rights (Northern Ireland) Order 1989
Part 10	Part XI
Section 43A	Article 67A
Chapter 2 of Part 14	Chapter IV of Part I
Section 48(2) to (4)	Article 71(2) to (14)
Section 48	Article 71
Section 49(1) to (5)	Article 72(1) to (5)
Section 62	Article 90

23. For the purposes of this Schedule—

“Industrial Court” means the Industrial Court constituted under Article 91 of the Industrial Relations (Northern Ireland) Order 1992;

“Industrial Tribunal” means a tribunal established under Article 3 of the Industrial Tribunal (Northern Ireland) Order 1996;

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“Northern Ireland employee” means an employee employed to work in Northern Ireland; and
“Northern Ireland member of the special negotiating body” means a member of the special negotiating body elected or appointed by Northern Ireland employees.