

SCHEDULES

2

Article 23.

CHANGE OF BASIS OF COMPUTATION OF PERIOD OF CONTINUOUS EMPLOYMENT

Right to minimum period of notice

1.—(1) In sections 1 and 2 of the Act of 1965 (rights of employer and employee to a minimum period of notice) for the words “four weeks” in section 1(1), (2) and (3) and section 2(1) and (2) (which relate to the period of continuous employment necessary before either right arises) there shall be substituted “one month”.

(2) In section 1(4) of that Act (which converts into a contract for an indefinite period a contract for a term certain of four weeks or less where the employee has been continuously employed for twelve weeks or more) for the words “twelve weeks” there shall be substituted “three months” and for the words “four weeks” there shall be substituted “one month”.

(3) After that subsection there shall be inserted—

“(4A) Subsections (1) and (2) do not apply to a contract made in contemplation of the performance of a specific task which is not expected to last for more than three months unless the employee has been continuously employed for a period of more than three months.”.

(4) In section 1(5) of that Act (calculating period of continuous employment) at the beginning there shall be inserted the words “Article 22 of the Industrial Relations (Northern Ireland) Order 1987 and”.

Right to written particulars of terms of employment

2.—(1) In section 4(1) of the Act of 1965 (obligation to give written particulars of terms of employment)—

(a) for the words “the beginning of an employee’s period of employment” there shall be substituted “the beginning of an employee’s employment”; and

(b) for the words from “whether any employment” to “continuous period of employment began” there shall be substituted “the date on which the employee’s period of continuous employment began (taking into account any employment with a previous employer which counts towards that period)”.

(2) In section 4 of that Act—

(a) in subsection (6A)(b) (change of employer to be treated as change of terms where continuity of employment is not broken) the words from “in accordance with” to “Schedule 1” shall be omitted; and

(b) in subsection (6B) (duty in such a case to specify date from which employment is continuous) for the words “continuous period of employment” there shall be substituted “period of continuous employment”.

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(3) For section 4(7) of that Act (exclusion of obligation to give written statement where terms the same as those of previous employment) there shall be substituted—

“(7) No statement need be given under subsection (1) where—

- (a) the employee’s terms of employment are the same as those of earlier employment with the same employer in respect of which a statement under that subsection and any information subsequently required under subsection (4) was duly given, and
- (b) that earlier employment ended not more than six months before the beginning of the employment in question; but without prejudice to the operation of subsection (4) if there is subsequently a change in the terms of employment.”.

(4) After section 4(11A) there shall be inserted—

“(11B) This section shall apply to an employee who at any time comes or ceases to come within the exceptions from this section provided for by subsections (8) to (11A) or by section 6 or 9 as if his employment with his employer terminated or began at that time.

(11C) Subsection (1) shall apply to an employee who ceases to come within the exception provided by subsection (8) with the substitution for the words “thirteen weeks” of the words “one month”.

(11D) The fact that subsection (1) is directed to apply to an employee as if his employment began on his ceasing to come within one of the exceptions referred to in subsection (11B) shall not affect the obligation under subsection (1) to specify the date on which his employment actually began.”.

(5) In section 7 of that Act (power to vary references to hours of employment) for subsections (1) and (2) there shall be substituted—

“(1) The Department may by order vary or exclude the operation of sections 1(4A) and 4(9) to (11A).”.

Right to redundancy payment

3.—(1) In section 18(1) of the Act of 1965 (requisite period qualifying for right to redundancy payment), the words from “excluding any week” onwards (which relate to weeks before the employee attained the age of eighteen) shall be omitted.

(2) In section 18(2) of that Act (calculation of period of continuous employment) for the words from “the provisions of Schedule 1” to “modifies Schedule 1” there shall be substituted “Article 22 of the Industrial Relations (Northern Ireland) Order 1987 and Schedule 1”.

(3) In section 40(2) of that Act (exclusion of redundancy rebate where employee’s right under collective agreement arises by virtue of a period of employment which is less than one hundred and four weeks)—

- (a) for the words “period of employment” there shall be substituted “period of continuous employment”; and
- (b) for the words “one hundred and four weeks” there shall be substituted “two years”.

(4) In section 42(2) of that Act (conditions to be satisfied before an employee can claim his unpaid redundancy payment from the Department), in paragraph (c) (exclusion where right under collective agreement arises by virtue of a period of employment which is less than one hundred and four weeks)—

- (a) for the words “period of employment” there shall be substituted “period of continuous employment”; and
- (b) for the words “one hundred and four weeks” there shall be substituted “two years”.

(5) In Schedule 3 to that Act (calculation of redundancy payment),—

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- (a) in paragraph 2(a) and (b) the words “which consists wholly of weeks” shall cease to have effect; and
- (b) paragraphs 1(a) and 8 shall cease to have effect.

Computation of period of continuous employment

4.—(1) In Schedule 1 to the Act of 1965 (computation of period of employment) for paragraphs 1 and 2 (preliminary provisions) there shall be substituted—

“Preliminary

1.—(1) Except so far as otherwise provided by the following provisions of this Schedule, a week which does not count under paragraphs 3 to 5A breaks the continuity of the period of employment.

(2) The provisions of this Schedule apply, subject to section 27, to a period of employment notwithstanding that during that period the employee was engaged in work wholly or mainly outside Northern Ireland, or was excluded by or under this Act from any right conferred by this Act.

(3) A person’s employment during any period shall, unless the contrary is shown, be presumed to have been continuous.

2. Save as otherwise expressly provided, the provisions of this Schedule apply to periods before it comes into force as they apply to later periods.”.

(2) After paragraph 4C of that Schedule there shall be inserted—

“Power to amend paragraphs 3 to 4C by order

4D.—(1) The Department may by order—

- (a) amend paragraphs 3 to 4C so as to substitute for each of the references to sixteen hours a reference to such other number of hours less than sixteen as may be specified in the order; and
- (b) amend paragraphs 4B and 4C so as to substitute for each of the references to eight hours a reference to such other number of hours less than eight as may be specified in the order.

(2) No order under this paragraph shall be made unless a draft of the order has been laid before and approved by a resolution of the Assembly.

(3) The provisions of any order under this paragraph shall apply to periods before the order takes effect as they apply to later periods.

(4) An order under this paragraph may contain incidental, supplementary and transitional provisions.”.

Right not to be unfairly dismissed

5.—(1) In Article 24(1)(a) of the No. 1 Order (qualifying period for the right not to be unfairly dismissed) for the words “104 weeks” there shall be substituted “two years”.

(2) In Article 9(4) of the No. 2 Order (qualifying period if dismissal on medical grounds) for the words “104 weeks” and “4 weeks” there shall be substituted, respectively, “two years” and “one month”.

(3) In Article 34(3) of the No. 1 Order (calculation of basic award for unfair dismissal), in sub-paragraphs (a) and (b) the words “which consists wholly of weeks” shall be omitted.

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(4) Sub-paragraphs (1) and (2) do not affect the operation of any order made before the coming into operation of this paragraph under Article 24(3) of the No. 1 Order.

Right to written statement of reasons for dismissal

6. In Article 48(2) of the No. 1 Order (period of continuous employment after which an employee has a right to a written statement of the reasons for his dismissal) for the words from “26 weeks” onwards there shall be substituted “six months ending with that date”.

Rights in connection with redundancy

7. In Article 76(10) of the No. 1 Order (exclusion of employees on short-term contracts from protection of provisions requiring consultation and notification in case of certain redundancies) for the words “12 weeks”, in each place where they occur, there shall be substituted “three months”.

Right to guarantee payment

8.—(1) In Article 3 of the No. 2 Order (right to a guarantee payment) for paragraph (3) there shall be substituted—

“(3) An employee shall not be entitled to a guarantee payment unless he has been continuously employed for a period of not less than one month ending with the day before that in respect of which the guarantee payment is claimed.”.

(2) In Article 49 of that Order (excluded classes of employment) for paragraph (4) there shall be substituted—

“(4) Article 3 does not apply to employment—

- (a) under a contract for a fixed term of three months or less; or
- (b) under a contract made in contemplation of the performance of a specific task which is not expected to last for more than three months, unless the employee has been continuously employed for a period of more than three months ending with the day before that in respect of which the guarantee payment is claimed.”.

Right to remuneration on suspension on medical grounds

9.—(1) In Article 10 of the No. 2 Order (general exclusions from the right to remuneration on suspension on medical grounds) for paragraph (1) there shall be substituted—

“(1) An employee shall not be entitled to remuneration under Article 9 unless he has been continuously employed for a period of not less than one month ending with the day before that on which the suspension begins.”.

(2) In Article 49 of that Order (excluded classes of employment) after paragraph (4) there shall be inserted—

“(4A) Article 9 does not apply to employment—

- (a) under a contract for a fixed term of three months or less; or
- (b) under a contract made in contemplation of the performance of a specific task which is not expected to last for more than three months, unless the employee has been continuously employed for a period of more than three months ending with the day before that on which the suspension begins.”.