



2008 CHAPTER 13

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 3

SAFEGUARDS: EMPLOYMENT AND PRE-EMPLOYMENT

Protection of employment rights

Right of employee not to be unfairly dismissed

57.—(1) The Employment Rights Order is amended as follows.

(2) After Article 135C (flexible working) insert—

“Pension enrolment

135D.—(1) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that—

- (a) any action was taken, or was proposed to be taken, with a view to enforcing in favour of the employee a requirement to which this Article applies;
- (b) the employer was prosecuted for an offence under section 45 of the Pensions (No. 2) Act (Northern Ireland) 2008 as a result of action taken for the purposes of enforcing in favour of the employee a requirement to which this Article applies; or
- (c) any provision of Chapter 1 of that Part of that Act applies to the employee, or will or might apply.

Changes to legislation: Pensions (No. 2) Act (Northern Ireland) 2008, Section 57 is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(2) It is immaterial for the purposes of sub-paragraph (a) or (b) of paragraph (1)—

- (a) whether or not the requirement applies in favour of the employee, or
- (b) whether or not the requirement has been contravened,

but, for that paragraph to apply, the claim that the requirement applies and, if applicable, the claim that it has been contravened must be made in good faith.

(3) This Article applies to any requirement imposed on the employer by or under any provision of Chapter 1 of Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008.

(4) In this Article references to enforcing a requirement include references to securing its benefit in any way.”.

(3) In Article 137 (redundancy as unfair dismissal), in paragraph (1)(c) (which refers to any of paragraphs (2A) to (7I) of that Article applying) for “(7I)” substitute “(7J)”.

(4) After paragraph (7I) of that Article insert—

“(7J) This paragraph applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in paragraph (1) of Article 135D (read with paragraph (2) of that Article).”.

(5) In Article 140 (exclusion of right: qualifying period of employment) in paragraph (3) (cases where no qualifying period is required) after sub-paragraph (fh) insert—

“(fi) paragraph (1) of Article 135D (read with paragraph (2) of that Article) applies.”.

(6) In Article 143(2) (cases where employee may complain of unfair dismissal despite participation in unofficial industrial action), after sub-paragraph (d) insert—

“(dd) Article 135D applies.”.

(7) In Article 144(2) (cases where industrial tribunal to determine whether dismissal of an employee is unfair despite limitation in paragraph (1) of that Article), after sub-paragraph (d) insert—

“(dd) Article 135D applies;”.

Commencement Information

II S. 57(1)(2)(4)(5)(6)(7) in operation at 30.6.2012 by [S.R. 2012/266](#), art. 2, [Sch. Pt. 2](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- [s. 24\(1\)\(c\) inserted by 2016 c. 1 \(N.I.\) Sch. 2 para. 39\(2\)\(d\)](#)