

SCHEDULES

SCHEDULE 3

TIME OFF FOR STUDY OR TRAINING

PART 2

RELATED AMENDMENTS TO EMPLOYMENT LAW

The Employment Rights (Northern Ireland) Order 1996 (NI 16)

1. In Article 2(2) (definitions) at the appropriate place insert—
““Article 95A application” has the meaning given by Article 95A(2);”.
2. In Article 21 (how to calculate a week’s pay in relation to rights during employment) after paragraph (4A) insert—
“(4B) Where the calculation is for the purposes of Article 95G, the calculation date is the day on which the Article 95A application was made.”.
3. In Article 23(1) (maximum amount of week’s pay) before paragraph (za) insert—
“(zza) an award of compensation under Article 95G(1)(b);”.
4. After Article 70E (protection from suffering detriment in employment: flexible working) insert—

“Study and training

70F.—(1) An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by the employee’s employer done on the ground that the employee—

- (a) made (or proposed to make) an Article 95A application,
- (b) exercised (or proposed to exercise) a right conferred on the employee under Article 95C,
- (c) brought proceedings against the employer under Article 95F, or
- (d) alleged the existence of any circumstance which would constitute a ground for bringing such proceedings.

(2) This Article does not apply if the detriment in question amounts to dismissal within the meaning of Part 11.”.

5. In Article 71 (right to present complaint of detriment to industrial tribunal), in paragraph (1) for “or 70E” substitute “, 70E or 70F”.

6. After Article 135D (unfair dismissal: pension enrolment) insert—

“Study and training

135E. An employee who is dismissed is to 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 the employee—

- (a) made (or proposed to make) an Article 95A application,
- (b) exercised (or proposed to exercise) a right conferred on the employee under Article 95C,
- (c) brought proceedings against the employer under Article 95F, or
- (d) alleged the existence of any circumstance which would constitute a ground for bringing such proceedings.”.

7. In Article 137 (unfair dismissal: redundancy), after paragraph (6C) insert—

“(6D) 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 Article 135E.”.

8. In Article 140(3) (exceptions to one year qualifying period of continuous employment for claims for unfair dismissal), after sub-paragraph (fi) insert—

“(fj) Article 135E applies,”.

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

“(ddd) Article 135E applies,”.

10. 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 (dd) insert—

“(ddd) Article 135E applies,”.

11. In Article 242 (mariners)—

- (a) in paragraph (2), before “VIII” insert “7A,”;
- (b) in paragraph (8)(d), before “VIII” insert “7A,”.

12. In Article 251(1A) (regulations subject to confirmatory Assembly procedure), after “70C,” insert “95A, 95C(7),”.

The Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)

13. In Article 20 (conciliation), in paragraph (1)(c) after paragraph (vi) insert—

“(via) Article 95C(4), (5) or (6) or 95F(1)(b),”.