

SCHEDULES

3

MINOR AND CONSEQUENTIAL AMENDMENTS

The Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 (c. 19)

3.—(1) Sections 6(3) and 26(2) (exemptions for employment where the employer is the husband or wife of the employee) shall cease to have effect.

(2) In section 48(3)(b) for the words “United Kingdom Act” there shall be substituted “Employment Protection (Consolidation) Act 1978 (or any Act replacing that Act or part thereof)”.

(3) In Schedule 1 in paragraph 9 (continuity of employment on re-instatement after service with armed forces)—

(a) for the words “Part II of the National Service Act 1948 (re-instatement in civil employment)” there shall be substituted “the Reserve Forces (Safeguard of Employment) Act 1985”;

(b) for the words “section 35(2)(b)” there shall be substituted “section 1(4)(b)”. The Industrial Relations (Northern Ireland) Order 1976 (1976 NI 16)

4.—(1) In Article 21 (meaning of “dismissal”) for paragraph (5) there shall be substituted—

“(5) Where the contract of employment is terminated by the employer and the notice required by section 1(1) of the Act of 1965 to be given by an employer would, if duly given on the material date, expire on a date later than the effective date of termination (as defined by paragraph (4)) then, for the purposes of Articles 24(1)(a), 24A, 34(3), 35(5) and 48(2), the later date shall be treated as the effective date of termination in relation to the dismissal.

(6) Where the contract of employment is terminated by the employee and—

(a) the material date does not fall during a period of notice given by the employer to terminate that contract; and

(b) had the contract been terminated not by the employee but by notice given on the material date by the employer, that notice would have been required by section 1 of the Act of 1965 to expire on a date later than the effective date of termination (as defined by paragraph (4)), then, for the purposes of Articles 24(1)(a), 24A, 34(3) and 35(5), the later date shall be treated as the effective date of termination in relation to the dismissal.

(7) “Material date” means—

(a) in paragraph (5), the date when notice of termination was given by the employer or (where no notice was given) the date when the contract of employment was terminated by the employer; and

(b) in paragraph (6), the date when notice of termination was given by the employee or (where no notice was given) the date when the contract of employment was terminated by the employee.”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) In Article 24(2) (qualifying period and upper age limit in connection with unfair dismissal), for the words “an inadmissible reason” there shall be substituted “one of those specified in Article 22A(1)”.

(3) In Article 24A(2)(b) (extended qualifying period where there are no more than twenty employees) for the words “an inadmissible reason” there shall be substituted “one of those specified in Article 22A(1)”.

(4) In Article 29(1) (complaints to industrial tribunal) for the word “employee” there shall be substituted “person (in this part referred to as “the complainant”)

(5) In Article 32(2)(a), (5) and (6) (compensation for unfair dismissal), for the words “Articles 33 to 36” there shall be substituted in each case “Articles 33 to 38”.

(6) In Articles 34(4), 35(3), 35(5) and 68(2) (later date treated as the effective date of termination) after the words “21(5)” there shall be inserted in each case “or, as the case may be, (6)”.

(7) In Article 36(3) (calculation of compensatory award), for the words “Article 35(6) or (7)” there shall be substituted “Article 35(6A) to (7)”.

(8) In Article 39 (interim relief pending determination of complaint of unfair dismissal)—

- (a) in paragraph (2) at the beginning of sub-paragraph (b) there shall be inserted the words “in a case in which the employee relies on Article 22A(1)(a) or (b)”;
- (b) in paragraph (3), before the words “the relevant certificate” there shall be inserted “(where appropriate)”;
- (c) in paragraph (5) for the words from “was unfairly” to “paragraph (1)” there shall be substituted “is by virtue of Article 22A to be regarded as having been unfairly dismissed”.

(9) In Article 42 for paragraph (2) (definition of “relevant date” in relation to certain debts due from insolvent employers to their employees) there shall be substituted—

“(2) In this Article the “relevant date”, in relation to a debt, means whichever is the latest of—

- (a) the date on which the employer became insolvent;
- (b) the date of the termination of the employee’s employment; or
- (c) where the debt falls within paragraph (3)(d) or (4)(a), the date on which the award was made.”.

(10) In Article 42(3) (debts to which the provisions of Article 42 about employee’s rights on insolvency of employers apply)—

- (a) for sub-paragraph (a) there shall be substituted—
 - “(a) any arrears of pay in respect of one or more (but not more than eight) weeks;”;
- (b) for sub-paragraph (c) there shall be substituted—
 - “(c) any holiday pay—
 - (i) in respect of a period or periods of holiday not exceeding six weeks in all; and
 - (ii) to which the employee became entitled during the twelve months ending with the relevant date;”.

(11) In Articles 42(9) and 43(9) (employee’s rights on insolvency of employer and payment of unpaid contributions to occupational pension scheme)—

- (a) in sub-paragraph (a) for the words from the beginning to “was” there shall be substituted in each case “the application for a payment under this Article has been”;
- (b) in sub-paragraph (c) for the word “further” there shall be substituted in each case “unreasonable”.

(12) In Article 61 (recovery of sums awarded by industrial tribunals) at the end there shall be added—

“(3) The Department may by order made with the approval of the Department of Finance and Personnel provide that sums payable in pursuance of decisions of industrial tribunals shall carry interest at such rate and between such times as may be prescribed by the order.

(4) Any interest due by virtue of such an order shall be recoverable as a sum payable in pursuance of the decision.

(5) The power conferred by paragraph (3) includes power—

- (a) to specify cases or circumstances in which interest shall not be payable;
- (b) to provide that interest shall be payable only on sums exceeding a specified amount or falling between specified amounts;
- (c) to make provision for the manner in which and the periods by reference to which interest is to be calculated and paid;
- (d) to provide that any statutory provision shall or shall not apply in relation to interest payable by virtue of an order under paragraph (3) or shall apply to it with such modifications as may be specified in the order;
- (e) to make provision for cases where sums are payable in pursuance of decisions or awards made on appeal from industrial tribunals.

(6) Without prejudice to the generality of paragraph (5), an order under paragraph (3) may provide that the rate of interest shall be the rate from time to time in force in relation to interest on amounts awarded by decree in the county court.”

(13) In Article 64A(3) (right of former employees to picket their former place of work), for the words “and whose” there shall be substituted “where—(a) his”, and after the words “trade dispute,” there shall be inserted—

“or

(b) the termination of his employment was one of the circumstances giving rise to a trade dispute.”

(14) In Article 68(1) (period of continuous employment) for the words from the beginning to “that Schedule” there shall be substituted “Article 22 of the Industrial Relations (Northern Ireland) Order 1987 and Schedule 1 to the Act of 1965”.

(15) In Article 76, paragraph (4) (exception for employment where the employer is the husband or wife of the employee) shall cease to have effect.

(16) In Article 80(2) for “37(2)” there shall be substituted “34(5B), 37(2), 37A(7)”.

(17) In Schedule 4 (death of employee or employer) for paragraph 10 there shall be substituted—

“10. Where—

- (a) the employee’s contract of employment has been terminated; and
- (b) by virtue of Article 21(5) or (6) a date later than the effective date of termination as defined in Article 21(4) is to be treated as the effective date of termination for the purposes of certain of the unfair dismissal provisions; and
- (c) before that later date the employer or the employee dies; Article 21(5) or, as the case may be, 21(6) shall have effect as if the notice referred to in that paragraph as required by section 1(1) of the Act of 1965 would have expired on the date of the death.”