

SCHEDULES

SCHEDULE 2

AMENDMENTS

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

8. In Article 73 (action short of dismissal on grounds related to union membership or activities), in each of paragraphs (1), (3) and (4), for “the purpose” substitute “the sole or main purpose”.

9. In Article 75 (consideration of complaint), in paragraph (1), for “the purpose” substitute “what was the sole or main purpose”.

10. In Article 77 (awards against third parties), in paragraph (1)(a), for “the purpose” substitute “the sole or main purpose”.

11. In Article 130(6) (provisions to which provision about determination of fairness of dismissal is subject), for “and 144” substitute “, 144 and 144A”.

12. In Article 140(3) (exceptions to one year qualifying period of continuous employment for claims for unfair dismissal), for sub-paragraph (b) substitute—

“(b) paragraph (1) of Article 131 (read with any regulations made under that Article) applies.”

13. In Article 141(2) (exceptions to upper age limit for claims for unfair dismissal), for sub-paragraph (b) substitute—

“(b) paragraph (1) of Article 131 (read with any regulations made under that Article) applies.”

14.—(1) Article 161 (matters to be disregarded in assessing contributory fault) is amended as follows.

(2) In paragraph (2), omit the word “or” at the end of sub-paragraph (b) and at the end of sub-paragraph (c) insert

“, or

(d) not to make use of services made available by any trade union or by a particular trade union or by one of a number of particular trade unions.”

(3) After that paragraph insert—

“(2A) Conduct or action of the complainant shall be disregarded in so far as it constitutes acceptance of or failure to accept an offer made in contravention of Article 77A or 77B.”

15. In Article 163(3) (application for interim relief), for “Article 136(1)(a) or (b)” substitute “Article 136(1)(a), (b) or (ba), or on Article 136(1)(bb) otherwise than in relation to an offer made in contravention of Article 77A(1)(d)”.

16.—(1) Article 236 (Crown employment) is amended as follows.

(2) In paragraph (4) omit the word “and” at the end of sub-paragraph (d) and after that sub-paragraph insert—

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- “(dd) the reference in Article 130B(2)(a) to the employer’s undertaking shall be construed as a reference to the national interest, and”.
- (3) In that paragraph, in sub-paragraph (e), for “references” substitute “any other reference”.
- 17.** In paragraph (2) of Article 237 (armed forces)—
- (a) in sub-paragraph (aa), after “Articles” , where it first occurs, insert “67M”; and
 - (b) in sub-paragraph (e), after “Articles” insert “130B(2)”.
- 18.—**(1) Article 239 (employment outside Northern Ireland) is amended as follows.
- (2) In paragraph (2)(b), for “Chapter II” substitute “Chapters II and III”.
 - (3) After that paragraph add—
 - “(3) Chapters II and III of Part VI do not apply to employment where under his contract personally to do work or perform services a worker who is not an employee works outside Northern Ireland.”
- 19.** In Article 242 (mariners) in paragraph (2) after “the employee” insert “(or, in the case of Articles 73 to 77F), the worker)”.
- 20.** In Article 243 (police) in paragraph (1) after Part “VA,” insert “Article 67M”.
- 21.—**(1) Article 244 (national security, etc) is amended as follows.
- (2) In paragraph (2)(b) after “Articles” where it first occurs insert “67M”.
 - (3) In paragraph (2)(g)—
 - (a) in head (i) after “Article” where it first occurs insert “130B”;
 - (b) in head (ii) for “(2)” substitute “(2A)”.
- 22.** In Article 248 and 249(1) (death of employee or employer) after “employee”, wherever occurring, insert “or worker”.