



Redundancy Payments

Act 1965

CHAPTER 62

LONDON

HER MAJESTY'S STATIONERY OFFICE

Redundancy Payments Act 1965

CHAPTER 62

ARRANGEMENT OF SECTIONS

PART I

REDUNDANCY PAYMENTS

Section

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ELIZABETH II



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An Act to provide for the making by employers of payments to employees in respect of redundancy; to establish a Redundancy Fund and to require employers to pay contributions towards that fund and to enable sums to be paid into that fund out of the Consolidated Fund; to provide for payments to be made out of the Redundancy Fund; to amend the Contracts of Employment Act 1963; to extend the jurisdiction of tribunals established under the Industrial Training Act 1964 and to make further provision as to procedure in relation to such tribunals; to enable certain statutory provisions relating to compensation to be modified in consequence of the provision for payments in respect of redundancy; and for purposes connected with the matters aforesaid.
[5th August 1965]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

REDUNDANCY PAYMENTS

1.—(1) Where on or after the appointed day an employee who has been continuously employed for the requisite period—
(a) is dismissed by his employer by reason of redundancy,
or
(b) is laid off or kept on short-time to the extent specified in subsection (1) of section 6 of this Act and complies with the requirements of that section,
then, subject to the following provisions of this Part of this Act, the employer shall be liable to pay to him a sum (in this

General provisions as to right to redundancy payment.

PART I Act referred to as a “redundancy payment”) calculated in accordance with Schedule 1 to this Act.

(2) For the purposes of this Act an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to—

- (a) the fact that his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him, or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed, or
- (b) the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he was so employed, have ceased or diminished or are expected to cease or diminish.

General
exclusions
from right to
redundancy
payment.

2.—(1) An employee shall not be entitled to a redundancy payment if immediately before the relevant date the employee—

- (a) if a man, has attained the age of sixty-five, or
- (b) if a woman, has attained the age of sixty.

(2) Except as provided by section 10 of this Act, an employee shall not be entitled to a redundancy payment by reason of dismissal where his employer, being entitled to terminate his contract of employment without notice by reason of the employee's conduct, terminates it either—

- (a) without notice, or
- (b) by giving shorter notice than that which, in the absence of such conduct, the employer would be required to give to terminate the contract, or
- (c) by giving notice (not being such shorter notice as is mentioned in paragraph (b) of this subsection) which includes, or is accompanied by, a statement in writing that the employer would, by reason of the employee's conduct, be entitled to terminate the contract without notice.

(3) An employee shall not be entitled to a redundancy payment by reason of dismissal if before the relevant date the employer has offered to renew his contract of employment, or to re-engage him under a new contract, so that—

- (a) the provisions of the contract as renewed, or of the new contract, as the case may be, as to the capacity and place in which he would be employed, and as to the other terms and conditions of his employment, would not differ from the corresponding provisions of the contract as in force immediately before his dismissal, and

- (b) the renewal or re-engagement would take effect on or before the relevant date,

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and the employee has unreasonably refused that offer.

(4) An employee shall not be entitled to a redundancy payment by reason of dismissal if before the relevant date the employer has made to him an offer in writing to renew his contract of employment, or to re-engage him under a new contract, so that in accordance with the particulars specified in the offer the provisions of the contract as renewed, or of the new contract, as the case may be, as to the capacity and place in which he would be employed, and as to the other terms and conditions of his employment, would differ (wholly or in part) from the corresponding provisions of the contract as in force immediately before his dismissal, but—

- (a) the offer constitutes an offer of suitable employment in relation to the employee, and
(b) the renewal or re-engagement would take effect on or before the relevant date or not later than four weeks after that date,

and the employee has unreasonably refused that offer.

(5) Where the relevant date falls on a Friday, Saturday or Sunday—

- (a) the reference in subsection (3)(b) of this section to the relevant date shall be construed as a reference to the next Monday after that date, and
(b) the reference in subsection (4)(b) of this section to four weeks after the relevant date shall be construed as a reference to the fifth Monday after that date.

3.—(1) For the purposes of this Part of this Act an employee shall, subject to the following provisions of this Part of this Act, be taken to be dismissed by his employer if, but only if,—

- (a) the contract under which he is employed by the employer is terminated by the employer, whether it is so terminated by notice or without notice, or
(b) where under that contract he is employed for a fixed term, that term expires without being renewed under the same contract, or
(c) the employee terminates that contract without notice in circumstances (not falling within section 10(4) of this Act) such that he is entitled so to terminate it by reason of the employer's conduct.

(2) An employee shall not be taken for the purposes of this Part of this Act to be dismissed by his employer if his contract

PART I of employment is renewed, or he is re-engaged by the same employer under a new contract of employment, and—

- (a) in a case where the provisions of the contract as renewed, or of the new contract, as the case may be, as to the capacity and place in which he is employed, and as to the other terms and conditions of his employment, do not differ from the corresponding provisions of the previous contract, the renewal or re-engagement takes effect immediately on the ending of his employment under the previous contract, or
- (b) in any other case, the renewal or re-engagement is in pursuance of an offer in writing made by his employer before the ending of his employment under the previous contract, and takes effect either immediately on the ending of that employment or after an interval of not more than four weeks thereafter.

(3) For the purposes of the application of the last preceding subsection to a contract under which the employment ends on a Friday, Saturday or Sunday,—

- (a) the renewal or re-engagement shall be treated as taking effect immediately on the ending of the employment under the previous contract if it takes effect on or before the next Monday after that Friday, Saturday or Sunday, and
- (b) the interval of four weeks mentioned in paragraph (b) of that subsection shall be calculated as if the employment had ended on that Monday.

(4) Subject to the next following section, in this Part of this Act “the relevant date”, in relation to the dismissal of an employee,—

- (a) where his contract of employment is terminated by notice given by his employer, is the date on which that notice expires ;
- (b) where his contract of employment is terminated without notice, whether by the employer or by the employee, is the date on which the termination takes effect ; and
- (c) where he is employed under a contract for a fixed term and that term expires as mentioned in subsection (1)(b) of this section, is the date on which that term expires.

Employee
anticipating
expiry of
employer's
notice.

4.—(1) The provisions of this section shall have effect where—

- (a) an employer gives notice to an employee to terminate his contract of employment, and
- (b) at a time within the obligatory period of that notice, the employee gives notice in writing to the employer to

terminate the contract of employment on a date earlier than the date on which the employer's notice is due to expire.

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(2) Subject to the following provisions of this section, in the circumstances specified in the preceding subsection the employee shall, for the purposes of this Part of this Act, be taken to be dismissed by his employer, and "the relevant date" in relation to that dismissal shall be the date on which the employee's notice expires.

(3) If, before the employee's notice is due to expire, the employer gives him notice in writing—

- (a) requiring him to withdraw his notice terminating the contract of employment as mentioned in subsection (1)(b) of this section and to continue in the employment until the date on which the employer's notice expires, and
- (b) stating that, unless he does so, the employer will contest any liability to pay to him a redundancy payment in respect of the termination of his contract of employment,

but the employee does not comply with the requirements of that notice, the employee shall not be entitled to a redundancy payment by virtue of subsection (2) of this section except as provided by the next following subsection.

(4) Where, in the circumstances specified in subsection (1) of this section, the employer has given notice to the employee under the last preceding subsection, and on a reference to a tribunal (in accordance with section 9 of this Act) it appears to the tribunal, having regard both to the reasons for which the employee seeks to leave the employment and those for which the employer requires him to continue in it, to be just and equitable that the employee should receive the whole or part of any redundancy payment to which he would have been entitled apart from the last preceding subsection, the tribunal may determine that the employer shall be liable to pay to the employee—

- (a) the whole of the redundancy payment to which the employee would have been so entitled, or
- (b) such part of that redundancy payment as the tribunal thinks fit.

(5) In this section—

- (a) if the actual period of the employer's notice (that is to say, the period beginning at the time when the notice is given and ending at the time when it expires) is equal to the minimum period which (whether by virtue

PART I

of any enactment or otherwise) is required to be given by the employer to terminate the contract of employment, "the obligatory period", in relation to that notice, means the actual period of the notice ;

- (b) in any other case, "the obligatory period", in relation to an employer's notice, means that period which, being equal to the minimum period referred to in the preceding paragraph, expires at the time when the employer's notice expires.

Lay-off and short-time.

5.—(1) Where an employee is employed under a contract on such terms and conditions that his remuneration thereunder depends on his being provided by the employer with work of the kind which he is employed to do, he shall for the purposes of this Part of this Act be taken to be laid off for any week in respect of which, by reason that the employer does not provide such work for him, he is not entitled to any remuneration under the contract.

(2) Where by reason of a diminution in the work provided for an employee by his employer (being work of a kind which under his contract the employee is employed to do) the employee's remuneration for any week is less than half a week's pay (calculated in accordance with Schedule 2 to this Act), he shall for the purposes of this Part of this Act be taken to be kept on short-time for that week.

(3) In this section and in sections 6 and 7 of this Act "week", in relation to an employee whose remuneration is calculated weekly by a week ending on a day other than Saturday, means a week ending with that other day, and, in relation to any other employee, means a week ending with Saturday.

Right to redundancy payment by reason of lay-off or short-time.

6.—(1) An employee shall not be entitled to a redundancy payment by reason of being laid off or kept on short-time unless he gives notice in writing to his employer indicating (in whatsoever terms) his intention to claim a redundancy payment in respect of lay-off or short-time (in this section and in section 7 of this Act referred to as a "notice of intention to claim") and, before the service of that notice, either—

- (a) he has been laid off or kept on short-time for four or more consecutive weeks of which the last before the service of the notice ended on the date of service thereof or ended not more than four weeks before that date, or
- (b) he has been laid off or kept on short-time for a series of six or more weeks (of which not more than three were consecutive) within a period of thirteen weeks, where the last week of the series before the service

of the notice ended on the date of service thereof or ended not more than four weeks before that date.

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(2) In this Part of this Act "the relevant date", in relation to a notice of intention to claim or a right to a redundancy payment in pursuance of such a notice,—

(a) in a case falling within paragraph (a) of the preceding subsection, means the date on which the last of the four or more consecutive weeks before the service of the notice came to an end, and

(b) in a case falling within paragraph (b) of that subsection, means the date on which the last of the series of six or more weeks before the service of the notice came to an end.

(3) Where an employee has given notice of intention to claim,—

(a) he shall not be entitled to a redundancy payment in pursuance of that notice unless he terminates his contract of employment by a week's notice which (whether given before or after or at the same time as the notice of intention to claim) is given before the end of the period allowed for the purposes of this paragraph (as specified in subsection (5) of section 7 of this Act), and

(b) he shall not be entitled to a redundancy payment in pursuance of the notice of intention to claim if he is dismissed by his employer (but without prejudice to any right to a redundancy payment by reason of the dismissal):

Provided that, if the employee is required by his contract of employment to give more than a week's notice to terminate the contract, the reference in paragraph (a) of this subsection to a week's notice shall be construed as a reference to the minimum notice which he is so required to give.

(4) Subject to the next following subsection, an employee shall not be entitled to a redundancy payment in pursuance of a notice of intention to claim if, on the date of service of that notice, it was reasonably to be expected that the employee (if he continued to be employed by the same employer) would, not later than four weeks after that date, enter upon a period of employment of not less than thirteen weeks during which he would not be laid off or kept on short-time for any week.

(5) The last preceding subsection shall not apply unless, within seven days after the service of the notice of intention to claim, the employer gives to the employee notice in writing (in section 7 of this Act referred to as a "counter-notice")

PART I that he will contest any liability to pay to him a redundancy payment in pursuance of the notice of intention to claim.

Supplementary provisions as to redundancy payments in respect of lay-off or short-time.

7.—(1) If, in a case where an employee gives notice of intention to claim and the employer gives a counter-notice, the employee continues or has continued, during the next four weeks after the date of service of the notice of intention to claim, to be employed by the same employer, and he is or has been laid off or kept on short-time for each of those weeks, it shall be conclusively presumed that the condition specified in subsection (4) of section 6 of this Act was not fulfilled.

(2) For the purposes of subsection (1) of that section, and for the purposes of the preceding subsection, it is immaterial whether a series of weeks (whether it is four weeks, or four or more weeks, or six or more weeks) consists wholly of weeks for which the employee is laid off or wholly of weeks for which he is kept on short-time or partly of the one and partly of the other.

(3) For the purposes mentioned in the last preceding subsection, no account shall be taken of any week for which an employee is laid off or kept on short-time where the lay-off or short-time is wholly or mainly attributable to a strike or a lock-out, whether the strike or lock-out is in the trade or industry in which the employee is employed or not and whether it is in Great Britain or elsewhere.

(4) Where the employer gives a counter-notice within seven days after the service of a notice of intention to claim, and does not withdraw the counter-notice by a subsequent notice in writing, the employee shall not be entitled to a redundancy payment in pursuance of the notice of intention to claim except in accordance with a decision of a tribunal.

(5) The period allowed for the purposes of subsection (3) (a) of section 6 of this Act is as follows, that is to say,—

- (a) if the employer does not give a counter-notice within seven days after the service of the notice of intention to claim, that period is three weeks after the end of those seven days ;
- (b) if the employer gives a counter-notice within those seven days, but withdraws it by a subsequent notice in writing, that period is three weeks after the service of the notice of withdrawal ;
- (c) if the employer gives a counter-notice within those seven days and does not so withdraw it, and a question as to the right of the employee to a redundancy payment in pursuance of the notice of intention to claim is referred to a tribunal, that period is three weeks after the tribunal has notified to the employee its decision on that reference.

(6) For the purposes of paragraph (c) of the last preceding subsection no account shall be taken of any appeal against the decision of the tribunal, or of any requirement to the tribunal to state a case for the opinion of the High Court or the Court of Session, or of any proceedings or decision in consequence of such an appeal or requirement.

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8.—(1) For the purposes of section 1(1) of this Act the requisite period is the period of one hundred and four weeks ending with the relevant date, excluding any week which began before the employee attained the age of eighteen. Continuous employment for requisite period.

(2) Subject to the preceding subsection, and to the following provisions of this section, the provisions of Schedule 1 to the Contracts of Employment Act 1963 (computation of period of employment), and the provisions of any order for the time being in force under section 7 of that Act in so far as it modifies that Schedule, shall have effect for the purposes of this Part of this Act in determining whether an employee has been continuously employed for the requisite period. 1963 c. 49.

(3) Where by virtue of section 3(2) of this Act an employee is treated as not having been dismissed by reason of a renewal or re-engagement taking effect after an interval, then, in determining for the purposes of section 1(1) of this Act whether he has been continuously employed for the requisite period, the period of that interval shall count as a period of employment, notwithstanding that it does not count under that Schedule.

(4) The preceding provisions of this section shall have effect subject to sections 17 and 24 of this Act in cases to which those sections apply respectively.

9.—(1) Any question arising under this Part of this Act as to the right of an employee to a redundancy payment, or as to the amount of a redundancy payment, shall, in accordance with regulations made under Part III of this Act, be referred to and determined by a tribunal. Reference of questions to tribunal.

(2) For the purposes of any such reference—

- (a) a person's employment during any period shall, unless the contrary is proved, be presumed to have been continuous;
- (b) an employee who has been dismissed by his employer shall, unless the contrary is proved, be presumed to have been so dismissed by reason of redundancy.

(3) In relation to lay-off or short-time, the questions which may be referred to and determined by a tribunal, as mentioned in subsection (1) of this section, shall include any question whether an employee will become entitled to a redundancy payment if he is not dismissed by his employer and he terminates

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his contract of employment as mentioned in subsection (3) (a) of section 6 of this Act; and any such question shall for the purposes of this Part of this Act be taken to be a question as to the right of the employee to a redundancy payment.

Special provisions as to termination of contract in cases of misconduct or industrial dispute.

10.—(1) Where at any such time as is mentioned in the next following subsection, an employee who—

(a) has been given notice by his employer to terminate his contract of employment, or

(b) has given notice to his employer under subsection (1) of section 6 of this Act,

takes part in a strike, in such circumstances that the employer is entitled, by reason of his taking part in the strike, to treat the contract of employment as terminable without notice, and the employer for that reason terminates the contract as mentioned in subsection (2) of section 2 of this Act, that subsection shall not apply to that termination of the contract.

(2) The times referred to in the preceding subsection are—

(a) in a case falling within paragraph (a) of that subsection, any time within the obligatory period of the employer's notice (as defined by section 4(5) of this Act), and

(b) in a case falling within paragraph (b) of the preceding subsection, any time after the service of the notice mentioned in that paragraph.

(3) Where at any such time as is mentioned in the last preceding subsection an employee's contract of employment, otherwise than by reason of his taking part in a strike, is terminated by his employer in the circumstances specified in subsection (2) of section 2 of this Act, and is so terminated as mentioned in the said subsection (2), and on a reference to a tribunal it appears to the tribunal, in the circumstances of the case, to be just and equitable that the employee should receive the whole or part of any redundancy payment to which he would have been entitled apart from the last-mentioned subsection, the tribunal may determine that the employer shall be liable to pay to the employee—

(a) the whole of the redundancy payment to which the employee would have been so entitled, or

(b) such part of that redundancy payment as the tribunal thinks fit.

(4) Where an employee terminates his contract of employment without notice, being entitled to do so by reason of a lock-out by his employer, section 3(1)(c) of this Act shall not apply to that termination of the contract.

Exemption orders.

11.—(1) If at any time there is in force an agreement between one or more employers or organisations of employers and one

or more trade unions representing employees, whereby employees to whom the agreement applies have a right in certain circumstances to payments on the termination of their contracts of employment, and, on the application of all the parties to the agreement, the Minister, having regard to the provisions of the agreement, is satisfied that section 1 of this Act should not apply to those employees, he may make an order under this section in respect of that agreement.

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(2) The Minister shall not make an order under this section in respect of an agreement unless the agreement indicates (in whatsoever terms) the willingness of the parties to it to submit to a tribunal such questions as are mentioned in paragraph (b) of the next following subsection.

(3) Where an order under this section is in force in respect of an agreement—

(a) section 1 of this Act shall not have effect in relation to any employee who immediately before the relevant date is an employee to whom the agreement applies, and

(b) section 9 of this Act shall have effect in relation to any question arising under the agreement as to the right of an employee to a payment on the termination of his employment, or as to the amount of such a payment, as if the payment were a redundancy payment and the question arose under this Part of this Act.

(4) Any order under this section shall be made by statutory instrument, and may be revoked by a subsequent order thereunder, whether in pursuance of an application made by all or any of the parties to the agreement in question or without any such application.

12.—(1) Any such claim as is mentioned in subsection (1) of section 8 of the Terms and Conditions of Employment Act 1959 (settlement of claims as to recognised terms or conditions of employment) may be reported to the Minister in accordance with that subsection, and may be referred by him to the Industrial Court, and the Industrial Court may make an award under that section on such a reference, notwithstanding that the terms or conditions, which it is claimed that the employer is not observing, consist of or include terms or conditions as to payments to be made to employees in the circumstances specified in paragraph (a) or paragraph (b) of section 1(1) of this Act, or in similar circumstances, and that provision for redundancy payments is made by this Act. Claims as to recognised terms or conditions. 1959 c. 26.

(2) Where a claim, which is reported to the Minister under subsection (1) of the said section 8, relates to an agreement in respect of which an order under section 11 of this Act is for

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the time being in force, and the Industrial Court makes an award in accordance with subsection (3) of the said section 8 in pursuance of that claim, section 11(3) of this Act shall have effect in relation to all persons in respect of whom the employer is required by that award to observe the recognised terms or conditions, whether they are persons to whom section 11(3) of this Act would apply apart from this subsection or not.

Change of ownership of business.

13.—(1) The provisions of this section shall have effect where—

- (a) a change occurs (whether by virtue of a sale or other disposition or by operation of law) in the ownership of a business for the purposes of which a person is employed, or of a part of such a business, and
- (b) in connection with that change the person by whom the employee is employed immediately before the change occurs (in this section referred to as “the previous owner”) terminates the employee’s contract of employment, whether by notice or without notice.

(2) If, by agreement with the employee, the person who immediately after the change occurs is the owner of the business or of the part of the business in question, as the case may be (in this section referred to as “the new owner”) renews the employee’s contract of employment (with the substitution of the new owner for the previous owner) or re-engages him under a new contract of employment, section 3(2) of this Act shall have effect as if the renewal or re-engagement had been a renewal or re-engagement by the previous owner (without any substitution of the new owner for the previous owner).

(3) If the new owner offers to renew the employee’s contract of employment (with the substitution of the new owner for the previous owner) or to re-engage him under a new contract of employment, but the employee refuses the offer, subsection (3) or (as the case may be) subsection (4) of section 2 of this Act shall have effect, subject to the next following subsection, in relation to that offer and refusal as it would have had effect in relation to the like offer made by the previous owner and a refusal of that offer by the employee.

(4) For the purposes of the operation, in accordance with the last preceding subsection, of subsection (3) or subsection (4) of section 2 of this Act in relation to an offer made by the new owner,—

- (a) the offer shall not be treated as one whereby the provisions of the contract as renewed, or of the new contract, as the case may be, would differ from the corresponding provisions of the contract as in force immediately before the dismissal by reason only that

the new owner would be substituted for the previous owner as the employer, and

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(b) no account shall be taken of that substitution in determining whether the refusal of the offer was unreasonable.

(5) The preceding provisions of this section shall have effect (subject to the necessary modifications) in relation to a case where—

(a) the person by whom a business, or part of a business, is owned immediately before a change is one of the persons by whom (whether as partners, trustees or otherwise) it is owned immediately after the change, or

(b) the persons by whom a business, or part of a business, is owned immediately before a change (whether as partners, trustees or otherwise) include the person by whom, or include one or more of the persons by whom, it is owned immediately after the change,

as those provisions have effect where the previous owner and the new owner are wholly different persons.

(6) Nothing in this section shall be construed as requiring any variation of a contract of employment by agreement between the parties to be treated as constituting a termination of the contract.

14.—(1) The Minister shall by regulations make provision for excluding the right to a redundancy payment, or reducing the amount of any redundancy payment, in such cases as may be prescribed by the regulations, being cases in which an employee has (whether by virtue of any statutory provision or otherwise) a right or claim (whether legally enforceable or not) to a periodical payment or lump sum by way of pension, gratuity or superannuation allowance which is to be paid by reference to his employment by a particular employer and is to be paid, or to begin to be paid, at the time when he leaves that employment or within such period thereafter as may be prescribed by the regulations.

Exclusion or reduction of redundancy payment on account of pension rights.

(2) Provision shall be made by any such regulations for securing that the right to a redundancy payment shall not be excluded, and that the amount of a redundancy payment shall not be reduced, by reason of any right or claim to a periodical payment or lump sum, in so far as that payment or lump sum represents such compensation as is mentioned in section 47(1) of this Act and is payable under a statutory provision, whether made or passed before, on or after the appointed day.

(3) In relation to any case where, under any provision contained in this Part of this Act, a tribunal determines that an em-

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Contracts of employment for a fixed term.

15.—(1) Section 1 of this Act shall not apply to an employee who immediately before the relevant date is employed under a contract of employment for a fixed term of two years or more, if that contract was made before the appointed day (whether before or after the passing of this Act) and is not a contract of apprenticeship.

(2) Without prejudice to the preceding subsection, an employee under a contract of employment for a fixed term of two years or more (including a contract of apprenticeship for such a term) shall not be entitled to a redundancy payment in respect of the expiry of that term without its being renewed, if before the term so expires he has agreed in writing to exclude any right to a redundancy payment in that event.

(3) Such an agreement as is mentioned in the last preceding subsection may, in the case of a contract made after the passing of this Act, be contained either in the contract itself or in a separate agreement.

(4) Where an agreement under subsection (2) of this section is made during the currency of a fixed term, and that term is renewed, the agreement under that subsection shall not be construed as applying to the term as renewed, but without prejudice to the making of a further agreement under that subsection in relation to the term as renewed.

(5) The provisions of this section shall have effect subject to section 20 of this Act in cases to which that section applies.

Excluded classes of employees.
1946 c. 22.

16.—(1) Section 1 of this Act shall not apply to any person in respect of his employment as a registered dock worker, as defined by any scheme for the time being in force under the Dock Workers (Regulation of Employment) Act 1946, unless it is employment by virtue of which he is wholly or mainly engaged in work which is not dock work as defined by the scheme.

(2) Section 1 of this Act shall not apply to any person in respect of his employment as master or a member of the crew of a fishing vessel, if he is not remunerated in respect of that employment otherwise than by a share in the profits or gross earnings of the vessel.

(3) Section 1 of this Act shall not apply where the employer is the husband or wife of the employee.

(4) Without prejudice to any exemption or immunity of the Crown, section 1 of this Act shall not apply to any person in respect of any employment which—

- (a) is employment in a public office for the purposes of section 7 of the Superannuation (Amendment) Act 1965, or
- (b) whether by virtue of that Act or otherwise, is treated for the purposes of pensions and other superannuation benefits as service in the civil service of the State, or
- (c) is employment by any such body as is specified in Schedule 3 to this Act.

(5) Without prejudice to any exemption or immunity of the Crown, section 1 of this Act shall not apply to any person in respect of his employment in any capacity under the Government of an overseas territory.

(6) The Minister shall have power by order—

- (a) to provide that any enactment contained in this Part of this Act which is specified in the order shall not apply to persons or to employments of such classes as may be prescribed by the order, or shall apply to persons or employments of such classes as may be prescribed by the order subject to such exceptions and modifications as may be so prescribed ;
- (b) to vary or revoke any of the provisions of subsections (1) to (5) of this section, or to add to, delete or vary any of the provisions of Schedule 3 to this Act.

(7) Any order under the last preceding subsection may contain such transitional and other supplemental and incidental provisions as appear to the Minister to be expedient, and may be varied or revoked by a further order under that subsection.

(8) Any power to make an order under this section shall be exercisable by statutory instrument ; but no such order shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

17.—(1) An employee shall not be entitled to a redundancy payment if on the relevant date he is outside Great Britain, unless under his contract of employment he ordinarily worked in Great Britain.

Employment wholly or partly abroad.

(2) An employee who under his contract of employment ordinarily works outside Great Britain shall not be entitled to a redundancy payment unless on the relevant date he is in Great Britain in accordance with instructions given to him by his employer.

(3) Subject to the following provisions of this section, in computing, in relation to an employee, the period specified

PART I in section 8(1) of this Act, or the period specified in paragraph 1 of Schedule 1 to this Act, a week of employment shall not count if—

(a) the employee was employed outside Great Britain during the whole or part of that week, and

(b) no employer's contribution in respect of him was paid in respect of the corresponding contribution week,

unless an employer's contribution in respect of him was payable (though not in fact paid) in respect of the corresponding contribution week.

(4) For the purposes of the application of the last preceding subsection to a week of employment where the corresponding contribution week began before 5th July 1948, an employer's contribution shall be treated as payable as mentioned in that subsection if such a contribution would have been so payable if the statutory provisions relating to national insurance which were in force on 5th July 1948 had been in force in that contribution week.

(5) Where by virtue of subsection (3) of this section a week of employment does not count in computing such a period as is mentioned in that subsection, the continuity of that period shall not be broken by reason only that that week of employment does not count in computing that period.

(6) Any question arising under this section whether an employer's contribution was paid, or was or would have been payable, as mentioned in subsection (3) or subsection (4) of this section, shall be determined by the Minister of Pensions and National Insurance; and the provisions of the National Insurance Act 1946 and any regulations made thereunder as to the determination of questions which under that Act or any such regulations that Minister is empowered to determine (including any such provisions as to the reference of questions for decision, or appeals, to the High Court or the Court of Session) shall apply to the determination of any question by that Minister under this section.

1946 c. 67.

(7) The provisions of this section shall have effect subject to section 20 of this Act in cases to which that section applies.

(8) In this section "employer's contribution" has the same meaning as in the National Insurance Act 1946, "week of employment" means a week ending with Saturday, and "corresponding contribution week", in relation to a week of employment, means a contribution week (within the meaning of the National Insurance Act 1946) of which so much as falls within the period beginning with midnight between Sunday and Monday and ending with Saturday also falls within that week of employment.

18.—(1) On making any redundancy payment, otherwise than in pursuance of a decision of a tribunal which specifies the amount of the payment to be made, the employer shall give to the employee a written statement indicating how the amount of the payment has been calculated. PART I
Written particulars of
redundancy
payment.

(2) Any employer who without reasonable excuse fails to comply with the preceding subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20.

(3) If an employer fails to comply with the requirements of subsection (1) of this section, then (without prejudice to any proceedings for an offence under the last preceding subsection) the employer may by notice in writing to the employee require him to give to the employee a written statement complying with those requirements within such period (not being less than one week beginning with the day on which the notice is given) as may be specified in the notice; and if the employer without reasonable excuse fails to comply with the notice he shall be guilty of an offence under this subsection and liable on summary conviction—

- (a) if it is his first conviction of an offence under this subsection, to a fine not exceeding £20, or
- (b) in any other case, to a fine not exceeding £100.

19.—(1) For the purposes of the application of the provisions of this Part of this Act to an employee who is employed as a domestic servant in a private household, those provisions (except section 13 of this Act) shall apply as if the household were a business and the maintenance of the household were the carrying on of that business by the employer. Domestic
servants.

(2) Without prejudice to section 16(3) of this Act, section 1 of this Act shall not apply to any person in respect of employment as a domestic servant in a private household, where the employer is the father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister of the employee.

20.—(1) Section 17 of this Act shall not apply if the employee is a mariner to whom this section applies. Mariners other
than share
fishermen.

(2) Section 15 of this Act shall not apply to a contract of employment, whether made before or after the passing of this Act, if the employee is a mariner to whom this section applies.

(3) Any reference in this section to a mariner to whom this section applies is a reference to a person who is employed as a master, seaman or apprentice in a British ship and is ordinarily resident in Great Britain.

PART I
Claims for
redundancy
payments.

21. Notwithstanding anything in the preceding provisions of this Part of this Act, an employee shall not be entitled to a redundancy payment unless, before the end of the period of six months beginning with the relevant date,—

- (a) the payment has been agreed and paid, or
- (b) the employee has made a claim for the payment by notice in writing given to the employer, or
- (c) a question as to the right of the employee to the payment, or as to the amount of the payment, has been referred to a tribunal in accordance with regulations made under Part III of this Act.

Implied or
constructive
termination
of contract.

22.—(1) Where in accordance with any enactment or rule of law—

- (a) any act on the part of an employer, or
- (b) any event affecting an employer (including, in the case of an individual, his death),

operates so as to terminate a contract under which an employee is employed by him, that act or event shall for the purposes of this Act be treated as a termination of the contract by the employer, if apart from this subsection it would not constitute a termination of the contract by him.

(2) Where the preceding subsection applies, and the employee's contract of employment is not renewed, and he is not re-engaged under a new contract, as mentioned in section 3(2) of this Act, he shall for the purposes of this Act be taken to be dismissed by reason of redundancy if the circumstances in which the contract is not renewed and he is not re-engaged as mentioned in the said section 3(2), are wholly or mainly attributable to one or other of the facts specified in paragraphs (a) and (b) of section 1(2) of this Act.

(3) For the purposes of the last preceding subsection, section 1(2)(a) of this Act, in so far as it relates to the employer ceasing or intending to cease to carry on the business, shall be construed as if the reference to the employer included a reference to any person to whom, in consequence of the act or event in question, power to dispose of the business has passed.

(4) In this section any reference to section 3(2) of this Act includes a reference to the said section 3(2) as applied by section 13(2) of this Act.

Death of
employer or
of employee.

23. The provisions of Part I of Schedule 4 to this Act shall have effect in relation to the death of an employer; and the provisions of Part II of that Schedule shall have effect in relation to the death of an employee.

24.—(1) The provisions of this section shall have effect where—

PART I

Modification of right to redundancy payment where previous redundancy payment has been paid.

- (a) a redundancy payment is paid to an employee, whether in respect of dismissal or in respect of lay-off or short-time ;
- (b) the contract of employment under which he was employed (in this section referred to as “the previous contract”) is renewed, whether by the same or another employer, or he is re-engaged under a new contract of employment, whether by the same or another employer ; and
- (c) the circumstances of the renewal or re-engagement are such that, in determining for the purposes of section 1(1) of, or Schedule 1 to, this Act whether at any subsequent time he has been continuously employed for the requisite period, or for what period he has been continuously employed, the continuity of his period of employment would, apart from this section, be treated as not having been broken by the termination of the previous contract and the renewal or re-engagement.

(2) Where the conditions mentioned in the preceding subsection are fulfilled, then in determining, for the purposes of section 1(1) of, or Schedule 1 to, this Act, whether at any subsequent time he has been continuously employed for the requisite period, or for what period he has been continuously employed, the continuity of the period of employment shall be treated as having been broken at the date which was the relevant date in relation to the redundancy payment mentioned in paragraph (a) of the preceding subsection, and accordingly no account shall be taken of any time before that date.

(3) For the purposes of this section a redundancy payment shall be treated as having been paid if—

- (a) the whole of the payment has been paid to the employee by the employer, or, in a case where a tribunal has determined that the employer is liable to pay part (but not the whole) of the redundancy payment, that part of the redundancy payment has been paid in full to the employee by the employer, or
- (b) the Minister has paid a sum to the employee in respect of the redundancy payment under section 32 of this Act.

25.—(1) In this Part of this Act “business” includes a trade or profession and includes any activity carried on by a body of persons, whether corporate or unincorporate, and “employee”

Interpretation of Part I, and supplementary provisions.

PART I

means an individual who has entered into or works under (or, in the case of a contract which has been terminated, worked under) a contract with an employer, whether the contract is for manual labour, clerical work or otherwise, is express or implied, oral or in writing, and whether it is a contract of service or of apprenticeship, and "employer" and any reference to employment shall be construed accordingly.

(2) In this Part of this Act any reference to "the relevant date" shall be construed in accordance with section 3(4), section 4(2) or section 6(2) of this Act, as the case may require.

(3) In this Part of this Act "cease" means cease either permanently or temporarily and from whatsoever cause, and "diminish" has a corresponding meaning.

(4) Subject to the next following subsection, any provision in any agreement (whether a contract of employment or not) shall be void in so far as it purports to exclude or limit the operation of any enactment contained in this Part of this Act.

(5) The last preceding subsection shall not apply to—

- (a) any provision in an agreement such as is mentioned in section 11(1) of this Act, if the provision is not to have effect unless an order is made under that section in respect of the agreement, or
- (b) any provision contained in an agreement in accordance with section 15 of this Act.

PART II

REDUNDANCY FUND

Establishment
and
maintenance
of fund.

26.—(1) For the purposes of this Act there shall be established, under the control and management of the Minister, a fund to be called "the Redundancy Fund" (in this Part of this Act referred to as "the fund"), into which there shall be paid all sums received by the Minister under this Part of this Act, and out of which payments shall be made in accordance with the following provisions of this Act.

(2) The Minister shall prepare accounts of the fund in such form as the Treasury may direct, and shall send them to the Comptroller and Auditor General not later than the end of the month of November following the end of the financial year to which the accounts relate; and the Comptroller and Auditor General shall examine and certify the accounts and shall lay copies thereof, together with his report thereon, before Parliament.

(3) Any moneys forming part of the fund may from time to time be paid over to the National Debt Commissioners and by them invested, in accordance with such directions as may be

given by the Treasury, in any securities which are for the time being authorised by Parliament as investments for savings banks funds.

PART II

27.—(1) Every person who, in respect of any contribution week beginning on or after the appointed day, is liable to pay an employer's contribution under section 2(2) of the Act of 1946 in respect of any person over the age of eighteen shall, in respect of that week, be liable also to pay in respect of that person a contribution to be called a "redundancy fund contribution".

Contributions to fund.

(2) Subject to the following provisions of this section, the amount of the redundancy fund contribution which in respect of any person is payable in respect of any contribution week shall be fivepence if that person is a man and twopence if that person is a woman.

(3) The Minister with the consent of the Treasury may by order provide that, subject to such transitional provisions (if any) as may be contained in the order, the last preceding subsection shall have effect as if, for the sums specified in that subsection, there were substituted such other sums as may be specified in the order.

(4) Any order under this section may be varied or revoked by a subsequent order thereunder.

(5) Any power to make orders under this section shall be exercisable by statutory instrument; but no such order shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(6) Redundancy fund contributions shall be paid to the Minister of Pensions and National Insurance, but, subject to the following provisions of this Part of this Act, shall be taken to be so paid as contributions to the fund.

28.—(1) Subject to the provisions of this section, all the provisions of the National Insurance Acts shall have effect (for the purposes of those Acts as well as for the purposes of this Act) in relation to a person who is liable as an employer to pay a redundancy fund contribution in respect of a person for a contribution week,—

Collection of redundancy fund contributions.

(a) as if that contribution and the contribution payable by him for that week in respect of that person under section 2(2) of the Act of 1946 together constituted one combined contribution payable by him under that Act in respect of that person for that week, and

PART II

(b) as if the whole of the combined contribution in question were payable into the National Insurance Fund ;
and in the National Insurance Acts “ contribution ” shall be construed accordingly.

(2) Except in so far as may be otherwise provided by any Order in Council or regulations made under the National Insurance Acts after the passing of this Act, the preceding subsection shall apply in relation to Orders in Council and regulations made, whether before or after the passing of this Act, under any provisions of those Acts to which that subsection applies, as it applies in relation to those provisions.

(3) There shall be excluded from the provisions of the National Insurance Acts which are to have effect as mentioned in subsection (1) of this section the following provisions, namely,—

(a) section 2(3) of the Act of 1946 (which relates to Exchequer supplements to contributions) ;

(b) section 35 of the Act of 1946 (which provides that contributions shall be paid into the National Insurance Fund) ; and

1959 c. 47.

(c) section 7(3) of the National Insurance Act 1959 (which relates to payments in lieu of contributions).

(4) Nothing in subsection (1) or subsection (2) of this section shall be construed—

(a) as affecting the rate of any contributions under section 2(2) of the Act of 1946, or

(b) as excepting any person who pays, or is liable to pay, employer's contributions under the National Insurance Acts, or as conferring any power to except any such person, from liability to pay redundancy fund contributions, or

(c) as conferring any power to modify the rates of redundancy fund contributions in relation to any class of persons.

(5) References in any enactment, other than the National Insurance Acts, to contributions under those Acts, or to sums due to or payable into the National Insurance Fund, shall be construed as including references to redundancy fund contributions.

(6) Notwithstanding anything in the preceding provisions of this section, where a person has paid in error—

(a) contributions under the National Insurance Acts, and

(b) redundancy fund contributions,

and he or any other person has received any benefit under those Acts which, under any provision of those Acts or of regulations

made thereunder, may be deducted from any repayment of the contributions paid in error under those Acts, nothing in those Acts or those regulations shall be construed as authorising that benefit to be deducted from any repayment of the redundancy fund contributions paid in error.

PART II

(7) In section 3(2) of the National Insurance Act 1959 (which relates to the collection of contributions) at the end of paragraph (a) there shall be inserted the words “ or the Redundancy Payments Act 1965 ”. 1959 c. 47.

29.—(1) The Minister of Pensions and National Insurance shall, out of the moneys received by him on account of redundancy fund contributions, retain such sums as the Treasury may from time to time determine in respect of any expenses incurred by him or any other government department (except the Postmaster General) which are attributable to the collection and application of those contributions ; and all sums so retained by him shall be paid into the Exchequer. Application of redundancy fund contributions.

(2) In estimating the expenses referred to in subsection (1) of this section, there shall be included—

(a) any amounts in respect of the use of premises belonging to the Crown or in respect of the accruing liability for pension benefits which, under section 38(2) of the Act of 1946 or under section 11 of the Family Allowances and National Insurance Act 1961, fall to be included in estimating, for the purposes of the said section 38(2), the expenses of government departments in carrying the National Insurance Acts into effect, and 1961 c. 6. (10 & 11 Eliz. 2.)

(b) the amount of any sums paid by the Minister of Pensions and National Insurance to the Postmaster General under section 19(2)(b) of the Post Office Act 1961 which, under section 13 of the Family Allowances and National Insurance Act 1961, are to be treated as expenses of that Minister in carrying the National Insurance Acts into effect, 1961 c. 15.

in so far as those amounts are determined by the Treasury to be attributable to the collection and application of redundancy fund contributions.

(3) For the purposes of this section, of section 19(2)(b) of the Post Office Act 1961 and of section 13 of the Family Allowances and National Insurance Act 1961, work done by the Postmaster General in the execution of section 28 of this Act shall be treated as done in the execution of the National Insurance Acts.

PART II

1961 c. 6.
(10 & 11
Eliz. 2.)

(4) Any expenses, or amounts included in estimating expenses, in so far as, for the purposes of subsection (1) of this section, they are treated as attributable to the collection and application of redundancy fund contributions, shall be left out of account under section 38 of the Act of 1946 or, as the case may be, section 11 of the Family Allowances and National Insurance Act 1961.

(5) The Minister of Pensions and National Insurance shall account to the Minister for such sums as the Minister of Pensions and National Insurance may from time to time estimate, in such manner as the Treasury may direct, to represent the redundancy fund contributions received by him under section 27(6) of this Act, subject to the deduction of the sums retained by the Minister of Pensions and National Insurance under subsection (1) of this section; and the Minister of Pensions and National Insurance shall pay to the Minister, at such times as the Treasury may direct, the sums for which the Minister of Pensions and National Insurance is required to account to the Minister in accordance with this subsection.

(6) In this section references to the application of redundancy fund contributions do not include the payment of any sums out of the fund.

Rebates to
employers in
respect of
redundancy
payments and
equivalent
payments.

30.—(1) Subject to the provisions of this section, the Minister shall make a payment (in this Part of this Act referred to as a “rebate”) out of the fund to any employer who—

- (a) is liable under Part I of this Act to pay, and has paid, a redundancy payment to an employee, or
- (b) under an agreement in respect of which an order is in force under section 11 of this Act, is liable to make, and has made, a payment to an employee on the termination of his contract of employment, or
- (c) by virtue of any award made by the Industrial Court as mentioned in section 12(2) of this Act, in relation to an agreement in respect of which such an order is in force, is liable to make, and has made, a payment to an employee on the termination of his contract of employment.

(2) No rebate shall be payable by virtue of this section in a case falling within paragraph (b) or paragraph (c) of the preceding subsection if the employee’s right to the payment referred to in that paragraph arises by virtue of a period of employment (computed in accordance with the provisions of the agreement in question) which is less than one hundred and four weeks.

(3) The amount of any rebate shall (subject to subsection (6) of this section) be calculated in accordance with Schedule 5 to this Act.

(4) The Minister shall make provision by regulations as to the making of claims for rebates ; and any such regulations may in particular—

PART II

- (a) require any claim for a rebate to be made at or before a time prescribed by the regulations ;
- (b) in such cases as may be so prescribed, require prior notice that such a claim may arise to be given at or before a time so prescribed, so however that, where the claim would relate to an employer's payment in respect of dismissal, the regulations shall not require the notice to be given more than four weeks before the date on which the termination of the contract of employment takes effect ; and
- (c) for the purpose of determining the right of any person to, and the amount of, any rebate, require a person, at any time when he makes a claim or gives prior notice as mentioned in paragraph (a) or paragraph (b) of this subsection, to provide such evidence and such other information, and to produce for examination on behalf of the Minister documents in his custody or under his control of such descriptions, as may be determined in accordance with the regulations.

(5) In relation to any case where, under any provision contained in Part I of this Act, a tribunal determines that an employer is liable to pay part (but not the whole) of a redundancy payment, the reference in subsection (1)(a) of this section to a redundancy payment shall be construed as a reference to that part of the redundancy payment.

(6) If any employer who, in accordance with subsection (1) of this section, would be entitled to a rebate fails to give prior notice as required by any such regulations in accordance with paragraph (b) of subsection (4) of this section and it appears to the Minister that he has so failed without reasonable excuse, the Minister (subject to section 34 of this Act) may reduce the amount of the rebate by such proportion (not exceeding one-tenth) as appears to the Minister to be appropriate in the circumstances.

(7) Any person who—

- (a) in providing any information required by regulations under this section, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, or
- (b) produces for examination in accordance with any such regulations a document which to his knowledge has been wilfully falsified,

shall be guilty of an offence.

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(8) A person guilty of an offence under the last preceding subsection shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding three months or both, or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or both.

Payments out of fund to employers in other cases.

31.—(1) The Minister may make payments out of the fund to employers who are liable to pay redundancy fund contributions in respect of employees to whom this section applies.

(2) This section applies to employees to whom, by virtue of any provisions of section 16 of this Act, other than subsections (3) and (4) of that section, section 1 of this Act does not apply.

(3) The Minister may determine the classes of employees to whom this section applies in respect of whom payments are to be made by virtue of this section, and, with the approval of the Treasury, may determine the amounts of the payments which may be so made in respect of any class of such employees.

(4) The payments made to an employer by virtue of this section shall not, in respect of any period, exceed the amount appearing to the Minister to be the aggregate amount paid by that employer in respect of that period by way of redundancy fund contributions in respect of employees to whom this section applies.

Payments out of fund to employees.

32.—(1) Where an employee claims that his employer is liable to pay to him an employer's payment, and either—

(a) that the employee has taken all reasonable steps (other than legal proceedings) to recover the payment from the employer and that the employer has refused or failed to pay it, or has paid part of it and has refused or failed to pay the balance, or

(b) that the employer is insolvent and that the whole or part of the payment remains unpaid,

the employee may apply to the Minister for a payment under this section.

(2) If on an application under this section the Minister is satisfied—

(a) that the employee is entitled to the employer's payment ;
 (b) that either the condition specified in paragraph (a) or the condition specified in paragraph (b) of the preceding subsection is fulfilled ; and

(c) that, in a case where the employer's payment is such a payment as is mentioned in paragraph (b) or paragraph (c) of section 30(1) of this Act, the employee's right to the payment arises by virtue of a period of

employment (computed in accordance with the provisions of the agreement in question) which is not less than one hundred and four weeks,

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the Minister shall pay to the employee out of the fund a sum calculated in accordance with Schedule 6 to this Act, reduced by so much (if any) of the employer's payment as has been paid.

(3) Where the Minister pays a sum to an employee in respect of an employer's payment—

- (a) all rights and remedies of the employee with respect to the employer's payment, or (if the Minister has paid only part of it) all his rights and remedies with respect to that part of the employer's payment, shall be transferred to and vest in the Minister; and
- (b) any decision of a tribunal requiring the employer's payment to be paid to the employee shall have effect as if it required that payment, or, as the case may be, that part of it which the Minister has paid, to be paid to the Minister;

and any moneys recovered by the Minister by virtue of this subsection shall be paid into the fund.

(4) Where the Minister pays a sum under this section in respect of an employer's payment, then (subject to the following provisions of this subsection) section 30 of this Act shall apply as if that sum had been paid by the employer to the employee on account of that payment; but if, in a case falling within paragraph (a) of subsection (1) of this section, it appears to the Minister that the refusal or failure of the employer to pay the employer's payment, or part of it, as the case may be, was without reasonable excuse, the Minister (subject to section 34 of this Act) may withhold any rebate to which the employer would otherwise be entitled in respect of the employer's payment, or may reduce the amount of any such rebate to such extent as the Minister considers appropriate.

(5) For the purposes of this section an employer shall be taken to be insolvent if—

- (a) he has become bankrupt or has made a composition or arrangement with his creditors;
- (b) he has died and an order has been made under section 130 of the Bankruptcy Act 1914 for the administration of his estate according to the law of bankruptcy, or by virtue of an order of the court his estate is being administered in accordance with the rules set out in Part I of Schedule 1 to the Administration of Estates Act 1925; or

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(c) where the employer is a company, a winding-up order has been made with respect to it or a resolution for voluntary winding-up has been passed with respect to it, or a receiver or manager of its undertaking has been duly appointed, or possession has been taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company comprised in or subject to the charge.

(6) In the application of this section to Scotland, for paragraphs (a) and (b) of the last preceding subsection there shall be substituted the following paragraphs:—

“(a) an award of sequestration has been made on his estate, or he has executed a trust deed for his creditors or entered into a composition contract; or

(b) he has died and a judicial factor appointed under section 163 of the Bankruptcy (Scotland) Act 1913 is required by the provisions of that section to divide his insolvent estate among his creditors”.

1913 c. 20.

(7) In this section “legal proceedings” does not include any proceedings before a tribunal, but includes any proceedings to enforce a decision or award of a tribunal.

Supplementary provisions as to applications under s. 32.

33.—(1) Where an employee makes an application to the Minister under the last preceding section, the Minister may, by notice in writing given to the employer, require the employer to provide the Minister with such information, and to produce for examination on behalf of the Minister documents in his custody or under his control of such descriptions, as the Minister may reasonably require for the purpose of determining whether the application is well-founded.

(2) If any person on whom a notice is served under this section fails without reasonable excuse to comply with a requirement imposed by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(3) Any person who—

(a) in providing any information required by a notice under this section, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, or

(b) produces for examination in accordance with any such notice a document which to his knowledge has been wilfully falsified,

shall be guilty of an offence under this subsection.

(4) A person guilty of an offence under the last preceding subsection shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding three months or both, or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or both.

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34.—(1) Subsections (2) and (3) of this section shall have effect where—

References and appeals to tribunal relating to payments out of fund.

(a) a claim is made for a rebate on the grounds that an employer is liable to pay, and has paid, an employer's payment, or prior notice that such a claim may arise is given in accordance with regulations made under section 30(4)(b) of this Act, or

(b) an application is made to the Minister for a payment under section 32 of this Act, where it is claimed that an employer is liable to pay an employer's payment.

(2) Where any such claim or application is made or such prior notice is given, there shall be referred to a tribunal, in accordance with regulations made under Part III of this Act,—

(a) any question as to the liability of the employer to pay the employer's payment ;

(b) in a case falling within paragraph (a) of the preceding subsection, any question as to the amount of the rebate payable in accordance with Schedule 5 to this Act ;

(c) in a case falling within paragraph (b) of that subsection, any question as to the amount of the sum payable in accordance with Schedule 6 to this Act ;

and any question referred to a tribunal by virtue of this subsection shall be determined by the tribunal in accordance with the regulations.

(3) Section 9(2) of this Act shall apply for the purposes of any reference under the preceding provisions of this section as it applies for the purposes of references under Part I of this Act.

(4) In any case where the Minister withholds, or reduces the amount of, a rebate in pursuance of section 30(6) or section 32(4) of this Act, the employer may appeal to a tribunal ; and if on any such appeal the tribunal is satisfied—

(a) in a case where the rebate was withheld, that it should be paid in full, or should be reduced instead of being withheld, or

(b) in a case where the rebate was reduced, that it should not be reduced, or should be reduced by a smaller or larger proportion than that which the Minister has applied,

the tribunal shall determine accordingly, and the Minister shall comply with any such determination of a tribunal.

PART II
Advances
out of
Consolidated
Fund.

35.—(1) Subject to the following provisions of this section, the Treasury may from time to time advance out of the Consolidated Fund to the Minister, for the purposes of the fund, such sums as the Minister may request; and any sums advanced to the Minister under this section shall be paid into the fund.

(2) The aggregate amount outstanding by way of principal in respect of sums advanced to the Minister under this section shall not at any time exceed £8 million, or such larger sum, not exceeding £20 million, as the Minister may by order made with the consent of the Treasury determine.

1939 c. 117.

(3) The Treasury may, for the purpose of providing any sums to be advanced under this section out of the Consolidated Fund or any part of such sums, or of providing for the replacement of sums so advanced, raise money in any manner in which they are authorised to raise money under the National Loans Act 1939; and any securities created and issued for that purpose shall be deemed for all purposes to have been created and issued under that Act.

(4) Any sums advanced to the Minister under this section shall be repaid by the Minister out of the fund into the Exchequer in such manner and at such times, and with interest thereon at such rate, as the Treasury may direct.

(5) All sums paid into the Exchequer under the last preceding subsection shall be issued out of the Consolidated Fund at such times as the Treasury may direct, and shall be applied by the Treasury as follows, that is to say—

- (a) so much of those sums as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit; and
- (b) so much of those sums as represents interest shall be applied towards meeting such part of the annual charges for the National Debt as represents interest.

(6) Any order under this section may be revoked by a subsequent order thereunder.

(7) Any power to make orders under this section shall be exercisable by statutory instrument; but no such order shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

Interpretation
of Part II,
and
application
to Crown.

36.—(1) In this Part of this Act “contribution week” and “employer’s contribution” and (except in section 30 and sections 32 to 34 of this Act) “employer” have the same meanings as in the National Insurance Acts; “the National Insurance Acts” means the National Insurance Acts 1946 to 1964 and includes any enactment, whether passed before or after this

Act, which, by virtue of that enactment or any other enactment, may be cited together with those Acts in a citation which uses the phrase "the National Insurance Acts"; and "the Act of 1946" means the National Insurance Act 1946.

PART II

1946 c. 67.

(2) It is hereby declared that section 56 of the Act of 1946 (Crown servants) and any Order in Council made under that section shall have effect in accordance with subsections (1) and (2) of section 28 of this Act.

(3) If the employer's contribution payable in respect of any person under section 2(2) of the Act of 1946 is reduced, in respect of any contribution week, by virtue of regulations under section 57(3)(c) of that Act (which relates to Her Majesty's forces), nothing in this Part of this Act shall require the payment, in respect of that contribution week, of a redundancy fund contribution in respect of that person.

(4) Section 78(4) of the Act of 1946 (which makes provision for determining the age of any person for the purposes of that Act) and any regulations made thereunder shall have effect for the purposes of section 27 of this Act as they have effect for the purposes of that Act.

(5) In this Part of this Act "employee" has the same meaning as in Part I of this Act, and in section 30 and sections 32 to 34 of this Act "employer" has the same meaning as in Part I of this Act.

(6) In this Part of this Act "employer's payment" means any payment falling within paragraph (a), paragraph (b) or paragraph (c) of section 30(1) of this Act.

PART III

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

37.—(1) Sub-paragraph (2) of paragraph 7 of Schedule 1 to the Contracts of Employment Act 1963 (which preserves continuity of employment where an employee takes part in a strike, except where in doing so he breaks his contract of employment) shall have effect, subject to the following provisions of this section, with the omission of the words from "except" to the end of the sub-paragraph.

Continuity of employment in case of strike.
1963 c. 49.

(2) For the purpose of computing a period of continuous employment in accordance with Schedule 1 to this Act, the amendment made by the preceding subsection shall have effect in relation to any week beginning after the commencement of the Contracts of Employment Act 1963, whether before or after the passing of this Act.

(3) Nothing in this section shall affect the operation of section 1 or section 2 of the Contracts of Employment Act 1963 in relation to any notice given before the passing of this Act, or given after the passing of this Act but before the appointed day

PART III
Particulars of
terms of
employment
1963 c. 49

38.—(1) Subsections (1) to (4) of section 5 of the Contracts of Employment Act 1963 (which impose penalties in connection with the requirements of section 4 of that Act) shall cease to have effect, except in relation to—

- (a) any failure of an employer to comply with any of the requirements of section 4 of that Act within the time limited by that section, where that time expires before the appointed day, and
- (b) anything included in a statement under section 4 of that Act, or included in any document prepared for the purposes of subsection (5) or subsection (6) of the said section 4, where the statement is given or the document is prepared, as the case may be, before the appointed day.

(2) The following section shall be inserted in the Contracts of Employment Act 1963 after section 4 of that Act:—

4A.—(1) Where an employer is required by section 4 of this Act to give to an employee a written statement under subsection (1) or subsection (4) of that section, and—

- (a) the employer does not give such a statement to the employee within the time limited by that section, and
- (b) that time expires on or after the appointed day,

the employee may require a reference to be made to a tribunal to determine what particulars ought to have been included or referred to in a statement given so as to comply with the requirements of that section.

(2) Where a statement purporting to be a statement under subsection (1) or subsection (4) of section 4 of this Act is given by an employer to an employee on or after the appointed day, and a question arises as to the particulars which ought to have been included or referred to in the statement so as to comply with the requirements of that section, either the employer or the employee may require that question to be referred to a tribunal.

(3) Where a statement under subsection (1) or subsection (4) of section 4 of this Act given by an employer to an employee (whether before, on, or after the appointed day) contains such an indication as is mentioned in subsection (6) of that section, and—

- (a) any particulars purporting to be particulars of a change to which that indication relates are

entered up or recorded on or after the appointed day in accordance with that indication, and

PART III

(b) a question arises as to the particulars which ought to have been so entered up or recorded, either the employer or the employee may require that question to be referred to a tribunal.

(4) Where, on a reference under subsection (1) of this section, a tribunal determines particulars as being those which ought to have been included or referred to in a statement, the employer shall be deemed to have given to the employee a statement in which those particulars were included, or referred to, as specified in the decision of the tribunal.

(5) On determining a reference under subsection (2) of this section, a tribunal may either confirm the particulars as included or referred to in the statement given by the employer, or may amend those particulars, or may substitute other particulars for them, as the tribunal may determine to be appropriate; and the statement shall be deemed to have been given by the employer to the employee in accordance with the decision of the tribunal.

(6) On determining a reference under subsection (3) of this section, a tribunal may either confirm the particulars to which the reference relates, or may amend those particulars, or may substitute other particulars for them, as the tribunal may determine to be appropriate; and particulars of the change to which the reference relates shall be deemed to have been entered up or recorded in accordance with the decision of the tribunal.

(7) Any matter required to be referred to a tribunal in pursuance of this section shall be referred to, and determined by, a tribunal in accordance with regulations made under Part III of the Redundancy Payments Act 1965.

(8) In this section 'tribunal' has the same meaning as in the Redundancy Payments Act 1965, and 'the appointed day' means the day which is the appointed day for the purposes of subsection (1) of section 38 of that Act.

39. In Schedule 2 to the Contracts of Employment Act 1963, after sub-paragraph (4) of paragraph 2 there shall be inserted the following sub-paragraphs:—

Amendment of
Schedule 2 to
Contracts of
Employment
Act 1963.

“(4A) Where, in arriving at the said average hourly rate of remuneration, account has to be taken of remuneration payable for, or apportionable to, work done in hours other

1963 c. 49.

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than normal working hours, and the amount of that remuneration was greater than it would have been if the work had been done in normal working hours, account shall be taken of that remuneration as if—

- (a) the work had been done in normal working hours, and
- (b) the amount of that remuneration had been reduced accordingly.

(4B) For the purposes of the application of the last preceding sub-paragraph to a case falling within paragraph 1(2) of this Schedule, the last preceding sub-paragraph shall be construed as if, for the words 'had been done in normal working hours', in each place where those words occur, there were substituted the words 'had been done in normal working hours falling within the number of hours without overtime (as defined by paragraph 1 of this Schedule)'".

Strike during
currency of
employer's
notice to
terminate
contract.

40.—(1) The provisions of this section shall have effect where, after an employer has given notice to an employee to terminate his contract of employment (in this section referred to as a "notice of termination")—

- (a) the employee begins to take part in a strike of employees of the employer, and
- (b) the employer serves on him a notice in writing (in this section referred to as a "notice of extension") requesting him to agree to extend the contract of employment beyond the time of expiry by an additional period comprising as many available days as the number of working days lost by striking (in this section referred to as "the proposed period of extension").

(2) A notice of extension shall indicate the reasons for which the employer makes the request contained in the notice, and shall state that unless either—

- (a) the employee complies with the request, or
- (b) the employer is satisfied that, in consequence of sickness, injury or otherwise, he is unable to comply with it, or that (notwithstanding that he is able to comply with it) in the circumstances it is reasonable for him not to do so,

the employer will contest any liability to pay him a redundancy payment in respect of the dismissal effected by the notice of termination.

(3) For the purposes of this section an employee shall be taken to comply with the request contained in a notice of extension if,

but only if, on each available day within the proposed period of extension, he attends at his proper or usual place of work and is ready and willing to work, whether he has signified his agreement to the request in any other way or not.

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(4) Where an employee on whom a notice of extension has been served—

- (a) complies with the request contained in the notice, or
- (b) does not comply with it, but attends at his proper or usual place of work and is ready and willing to work on one or more (but not all) of the available days within the proposed period of extension,

the notice of termination shall have effect, and shall be deemed at all material times to have had effect, as if the period specified in it had (in a case falling within paragraph (a) of this subsection) been extended beyond the time of expiry by an additional period equal to the proposed period of extension or (in a case falling within paragraph (b) of this subsection) had been extended beyond the time of expiry up to the end of the day (or, if more than one, the last of the days) on which he so attends and is ready and willing to work; and section 2 of, and Schedule 2 to, the Contracts of Employment Act 1963 shall apply accordingly as if the period of notice required by section 1(1) of that Act were extended to a corresponding extent. 1963 c. 49.

(5) Subject to the next following subsection, if an employee on whom a notice of extension is served in pursuance of subsection (1) of this section does not comply with the request contained in the notice, he shall not be entitled to a redundancy payment by reason of the dismissal effected by the notice of termination, unless the employer agrees to pay such a payment to him notwithstanding that the request has not been complied with.

(6) Where a notice of extension has been served, and on a reference to a tribunal it appears to the tribunal that the employee has not complied with the request contained in the notice and the employer has not agreed to pay a redundancy payment in respect of the dismissal in question, but that the employee was unable to comply with the request, or it was reasonable for him not to comply with it, as mentioned in subsection (2)(b) of this section, the tribunal may determine that the employer shall be liable to pay to the employee—

- (a) the whole of any redundancy payment to which the employee would have been entitled apart from the last preceding subsection, or
- (b) such part of any such redundancy payment as the tribunal thinks fit.

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(7) The service of a notice of extension, and any extension, by virtue of subsection (4) of this section, of the period specified in a notice of termination,—

- (a) shall not affect any right either of the employer or of the employee to terminate the contract of employment (whether before, at or after the time of expiry) by a further notice or without notice, and
- (b) shall not affect the operation of Part I of this Act in relation to any such termination of the contract of employment.

(8) In this section any reference to the number of working days lost by striking is a reference to the number of working days in the period beginning with the date of service of the notice of termination and ending with the time of expiry which are days on which the employee in question takes part in a strike of employees of the employer.

(9) In this section “time of expiry”, in relation to a notice of termination, means the time at which the notice would expire apart from this section, “working day”, in relation to an employee, means a day on which, in accordance with his contract of employment, he is normally required to work, “available day”, in relation to an employee, means a working day beginning at or after the time of expiry which is a day on which he is not taking part in a strike of employees of the employer, and “available day within the proposed period of extension” means an available day which begins before the end of that period.

Payments equivalent to rebates in respect of certain classes of employees.

41.—(1) The provisions of this section shall have effect with respect to employment of any of the following descriptions, that is to say—

- (a) any such employment as is mentioned in paragraph (a), paragraph (b) or paragraph (c) of subsection (4) of section 16 of this Act (whether as originally enacted or as modified by any order under that section);
- (b) any employment remunerated out of the revenues of the Duchy of Lancaster or the Duchy of Cornwall;
- (c) any employment remunerated out of the Queen’s Civil List;
- (d) any employment remunerated out of Her Majesty’s Privy Purse.

(2) Where the Minister is satisfied that a payment has been, or will be, made in respect of the termination of any person’s employment of any description specified in the preceding subsection, and that the payment has been, or will be, so made to or in respect of him—

- (a) in accordance with any provision of the Superannuation Acts, or

(b) in accordance with any such arrangements as are mentioned in the next following subsection,

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the Minister shall pay the appropriate sum out of the Redundancy Fund to the appropriate fund or authority.

(3) The arrangements referred to in paragraph (b) of the last preceding subsection are any arrangements made with the approval of the Treasury for securing that payments by way of compensation for loss of any such employment as is mentioned in subsection (1) of this section will be made—

(a) in circumstances which in the opinion of the Treasury correspond (subject to the appropriate modifications) to those in which a right to a redundancy payment would have accrued if section 1 of this Act had applied, and

(b) on a scale which in the opinion of the Treasury, taking into account any sums which are payable in accordance with the Superannuation Acts to or in respect of the person losing the employment in question, corresponds (subject to the appropriate modifications) to that on which a redundancy payment would have been payable if section 1 of this Act had applied.

(4) For the purposes of subsection (2) of this section the appropriate sum is the sum appearing to the Minister to be equal to the amount of the rebate which would have been payable under Part II of this Act if such a right as is mentioned in paragraph (a) of the last preceding subsection had accrued, and such a redundancy payment as is mentioned in paragraph (b) of the last preceding subsection had been payable and had been paid.

(5) Any accounts prepared by the Minister under section 26(2) of this Act shall show as a separate item the aggregate amount of sums paid under subsection (2) of this section during the period to which the accounts relate.

(6) In this section “the Superannuation Acts” means the Superannuation Acts 1834 to 1965 and any Act amending those Acts, whether passed before or after the passing of this Act, and “the appropriate fund or authority”—

(a) in relation to employment of any description falling within paragraph 7 of subsection (1) of section 7 of the Superannuation (Amendment) Act 1965 (whether as 1965 c. 10. originally enacted or as modified by any order under that section), means the fund out of which, or the body out of whose revenues, the employment is remunerated;

(b) in relation to any employment remunerated out of the Post Office Fund, means that fund;

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- (c) in relation to any employment remunerated out of the revenues of the Duchy of Lancaster, means the Chancellor of the Duchy, and, in relation to any employment remunerated out of the revenues of the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints ;
- (d) in relation to any employment remunerated out of the Queen's Civil List or out of Her Majesty's Privy Purse, means the Civil List or the Privy Purse, as the case may be ; and
- (e) in any other case, means the Exchequer.

References to tribunal as to payments to certain employees.

42.—(1) This section applies to any such payment as is mentioned in subsection (3) of the last preceding section which is payable in accordance with any such arrangements as are mentioned in that subsection.

(2) Where the terms and conditions (whether constituting a contract of employment or not) on which any person is employed in any such employment as is mentioned in subsection (1) of the last preceding section include provision—

- (a) for the making of any payment to which this section applies, and
- (b) for referring to a tribunal any such question as is mentioned in the following provisions of this subsection,

any question as to the right of any person to such a payment in respect of that employment, or as to the amount of such a payment shall, in accordance with regulations made under section 46 of this Act, be referred to and determined by a tribunal.

Employment under Government of overseas territory.

1946 c. 67.

43.—(1) Where the Minister is satisfied that, in accordance with any such arrangements as are mentioned in the next following subsection, a payment has been, or will be, made in respect of the termination of a person's employment in any capacity under the Government of an overseas territory (in this section referred to as "the relevant Government"), and that employer's contributions within the meaning of the National Insurance Act 1946 were paid in respect of the whole or part of the period during which that person was in that employment, the Minister shall pay the appropriate sum out of the Redundancy Fund to such fund or authority as may be designated in that behalf by the relevant Government.

(2) The arrangements referred to in the preceding subsection are any arrangements made by or on behalf of the relevant Government for securing that payments by way of compensation

for loss of employment in the capacity in question will be made—

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- (a) in circumstances which in the opinion of the Minister correspond (subject to the appropriate modifications) to those in which a right to a redundancy payment would have accrued if section 1 of this Act had applied, and
- (b) on a scale which in the opinion of the Minister corresponds (subject to the appropriate modifications) to that on which a redundancy payment would have been payable if that section had applied.

(3) For the purposes of subsection (1) of this section the appropriate sum (subject to the next following subsection) is the sum appearing to the Minister to be equal to the amount of the rebate which would have been payable under Part II of this Act if such a right as is mentioned in paragraph (a) of the last preceding subsection had accrued, and such a redundancy payment as is mentioned in paragraph (b) of the last preceding subsection had been payable and had been paid.

(4) Where it appears to the Minister that such contributions as are mentioned in subsection (1) of this section were paid in respect of part (but not the whole) of the period of employment in question, the rebate which would have been payable as mentioned in the last preceding subsection shall be calculated as if the employment had been limited to that part of the period.

(5) Any accounts prepared by the Minister under section 26(2) of this Act shall show as a separate item the aggregate amount of sums paid under subsection (1) of this section during the period to which the accounts relate.

(6) In this Act “overseas territory” means any territory or country outside the United Kingdom; and any reference to the Government of an overseas territory includes a reference to a Government constituted for two or more overseas territories and to any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more such territories.

44.—(1) On and after the appointed day there shall be referred to and determined by a tribunal any question which by any statutory provision is directed (in whatsoever terms) to be determined by a referee or board of referees constituted under any of the statutory provisions specified in Schedule 7 to this Act, or which is so directed to be determined in the absence of agreement to the contrary. Transfer of jurisdiction to tribunals.

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(2) The transfer of any jurisdiction by this section shall not affect the principles on which any question is to be determined or the persons on whom the determination is binding, or any provision which requires particular matters to be expressly dealt with or embodied in the determination, or which relates to evidence.

Levies under
Industrial
Training
Act 1964.
1964 c. 16.

45. In subsection (2) of section 12 of the Industrial Training Act 1964 (which provides that, on an appeal against an assessment to a levy under that Act, the tribunal may rescind or reduce the assessment, but must otherwise confirm it) after the word "but" there shall be inserted the words "(subject to subsection (2A) of this section)"; and at the end of that subsection there shall be inserted the following subsection—

"(2A) If, on an appeal, it appears to such a tribunal that the appellant ought to have been assessed to the levy in a larger amount, the tribunal may increase the assessment accordingly."

Procedure of
tribunals.

46.—(1) The Minister shall by regulations make such provision as appears to him to be necessary or expedient with respect to—

(a) proceedings in pursuance of appeals under section 12 of the Industrial Training Act 1964;

(b) proceedings in pursuance of references or appeals under Part I or Part II or section 40 or section 42 of this Act;

1963 c. 49.

(c) proceedings in pursuance of section 4A of the Contracts of Employment Act 1963;

(d) proceedings in pursuance of references under any statutory provision as modified by section 44 of this Act; and

(e) proceedings to determine any question which, by or under any statutory provision passed or made after the passing of this Act, is directed to be referred to and determined by a tribunal as defined by this Act;

1950 c. 27.

and the Arbitration Act 1950 shall not apply to any such proceedings.

(2) The regulations to be made under this section may, in particular, include provision—

(a) for determining by which tribunal any appeal or question shall be determined;

(b) for treating the Minister (either generally or in such circumstances as may be prescribed by the regulations)

- as a party to any such proceedings, where he would not otherwise be a party to them, and entitling him to appear and to be heard accordingly ;
- (c) for requiring persons to attend to give evidence and produce documents, and for authorising the administration of oaths to witnesses ;
 - (d) for granting to any person such discovery or inspection of documents as might be granted by a county court in England or Wales, or, in Scotland, for granting to any person such recovery or inspection of documents as might be granted by the sheriff ;
 - (e) for prescribing the procedure to be followed on any appeal or reference or other proceedings before a tribunal ;
 - (f) for the appointment of one or more assessors for the purposes of any such proceedings as are mentioned in paragraph (d) or paragraph (e) of the preceding subsection, where the statutory provision in question provides for one or more assessors to be appointed ;
 - (g) for the award of costs or expenses, including any allowances payable under section 12(3) of the Industrial Training Act 1964 other than allowances payable to members of tribunals or assessors ; 1964 c. 16.
 - (h) for taxing or otherwise settling any such costs or expenses (and, in particular, in England and Wales, for enabling such costs to be taxed in the county court) and for the enforcement of any such award as is mentioned in the last preceding paragraph ; and
 - (i) for the registration and proof of decisions of tribunals.

(3) Any sum payable in pursuance of a decision of a tribunal in England or Wales which has been registered in accordance with the regulations shall, if a county court so orders, be recoverable by execution issued from the county court or otherwise as if payable under an order of that court ; and any award of a tribunal in Scotland may be registered for execution in the Books of Council and Session, and may be enforced accordingly.

(4) Any person who without reasonable excuse fails to comply with any requirement imposed by regulations under this section in accordance with paragraph (c) or paragraph (d) of subsection (2) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 or imprisonment for a term not exceeding three months or both.

(5) In section 12(3) of the Industrial Training Act 1964 (which enables the Minister to pay fees and allowances to members of tribunals, and allowances to persons giving evidence before

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tribunals) after the words “ regulations under this section ” there shall be inserted the words “ and to any assessors appointed for the purposes of proceedings before such tribunals ”; the words “ and to persons giving evidence before such tribunals such allowances ” shall be omitted; and at the end of the said section 12(3) there shall be inserted the words “ and may out of moneys so provided pay to any other persons such allowances as he may with the consent of the Treasury determine for the purposes of, or in connection with, their attendance at such tribunals ”.

(6) Any sum recovered by the Minister in pursuance of any such award as is mentioned in subsection (2)(g) of this section, where the award was made in proceedings in pursuance of a reference or appeal under Part I or Part II or section 40 or section 42 of this Act, shall be paid into the Redundancy Fund.

1964 c. 16.

(7) In subsection (1) of section 12 of the Industrial Training Act 1964, the words from “ and such regulations ” to the end of the subsection shall cease to have effect; but, in so far as any regulations made under that section before the passing of this Act contain any such provision as is referred to in paragraph (a) or paragraph (b) of that subsection, those regulations shall have effect as if made under this section, and may be varied or revoked accordingly.

Statutory
compensation
schemes.

47.—(1) This section applies to any statutory provision (not contained in this Act) which is in force immediately before the appointed day, whereby the holders of such situations, places or employments as are specified in that provision are, or may become, entitled to compensation for loss of employment, or for loss or diminution of emoluments or of pension rights, in consequence of the operation of any other statutory provision referred to therein.

(2) The Minister may make provision by regulations for securing that where apart from this section a person is entitled to compensation under a statutory provision to which this section applies, and the circumstances are such that he is also entitled to a redundancy payment, the amount of the redundancy payment shall be set off against the compensation to which he would be entitled apart from this section; and any statutory provision to which any such regulations apply shall have effect subject to the regulations.

Associated
companies.

48.—(1) Where the employer is a company, any reference in Part I of this Act to re-engagement by the employer shall be construed as a reference to re-engagement by that company or by any associated company, and any reference in that Part of this Act to an offer made by the employer shall be construed as including a reference to an offer made by an associated company.

(2) The preceding subsection shall not affect the operation of section 13 of this Act in a case where the previous owner and the new owner (as defined by that section) are associated companies; and where that section applies, the preceding subsection shall not apply.

(3) Where an employee is dismissed by his employer, and the employer is a company (in this subsection referred to as "the employing company") which has one or more associated companies, then if—

(a) neither of the conditions specified in paragraphs (a) and (b) of section 1(2) of this Act is fulfilled, but

(b) one or other of those conditions would be fulfilled if the business of the employing company and the business of the associated company (or, if more than one, each of the associated companies) were treated as together constituting one business,

that condition shall for the purposes of Part I of this Act be taken to be fulfilled in relation to the dismissal of the employee.

(4) For the purposes of this section two companies shall be taken to be associated companies if one is a subsidiary of the other, or both are subsidiaries of a third company, and "associated company" shall be construed accordingly.

(5) In this section "company" includes any body corporate, and "subsidiary", except in relation to the bodies specified in the next following subsection, has the same meaning as, by virtue of section 154 of the Companies Act 1948, it has for 1948 c. 38. the purposes of that Act.

(6) In relation to the following bodies, that is to say—

the British Railways Board,
the London Transport Board,
the British Transport Docks Board,
the British Waterways Board, and
the Transport Holding Company,

"subsidiary" in this section has the meaning assigned to it by section 92(1) of the Transport Act 1962.

1962 c. 46.

(7) In Schedule 1 to the Contracts of Employment Act 1963, 1963 c. 49. in paragraph 10(1), after the words "this paragraph", there shall be inserted the words "and paragraph 10A of this Schedule", and after paragraph 10 there shall be inserted the following paragraph:—

"10A.—(1) Where an employee of a company is taken into the employment of another company which, at the time when he is taken into its employment, is an associated company of the first-mentioned company, his period of

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employment at that time shall count as a period of employment with the associated company, and the change of employer shall not break the continuity of the period of employment.

(2) In this paragraph "company" and "associated company" have the meanings assigned to them by section 48 of the Redundancy Payments Act 1965".

Application of Act to certain employments not falling within s. 25(1).

49.—(1) This section applies to employment of any description which—

(a) is not employment under a contract of service or of apprenticeship, and

(b) is not employment of any description falling within paragraphs (a) to (d) of section 41(1) of this Act,

but is employment such that redundancy fund contributions will be payable under Part II of this Act in respect of persons engaged therein.

(2) The Minister may by regulations under this section provide that, subject to such exceptions and modifications as may be prescribed by the regulations, the provisions of this Act shall have effect in relation to any such employment of a description to which this section applies as may be so prescribed as if—

(a) it were employment within the meaning of subsection (1) of section 25 of this Act, and

(b) any person engaged in employment of that description were an employee within the meaning of that subsection, and

(c) such person as may be determined by or under the regulations were his employer within the meaning of that subsection.

(3) Without prejudice to the generality of the last preceding subsection, regulations made under this section may provide that section 31 of this Act shall apply to persons engaged in any such employment of a description to which this section applies as may be prescribed by the regulations, as if those persons were employees within the meaning of that section.

Provision for treating termination of certain employments by statute as equivalent to dismissal.

50.—(1) The Minister may by regulations under this section provide that, subject to such exceptions and modifications as may be prescribed by the regulations, the provisions of this Act shall have effect in relation to any person who, by virtue of any statutory provisions,—

(a) is transferred to, and becomes a member of, a body specified in those provisions, but

- (b) at a time so specified ceases to be a member of that body unless before that time certain conditions so specified have been fulfilled,

PART III

as if the cessation of his membership of that body by virtue of those provisions were dismissal by his employer by reason of redundancy.

(2) The power conferred by the preceding subsection shall be exercisable whether membership of the body in question constitutes employment within the meaning of section 25(1) of this Act or not; and, where that membership does not constitute such employment, that power may be exercised in addition to any power exercisable by virtue of section 49 of this Act.

51.—(1) This section applies to any employee whose remuneration is, by virtue of any statutory provision, payable to him by a person other than his employer.

Employees paid by person other than employer.

(2) For the purposes of the operation, in relation to employees to whom this section applies, of the provisions of this Act specified in column 1 of Schedule 8 to this Act, any reference to the employer which is specified in column 2 of that Schedule shall be construed as a reference to the person responsible for paying the remuneration.

(3) In relation to employees to whom this section applies, section 53 of this Act shall have effect as if—

- (a) any reference in subsection (1) or subsection (2) of that section to a notice required or authorised to be given by or to an employer included a reference to a notice which, by virtue of the last preceding subsection, is required or authorised to be given by or to the person responsible for paying the remuneration;
- (b) in relation to a notice required or authorised to be given to that person, any reference to the employer in paragraph (a) or paragraph (b) of subsection (2) of that section were a reference to that person; and
- (c) the reference to the employer in subsection (5) of that section included a reference to that person.

(4) In this section and in Schedule 8 to this Act “employer” and “employee” have the same meanings as in Part I of this Act, and “the person responsible for paying the remuneration” means the person by whom the remuneration is payable as mentioned in subsection (1) of this section.

PART III
Offences.

52.—(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) In this section “director”, in relation to a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

Provisions
as to notices.

53.—(1) Any notice which under this Act is required or authorised to be given by an employer to an employee may be given by being delivered to the employee, or left for him at his usual or last-known place of residence, or sent by post addressed to him at that place.

(2) Any notice which under this Act is required or authorised to be given by an employee to an employer may be given either by the employee himself or by a person authorised by him to act on his behalf, and, whether given by or on behalf of the employee,—

(a) may be given by being delivered to the employer, or sent by post addressed to him at the place where the employee is or was employed by him, or

(b) if arrangements in that behalf have been made by the employer, may be given by being delivered to a person designated by the employer in pursuance of the arrangements, or left for such a person at a place so designated, or sent by post to such a person at an address so designated.

(3) In the preceding provisions of this section any reference to the delivery of a notice shall, in relation to a notice which is not required by this Act to be in writing, be construed as including a reference to the oral communication of the notice.

(4) Any notice which, in accordance with any provision of this section, is left for a person at a place referred to in that provision shall, unless the contrary is proved, be presumed to have been received by him on the day on which it was left there.

(5) Nothing in subsection (1) or subsection (2) of this section shall be construed as affecting the capacity of an employer to act by a servant or agent for the purposes of any provision of this Act, including either of those subsections.

54.—(1) Any power to make regulations under this Act shall be exercisable by statutory instrument ; and any such regulations may make different provision in relation to different cases. PART III
Regulations.

(2) A statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

55.—(1) Except as provided by the following provisions of this section, all expenses incurred in consequence of this Act by any government department other than the Postmaster General, and any increase attributable to this Act in the sums payable out of moneys provided by Parliament under any other enactment, shall be defrayed out of moneys provided by Parliament. Expenses.

(2) The expenses to be so defrayed shall include—

(a) any expenses incurred by any government department other than the Postmaster General which are attributable to any such arrangements as are mentioned in section 41(3) of this Act, and

(b) any increase attributable to any such arrangements in the sums payable out of moneys provided by Parliament under any other enactment.

(3) The expenses to be so defrayed shall not include any sums payable out of the Consolidated Fund under section 35 of this Act.

(4) Notwithstanding anything in section 1 of the Post Office Act 1961, any expenses incurred by the Postmaster General which are attributable to any such arrangements as are mentioned in section 41(3) of this Act shall be defrayed out of moneys provided by Parliament. 1961 c. 15.

(5) There shall be paid out of the Redundancy Fund into the Exchequer sums equal to the amount of any expenses incurred by the Minister in consequence of this Act, other than—

(a) fees and allowances payable under section 12(3) of the Industrial Training Act 1964, which are not so payable in respect of proceedings in pursuance of references or appeals under Part I or Part II or section 40 or section 42 of this Act ; 1964 c. 16.

(b) any expenses incurred by the Minister in paying redundancy fund contributions ; and

(c) any expenses incurred by the Minister in the payment of sums in accordance with any such arrangements as are mentioned in section 41(3) of this Act.

PART III

(6) There shall be paid out of the Redundancy Fund into the Exchequer such sums as the Minister may estimate in accordance with directions given by the Treasury to be the amount of any expenses incurred by any government department other than the Minister and the Postmaster General in consequence of the provisions of Part II of this Act, except—

- (a) any expenses incurred in paying redundancy fund contributions, and
- (b) any such expenses as are mentioned in section 29(1) of this Act.

Interpretation.

56.—(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“government department” includes any Minister of the Crown;

“the Minister” means the Minister of Labour;

“renewal” includes extension, and any reference to renewing a contract or a fixed term shall be construed accordingly;

“statutory provision” means a provision, whether of a general or a special nature, contained in, or in any document made or issued under, any Act, whether of a general or a special nature;

“strike” and “lock-out” have the meanings assigned to them by paragraph 11(1) of Schedule 1 to the Contracts of Employment Act 1963;

“tribunal” means a tribunal established under section 12 of the Industrial Training Act 1964.

1963 c. 49.

1964 c. 16.

(2) In this Act “the appointed day” means such day as the Minister may appoint by order made by statutory instrument; and different days may be so appointed for different provisions or different purposes of this Act.

(3) In this Act any reference to the Government of an overseas territory shall be construed in accordance with subsection (6) of section 43 of this Act.

(4) For the purposes of this Act it is immaterial whether the law which (apart from this Act) governs any person’s employment is the law of Great Britain, or of a part of Great Britain, or not.

(5) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any subsequent enactment, including this Act.

57.—(1) If an Act of Tynwald is passed for purposes similar to the purposes of this Act, the Minister may, with the consent of the Treasury, make reciprocal arrangements with the appropriate Isle of Man authority for co-ordinating the provisions of this Act with the corresponding provisions of the Act of Tynwald so as to secure that they operate, to such extent as may be provided by the arrangements, as a single system. PART III
Isle of Man.

(2) For the purposes of giving effect to any such arrangements, the Minister shall have power, in conjunction with the appropriate Isle of Man authority, to make any necessary financial adjustments between the Redundancy Fund and any fund established under the Act of Tynwald.

(3) The Minister may make regulations for giving effect in Great Britain to any such arrangements, and any such regulations may provide that this Act shall have effect in relation to persons affected by the arrangements subject to such modifications and adaptations as may be specified in the regulations, including provision—

- (a) for securing that acts, omissions and events having any effect for the purposes of the Act of Tynwald shall have a corresponding effect for the purposes of this Act (but not so as to confer a right to double payment in respect of the same act, omission or event) ; and
- (b) for determining, in cases where rights accrue both under this Act and under the Act of Tynwald, which of those rights shall be available to the person concerned.

(4) In this section “the appropriate Isle of Man authority” means such authority as may be specified in that behalf in an Act of Tynwald.

58.—(1) If legislation is passed for purposes similar to the purposes of this Act by the Parliament of Northern Ireland, the Minister may, with the consent of the Treasury, make reciprocal arrangements with the appropriate Northern Irish authority for co-ordinating the provisions of this Act with the corresponding provisions of the Northern Irish legislation, so as to secure that they operate, to such extent as may be provided by the arrangements, as a single system. Northern
Ireland.

(2) For the purpose of giving effect to any such arrangements, the Minister shall have power, in conjunction with the appropriate Northern Irish authority, to make any necessary financial adjustments between the Redundancy Fund and any fund established under the Northern Irish legislation.

(3) The Minister may make regulations for giving effect in Great Britain to any such arrangements, and any such regulations may provide that this Act shall have effect in relation

PART III to persons affected by the arrangements subject to such modifications and adaptations as may be specified in the regulations, including provision—

(a) for securing that acts, omissions and events having any effect for the purposes of the Northern Irish legislation shall have a corresponding effect for the purposes of this Act (but not so as to confer a right to double payment in respect of the same act, omission or event); and

(b) for determining, in cases where rights accrue both under this Act and under the Northern Irish legislation, which of those rights shall be available to the person concerned.

1920 c. 67. (4) In connection with any such legislation as is mentioned in subsection (1) of this section, any limitation on the powers of the Parliament of Northern Ireland imposed by the Government of Ireland Act 1920 shall not apply in so far as it would preclude that Parliament from enacting a provision corresponding to some provision of this Act.

(5) In this section “the appropriate Northern Irish authority” means such authority as may be specified in that behalf in any such legislation as is mentioned in subsection (1) of this section.

Short title,
repeals and
extent.

59.—(1) This Act may be cited as the Redundancy Payments Act 1965.

(2) The enactments specified in Schedule 9 to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that—

1963 c. 49. (a) the repeal in section 5 of the Contracts of Employment Act 1963 shall have effect subject to the exceptions specified in subsection (1) of section 38 of this Act;

(b) the repeal in Schedule 1 to that Act shall have effect subject to subsection (3) of section 37 of this Act as if the repeal were contained in that section; and

1964 c. 16. (c) the repeal in section 12(1) of the Industrial Training Act 1964 shall have effect subject to section 46(7) of this Act.

(3) This Act, except the last preceding section, shall not form part of the law of Northern Ireland.

SCHEDULES

Section 1.

SCHEDULE 1

CALCULATION OF REDUNDANCY PAYMENTS

1.—(1) The amount of a redundancy payment to which an employee is entitled in any case shall, subject to the following provisions of this Schedule, be calculated by reference to the period, ending with the relevant date, during which he has been continuously employed; and for the purposes of this Schedule that period shall be computed in accordance with Schedule 1 to the Contracts of 1963 c. 49. Employment Act 1963, but as if—

- (a) any week which began before the employee attained the age of eighteen were excluded, and
- (b) the continuity of an employee's period of employment were not broken by a week which does not count under that Schedule, if the whole or part of that week falls within any such interval as is referred to in section 8(3) of this Act.

(2) Where section 17 or section 24 of this Act applies, sub-paragraph (1) of this paragraph shall have effect subject to that section.

2. Subject to paragraphs 3 and 4 of this Schedule, the amount of the redundancy payment shall be calculated by reference to the period specified in the preceding paragraph by starting at the end of that period and reckoning backwards the number of years of employment falling within that period, and allowing—

- (a) one and a half weeks' pay for each such year of employment which consists wholly of weeks in which the employee was not below the age of forty-one;
- (b) one week's pay for each such year of employment (not falling within the preceding sub-paragraph) which consists wholly of weeks in which the employee was not below the age of twenty-two; and
- (c) half a week's pay for each such year of employment not falling within either of the preceding sub-paragraphs.

3. Where, in reckoning the number of years of employment in accordance with paragraph 2 of this Schedule, twenty years of employment have been reckoned, no account shall be taken of any year of employment earlier than those twenty years.

4.—(1) Where in the case of an employee the relevant date is after the specified anniversary, the amount of the redundancy payment, calculated in accordance with the preceding provisions of this Schedule, shall be reduced by the appropriate fraction.

(2) In this paragraph "the specified anniversary", in relation to a man, means the sixty-fourth anniversary of the day of his birth, and, in relation to a woman, means the fifty-ninth anniversary of the day of her birth, and "the appropriate fraction" means the fraction of which—

- (a) the numerator is the number of whole months, reckoned from the specified anniversary, in the period beginning with that anniversary and ending with the relevant date, and
- (b) the denominator is twelve.

SCH. 1

1963 c. 49.

5.—(1) For the purposes of this Schedule the amount of a week's pay shall, subject to the following provisions of this paragraph, and except as may be otherwise provided by regulations made by the Minister, be taken to be the minimum remuneration to which the employee would in the week ending with the relevant date have been entitled, under Schedule 2 to the Contracts of Employment Act 1963, if the conditions in the next following sub-paragraph had been fulfilled (whether those conditions were in fact fulfilled or not).

(2) Those conditions are—

- (a) that the contract of employment was terminable by notice, and was terminated by the employer by giving such notice as is required by section 1(1) of the said Act of 1963 ;
- (b) that, in a case falling within paragraph 2 of Schedule 2 to that Act, the employee was ready and willing to work during the week ending with the relevant date but no work was then provided for him ;
- (c) that, in a case falling within paragraph 3 of that Schedule, the employee was willing to do work of a reasonable nature and amount to earn remuneration at the rate mentioned in sub-paragraph (2) of that paragraph ;
- (d) that the employee was not absent from work with the leave of his employer ;
- (e) that Schedule 2 to that Act, if by virtue of section 6 of that Act it did not apply to the employee, applied to him notwithstanding that section.

(3) Notwithstanding anything in sub-paragraph (1) of this paragraph, but subject to the following provisions of this paragraph, the amount of a week's pay shall not in any case be taken for the purposes of this Schedule to exceed £40.

(4) The Minister may by order provide that, subject to such transitional provisions (if any) as may be contained in the order, the last preceding sub-paragraph shall have effect as if, for the sum of £40, there were substituted such larger sum as may be specified in the order.

(5) Any order under this paragraph may be varied or revoked by a subsequent order thereunder.

(6) Any power to make orders under this paragraph shall be exercisable by statutory instrument ; but no such order shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

6. For the purposes of any provision contained in Part I of this Act whereby a tribunal may determine that an employer shall be liable to pay to an employee either—

- (a) the whole of the redundancy payment to which the employee would have been entitled apart from another provision therein mentioned, or
- (b) such part of that redundancy payment as the tribunal thinks fit,

the preceding provisions of this Schedule shall apply as if in those provisions any reference to the amount of a redundancy payment were a reference to the amount of the redundancy payment to which the employee would have been so entitled.

SCH. 1

7. The preceding provisions of this Schedule shall have effect without prejudice to the operation of any regulations made under section 14 of this Act whereby the amount of a redundancy payment, or part of a redundancy payment, may be reduced.

8. Where the relevant date does not occur at the end of a week, any reference in the preceding provisions of this Schedule to the relevant date shall be construed as a reference to the end of the week in which that date falls.

9. In this Schedule "week" means a week ending with Saturday, and "year of employment" means fifty-two weeks (whether continuous or discontinuous) which, in accordance with Schedule 1 to the Contracts of Employment Act 1963, count in computing a period of 1963 c. 49. employment.

SCHEDULE 2

Section 5.

CALCULATION OF WEEK'S PAY FOR PURPOSES OF SHORT-TIME

1.—(1) Where for the purposes of section 1(1)(b) of this Act it falls to be determined whether an employee has been laid off or kept on short-time—

(a) for four consecutive weeks, or

(b) for a series of six weeks (of which not more than three are consecutive) within a period of thirteen weeks,

as mentioned in section 6(1) of this Act, the provisions of this Schedule shall have effect for calculating the amount of a week's pay for the purposes of section 5(2) of this Act.

(2) In this Schedule "the beginning of the relevant period" means the beginning of the first of the four weeks or six weeks (as the case may be) referred to in the preceding sub-paragraph, and "week" has the meaning assigned to it by section 5(3) of this Act.

2. Except as may be otherwise provided by regulations made by the Minister, the amount of a week's pay, for the purposes of section 5(2) of this Act, shall be taken to be an amount equal to the minimum remuneration to which, under Schedule 2 to the Contracts of Employment Act 1963, the employee would have been entitled in respect of the last complete week before the beginning of the relevant period if the conditions specified in the next following paragraph (in this Schedule referred to as "the assumed conditions as to notice") and the further conditions specified in paragraph 4 of this Schedule had been fulfilled.

3. The assumed conditions as to notice are that—

(a) the contract of employment was terminable by notice (whether it was in fact so terminable or not), and

SCH. 2
1963 c. 49.

- (b) the contract was terminated by the employer by giving such notice as is required by section 1(1) of the Contracts of Employment Act 1963, and
- (c) that notice expired immediately before the beginning of the relevant period.

4.—(1) The further conditions referred to in paragraph 2 of this Schedule are—

- (a) that, in a case which (if the assumed conditions as to notice had been fulfilled) would have fallen within paragraph 2 of Schedule 2 to the Contracts of Employment Act 1963, the employee was ready and willing to work during the whole of the normal working hours but no work was then provided for him ;
- (b) that, in a case which (if the assumed conditions as to notice had been fulfilled) would have fallen within paragraph 3 of that Schedule, the employee was at all material times ready and willing to do work of a reasonable nature and amount to earn remuneration at the rate mentioned in sub-paragraph (2) of that paragraph ;
- (c) that the employee was not at any material time absent from work with the leave of his employer ;
- (d) that Schedule 2 to that Act, if by virtue of section 6 of that Act it did not apply to the employee, applied to him notwithstanding that section.

(2) For the purposes of this Schedule it is immaterial whether any of the conditions mentioned in the preceding sub-paragraph was in fact fulfilled or not.

Section 16.

SCHEDULE 3

NATIONAL HEALTH SERVICE EMPLOYERS

1. A Hospital Board or Regional Hospital Board.
2. The Board of Governors of a teaching hospital.
3. The Board of Management of a hospital or group of hospitals in Scotland.
4. The Dental Estimates Board.
5. The Scottish Dental Estimates Board.
6. Any Executive Council constituted, or deemed to be constituted, under the National Health Service Act 1946 or the National Health Service (Scotland) Act 1947.
7. Any joint committee constituted under section 31(4) of the said Act of 1946 or section 32(4) of the said Act of 1947.
8. The Public Health Laboratory Service Board.

1946 c. 81.
1947 c. 27.

SCHEDULE 4

Section 23.

DEATH OF EMPLOYER OR OF EMPLOYEE

PART I

DEATH OF EMPLOYER

Introductory

1. The provisions of this Part of this Schedule shall have effect in relation to an employee where his employer (in this Part of this Schedule referred to as "the deceased employer") dies.

2. Section 13 of this Act shall not apply to any change whereby the ownership of the business, for the purposes of which the employee was employed by the deceased employer, passes to a personal representative of the deceased employer.

Dismissal

3. Where, by virtue of subsection (1) of section 22 of this Act, the death of the deceased employer is to be treated for the purposes of this Act as a termination by him of the contract of employment, the employee shall nevertheless not be treated for those purposes as having been dismissed by the deceased employer if—

(a) his contract of employment is renewed by a personal representative of the deceased employer, or he is re-engaged under a new contract of employment by such a personal representative, and

(b) the renewal or re-engagement takes effect not later than eight weeks after the death of the deceased employer.

4. Where, by reason of the death of the deceased employer, the employee is treated for the purposes of this Act as having been dismissed by him, he shall not be entitled to a redundancy payment in respect of that dismissal if a personal representative of the deceased employer has made to him an offer in writing to renew his contract of employment, or to re-engage him under a new contract, so that in accordance with the particulars specified in the offer the renewal or re-engagement would take effect not later than eight weeks after the death of the deceased employer and either—

(a) the provisions of the contract as renewed, or of the new contract, as the case may be, as to the capacity and place in which he would be employed, and as to the other terms and conditions of his employment, would not differ from the corresponding provisions of the contract as in force immediately before the death, or

(b) if, in accordance with the particulars specified in the offer, those provisions would differ (wholly or in part) from the corresponding provisions of the contract as in force immediately before the death, the offer constitutes an offer of suitable employment in relation to the employee,

and (in either case) the employee has unreasonably refused that offer.

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5. For the purposes of paragraph 4 of this Schedule—

- (a) an offer shall not be treated as one whereby the provisions of the contract as renewed, or of the new contract, as the case may be, would differ from the corresponding provisions of the contract as in force immediately before the death of the deceased employer by reason only that the personal representative would be substituted as the employer for the deceased employer, and
- (b) no account shall be taken of that substitution in determining whether the refusal of the offer was unreasonable.

6. Where by virtue of subsection (1) of section 22 of this Act the death of the deceased employer is to be treated as a termination by him of the contract of employment, any reference in subsection (2) of that section to section 3(2) of this Act shall be construed as including a reference to paragraph 3 of this Schedule.

Lay-off and short-time

7. Where the employee has before the death of the deceased employer been laid off or kept on short-time for one or more weeks, but has not given to the deceased employer notice of intention to claim, then if after the death of the deceased employer—

- (a) his contract of employment is renewed, or he is re-engaged under a new contract, as mentioned in sub-paragraphs (a) and (b) of paragraph 3 of this Schedule, and
- (b) after the renewal or re-engagement, he is laid off or kept on short-time for one or more weeks by the personal representative of the deceased employer,

the provisions of sections 6 and 7 of this Act shall apply as if the week in which the deceased employer died and the first week of the employee's employment by the personal representative were consecutive weeks, and any reference in those sections to four weeks or thirteen weeks shall be construed accordingly.

8. The provisions of paragraph 9 or (as the case may be) paragraph 10 of this Schedule shall have effect where the employee has given to the deceased employer notice of intention to claim, and—

- (a) the deceased employer has died before the end of the next four weeks after the service of that notice, and
- (b) the employee has not terminated the contract of employment by notice expiring before the death of the deceased employer.

9. If in the circumstances specified in the last preceding paragraph the employee's contract of employment is not renewed by a personal representative of the deceased employer before the end of the next four weeks after the service of the notice of intention to claim, and he is not re-engaged under a new contract by such a personal representative before the end of those four weeks, subsections (1) to (3) of section 6 and (in relation to subsection (1) of that section) subsections (2) and (3) of section 7 of this Act shall apply as if—

- (a) the deceased employer had not died, and

(b) the employee had terminated the contract of employment by a week's notice (or, if under the contract he is required to give more than a week's notice to terminate the contract, he had terminated it by the minimum notice which he is so required to give) expiring at the end of those four weeks, but subsections (4) and (5) of section 6 and subsections (1) and (4) of section 7 of this Act shall not apply.

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10.—(1) The provisions of this paragraph shall have effect where, in the circumstances specified in paragraph 8 of this Schedule, the employee's contract of employment is renewed by a personal representative of the deceased employer before the end of the next four weeks after the service of the notice of intention to claim, or he is re-engaged under a new contract by such a personal representative before the end of those four weeks, and—

(a) he was laid off or kept on short-time by the deceased employer for one or more of those weeks, and

(b) he is laid off or kept on short-time by the personal representative for the week, or for the next two or more weeks, following the renewal or re-engagement.

(2) Where the conditions specified in the preceding sub-paragraph are fulfilled, sections 6 and 7 of this Act shall apply as if—

(a) all the weeks for which the employee was laid off or kept on short-time as mentioned in the preceding sub-paragraph were consecutive weeks during which he was employed (but laid off or kept on short-term) by the same employer, and

(b) each of the periods specified in paragraphs (a) and (b) of subsection (5) of section 7 of this Act were extended by any week or weeks any part of which was after the death of the deceased employer and before the date on which the renewal or re-engagement took effect.

11. In paragraphs 7 to 10 of this Schedule "week" and "notice of intention to claim" have the same meanings as in section 6 of this Act.

Continuity of period of employment

12. Where by virtue of paragraph 3 of this Schedule the employee is treated as not having been dismissed by reason of a renewal or re-engagement taking effect after the death of the deceased employer, then—

(a) in determining, for the purposes of section 1(1) of this Act, whether he has been continuously employed for the requisite period, the interval between the death and the date on which the renewal or re-engagement takes effect shall count as a period of employment with the personal representative of the deceased employer, if apart from this paragraph it would not count for that purpose as such a period of employment, and

(b) in computing the period specified in paragraph 1 of Schedule 1 to this Act, the continuity of the employee's

SCH. 4
1963 c. 49.

period of employment shall be treated as not being broken by any week which does not count under Schedule 1 to the Contracts of Employment Act 1963, if the whole or part of that week falls within that interval.

13. For the purposes of the application, in accordance with section 19(1) of this Act, of any provisions of this Act in relation to an employee who was employed as a domestic servant in a private household, any reference to a personal representative in—

- (a) this Part of this Schedule, or
- (b) paragraph 10 of Schedule 1 to the Contracts of Employment Act 1963,

shall be construed as including a reference to any person to whom, otherwise than in pursuance of a sale or other disposition for valuable consideration, the management of the household has passed in consequence of the death of the deceased employer.

Supplementary provisions

14. Subject to the preceding provisions of this Part of this Schedule, in relation to an employer who has died—

- (a) any reference in this Act to the doing of anything by, or in relation to, an employer shall be construed as including a reference to the doing of that thing by, or in relation to, any personal representative of the deceased employer, and
- (b) any reference in this Act to a thing required or authorised to be done by, or in relation to, an employer shall be construed as including a reference to anything which, in accordance with any provision of this Act as modified by this Part of this Schedule (including the preceding subparagraph), is required or authorised to be done by, or in relation to, any personal representative of his.

15. Where by virtue of any provision of this Act, as modified by this Part of this Schedule, a personal representative of the deceased employer is liable to pay a redundancy payment, or part of a redundancy payment, and that liability had not accrued before the death of the deceased employer, it shall be treated for all purposes as if it were a liability of the deceased employer which had accrued immediately before his death.

PART II

DEATH OF EMPLOYEE

16. Where an employer has given notice to an employee to terminate his contract of employment, and before that notice expires the employee dies, the provisions of Part I of this Act shall apply as if the contract had been duly terminated by the employer by notice expiring on the date of the employee's death.

17. Where an employer has given notice to an employee to terminate his contract of employment, and has offered to renew his

contract of employment, or to re-engage him under a new contract,
then if— SCH. 4

(a) the employee dies without having either accepted or refused
the offer, and

(b) the offer has not been withdrawn before his death,

subsection (3) or (as the case may be) subsection (4) of section 2
of this Act shall apply as if, for the words “the employee has
unreasonably refused”, there were substituted the words “it would
have been unreasonable on the part of the employee to refuse”.

18.—(1) Where, in the circumstances specified in paragraphs (a)
and (b) of subsection (1) of section 4 of this Act, the employee dies
before the notice given by him under paragraph (b) of that subsection
is due to expire and before the employer has given him notice
under subsection (3) of that section, subsection (4) of that section
shall apply as if the employer had given him such notice and he
had not complied with it.

(2) Where, in the circumstances specified in paragraphs (a) and
(b) of subsection (1) of that section, the employee dies before his
notice given under paragraph (b) of that subsection is due to expire
but after the employer has given him notice under subsection (3)
of that section, subsections (3) and (4) of that section shall apply as
if the circumstances were that the employee had not died, but did
not comply with the last-mentioned notice.

19.—(1) Where an employee has given notice of intention to
claim and dies before he has given notice to terminate his contract
of employment and before the period allowed for the purposes of
subsection (3)(a) of section 6 of this Act has expired, the said sub-
section (3)(a) shall not apply.

(2) Where an employee, who has given notice of intention to
claim, dies within seven days after the service of that notice, and
before the employer has given a counter-notice, the provisions of
sections 6 and 7 of this Act shall apply as if the employer had
given a counter-notice within those seven days.

(3) In this paragraph “notice of intention to claim” and “counter-
notice” have the same meanings as in section 7 of this Act.

20. In relation to the making of a claim by a personal representa-
tive of a deceased employee who dies before the end of the period
of six months beginning with the relevant date, section 21 of this
Act shall apply with the substitution, for the words “six months”,
of the words “one year”.

21. Subject to the preceding provisions of this Part of this
Schedule, in relation to an employee who has died—

(a) any reference in this Act to the doing of anything by, or
in relation to, an employee shall be construed as including
a reference to the doing of that thing by, or in relation
to, any personal representative of the deceased employee,
and

SCH. 4

(b) any reference in this Act to a thing required or authorised to be done by, or in relation to, an employee shall be construed as including a reference to anything which, in accordance with any provision of this Act as modified by this Part of this Schedule (including the preceding sub-paragraph), is required or authorised to be done by, or in relation to, any personal representative of his.

22.—(1) Any right of a personal representative of a deceased employee to a redundancy payment, where that right had not accrued before the employee's death, shall devolve as if it had accrued before his death.

(2) In relation to any case where, under any provision contained in Part I of this Act as modified by the preceding provisions of this Part of this Schedule, a tribunal has power to determine that an employer shall be liable to pay to a personal representative of a deceased employee either—

- (a) the whole of a redundancy payment to which he would have been entitled apart from another provision therein mentioned, or
- (b) such part of such a redundancy payment as the tribunal thinks fit,

any reference in the preceding sub-paragraph to a right to a redundancy payment shall be construed as including a reference to any right to receive the whole or part of a redundancy payment if the tribunal determines that the employer shall be liable to pay it.

Section 30.

SCHEDULE 5

CALCULATION OF REBATES

PART I

REBATES IN RESPECT OF REDUNDANCY PAYMENTS

1. In this Part of this Schedule "rebate" has the same meaning as in Part II of this Act; "year of employment" has the meaning assigned to it by paragraph 9 of Schedule 1 to this Act; and paragraph 5 of that Schedule shall apply for the purposes of this Part of this Schedule as it applies for the purposes of that Schedule.

2. Subject to sections 30(6) and 34 of this Act, and to the following provisions of this Part of this Schedule, the amount of any rebate payable in respect of a redundancy payment shall be calculated by taking the number of years of employment by reference to which the redundancy payment falls to be calculated in accordance with Schedule 1 to this Act, and allowing—

- (a) one and one-sixth weeks' pay for each year of employment falling within sub-paragraph (a) of paragraph 2 of that Schedule;
- (b) two-thirds of one week's pay for each year of employment falling within sub-paragraph (b) of that paragraph; and

(c) one-third of one week's pay for each year of employment falling within sub-paragraph (c) of that paragraph. SCH. 5

3. Where the amount of the redundancy payment, calculated in accordance with paragraphs 1, 2 and 3 of Schedule 1 to this Act, is reduced by virtue of paragraph 4 of that Schedule, the amount of the rebate shall be seven-ninths of the amount of the redundancy payment as so reduced.

4.—(1) The provisions of this paragraph shall have effect in relation to any case where—

(a) under any provision contained in Part I of this Act a tribunal is empowered to determine that an employer shall be liable to pay to an employee either the whole or part of the redundancy payment to which the employee would have been entitled apart from another provision therein mentioned, and

(b) the tribunal determines that the employer shall be liable to pay part (but not the whole) of that redundancy payment.

(2) There shall be ascertained what proportion that part of the redundancy payment bears to the whole of it (in this paragraph referred to as "the relevant proportion").

(3) There shall also be ascertained what, in accordance with the preceding provisions of this Part of this Schedule, would have been the amount of the rebate payable in respect of that redundancy payment if the employer had been liable to pay the whole of it.

(4) Subject to the next following paragraph, the amount of the rebate payable in that case shall then be an amount equal to the relevant proportion of the amount referred to in the last preceding sub-paragraph.

5. Where the amount of a redundancy payment or part of a redundancy payment is reduced in accordance with regulations made under section 14 of this Act,—

(a) the proportion by which it is so reduced shall be ascertained, and

(b) the amount of any rebate calculated by reference to that payment shall be reduced by that proportion.

PART II

REBATES IN RESPECT OF OTHER PAYMENTS

Introductory

6. The provisions of this Part of this Schedule shall have effect for the purpose of calculating the amount of any rebate payable in respect of an employer's payment which is not a redundancy payment or part of a redundancy payment (in this Part of this Schedule referred to as "the agreed payment").

7. In this Part of this Schedule "rebate" and "employer's payment" have the same meanings as in Part II of this Act; "the agreement", in relation to the agreed payment, means the agreement referred to in paragraph (b) or paragraph (c) of section 30(1) of this

SCH. 5 Act by reference to which that payment is payable; "the relevant provisions of the agreement" means those provisions of the agreement which relate to either of the following matters, that is to say—

- (a) the circumstances in which the continuity of an employee's period of employment is to be treated as broken, and
- (b) the weeks which are to count in computing a period of employment;

1963 c. 49. and "the 1963 Schedule" means Schedule 1 to the Contracts of Employment Act 1963.

8. In this Part of this Schedule any reference to the amount of the relevant redundancy payment, in relation to the agreed payment, shall be construed as a reference to the amount of the redundancy payment which the employer would have been liable to pay to the employee if—

- (a) the order referred to in paragraph (b) of subsection (1) of section 30 of this Act, or (as the case may be) the order and the award referred to in paragraph (c) of that subsection, had not been made;
- (b) the circumstances in which the agreed payment is payable had been such that the employer was liable to pay a redundancy payment to the employee in those circumstances;
- (c) in relation to that redundancy payment, the relevant date had been the date on which the termination of the employee's contract of employment is treated for the purposes of the agreement as having taken effect; and
- (d) in so far as the relevant provisions of the agreement are inconsistent with the provisions of the 1963 Schedule as to the matters referred to in sub-paragraphs (a) and (b) of the last preceding paragraph, those provisions of the agreement were substituted for those provisions of the 1963 Schedule;

and "the assumed conditions" means the conditions specified in sub-paragraphs (a) to (d) of this paragraph.

Method of calculation

9. Subject to sections 30(6) and 34 of this Act, and to the following provisions of this Part of this Schedule, the amount of any rebate payable in respect of the agreed payment shall be an amount calculated as follows, that is to say, by taking the number of years of employment by reference to which the amount of the relevant redundancy payment would fall to be calculated in accordance with Schedule 1 to this Act (as that Schedule would have applied if the assumed conditions were fulfilled), and allowing—

- (a) one and one-sixth weeks' pay for each such year of employment falling within sub-paragraph (a) of paragraph 2 of that Schedule;
- (b) two-thirds of one week's pay for each such year of employment falling within sub-paragraph (b) of that paragraph; and
- (c) one-third of one week's pay for each such year of employment falling within sub-paragraph (c) of that paragraph.

10. For the purposes of the last preceding paragraph, paragraph 1 of Schedule 1 to this Act shall be construed as if sub-paragraphs (1)(b) and (2) of that paragraph were omitted.

SCH. 5

11. Where the amount of the agreed payment is less than the amount of the relevant redundancy payment—

- (a) the proportion which it bears to the amount of the relevant redundancy payment shall be ascertained, and
- (b) the amount of the rebate shall (except as provided by the next following paragraph) be that proportion of the amount calculated in accordance with the preceding provisions of this Part of this Schedule.

12. Where the amount of the relevant redundancy payment calculated in accordance with paragraphs 1, 2 and 3 of Schedule 1 to this Act would (if the assumed conditions were fulfilled) have been reduced by virtue of paragraph 4 of that Schedule, the amount of the rebate shall be seven-ninths of the amount of the relevant redundancy payment as so reduced.

13. Paragraph 5 of Schedule 1 to this Act shall apply for the purposes of this Part of this Schedule as it applies for the purposes of that Schedule.

SCHEDULE 6

Section 32.

CALCULATION OF PAYMENTS TO EMPLOYEES OUT OF REDUNDANCY FUND

1.—(1) Where the employer's payment is a redundancy payment, the sum referred to in section 32(2) of this Act is a sum equal to the amount of that payment.

(2) Where, in a case falling within section 30(5) of this Act, the employer's payment is part of a redundancy payment, the sum referred to in section 32(2) of this Act is a sum equal to the amount of that part of the payment.

2.—(1) The provisions of this paragraph shall have effect for the purpose of determining the sum referred to in section 32(2) of this Act in relation to an employer's payment which is not a redundancy payment or part of a redundancy payment.

(2) Paragraph 7 of Schedule 5 to this Act (except in so far as it defines "rebate") and paragraph 8 of that Schedule shall have effect for the purposes of this paragraph as they have effect for the purposes of Part II of that Schedule; and in the application of those paragraphs in accordance with this sub-paragraph the employer's payment in relation to which the sum referred to in section 32(2) of this Act falls to be determined shall be taken to be the agreed payment.

(3) In relation to any such employer's payment, the sum in question shall be a sum equal to—

- (a) the amount of the employer's payment, or
- (b) the amount of the relevant redundancy payment,

whichever is the less.

3. In this Schedule "employer's payment" has the same meaning as in Part II of this Act.

Section 44.

SCHEDULE 7

STATUTORY PROVISIONS RELATING TO REFEREES AND BOARDS
OF REFEREES

- 1946 c. 59. 1. Regulations under section 37 of the Coal Industry Nationalisation Act 1946.
- 1946 c. 67. 2. Regulations under section 67 of the National Insurance Act 1946.
- 1946 c. 81. 3. Regulations under section 68 of the National Health Service Act 1946, and orders under section 11(9) or section 31(5) of that Act.
- 1947 c. 27. 4. Regulations under section 67 of the National Health Service (Scotland) Act 1947.
- 1947 c. 41. 5. Regulations under Schedule 5 to the Fire Services Act 1947.
- 1947 c. 49. 6. Regulations under section 101 of the Transport Act 1947.
- 1947 c. 54. 7. Subsections (3) and (5) of section 54 of the Electricity Act 1947, and regulations under section 55 of that Act or under that section as applied by section 27 of the Electricity Act 1957.
- 1957 c. 48. 8. Regulations under section 140 of the Local Government Act 1948, and such regulations as applied by any local Act, whether passed before or after this Act.
- 1948 c. 26. 9. Regulations under subsection (1) or subsection (2) of section 60 of the National Assistance Act 1948.
- 1948 c. 29. 10. Rules under section 3 of the Superannuation (Miscellaneous Provisions) Act 1948.
- 1948 c. 33. 11. Subsections (3) and (5) of section 58 of the Gas Act 1948, and regulations under section 60 of that Act.
- 1948 c. 67. 12. Subsection (4) of section 6 of the Commonwealth Telegraphs Act 1949 and regulations under that section or section 7 of that Act.
- 1949 c. 39. 13. Regulations under section 25 of the Prevention of Damage by Pests Act 1949.
- 1949 c. 55. 14. Regulations under section 42 of the Justices of the Peace Act 1949.
- 1949 c. 101. 15. Regulations under section 27 or section 28 of the Transport Act 1953.
- 1953 c. 13. 16. Regulations under section 24 of the Iron and Steel Act 1953.
- 1953 c. 15. 17. Regulations under section 12 of the Electricity Reorganisation (Scotland) Act 1954.
- 1954 c. 60. 18. Orders under section 23 of the Local Government Act 1958 and regulations under section 60 of that Act.
- 1958 c. 55. 19. Regulations under section 1 of the Water Officers Compensation Act 1960.
- 1960 c. 15. 20. Regulations under section 18(6) of the Land Drainage Act 1961.
- 1961 c. 48. 21. Subsection (6) of section 74 of the Transport Act 1962 and orders under that section, regulations under section 81 of that Act, and paragraph 17(3) of Schedule 7 to that Act.
- 1962 c. 46.

22. Orders under section 84 of the London Government Act 1963 and regulations under section 85 of that Act. SCH. 7
1963 c. 33.
23. Regulations under section 106 of the Water Resources Act 1963 c. 38. 1963.

SCHEDULE 8

Section 51.

EMPLOYEES PAID BY PERSON OTHER THAN EMPLOYER

<i>Provision of Act</i>	<i>Reference to be construed as reference to the person responsible for paying the remuneration</i>
Section 1(1)	The second reference to the employer.
Section 4(3)	The reference to the employer in paragraph (b).
Section 4(4)	The last reference to the employer.
Section 6(5)	The reference to the employer.
Section 7(1)	The first reference to the employer.
Section 7(4) and (5)	The references to the employer.
Section 10(2)	The second reference to the employer.
Section 18	The references to the employer.
Section 21	The reference to the employer in paragraph (b).
Section 24(3)	The references to the employer.
Section 30	The references to the employer.
Section 32	The references to the employer.
Section 33(1)	The reference to the employer.
Section 34	The references to the employer.

SCHEDULE 9

Section 59.

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
1963 c. 49.	The Contracts of Employment Act 1963.	In section 5, subsections (1) to (4). In sub-paragraph (2) of paragraph 7 of Schedule 1, the words from "except" to the end of the sub-paragraph.
1964 c. 16.	The Industrial Training Act 1964.	In subsection (1) of section 12, the words from "and such regulations" to the end of the subsection, and in subsection (3) of that section the words "and to persons giving evidence before such tribunals such allowances".

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