

## SCHEDULE 2

Regulation 11

### PART 1

#### AMENDMENTS TO PRIMARY LEGISLATION

1. In Schedule 11 to the Social Security Contributions and Benefits Act 1992 <sup>M1</sup> (circumstances in which periods of entitlement to statutory sick pay do not arise)—

- (a) in paragraph 2, omit paragraph (b), and
- (b) omit paragraph 4.

#### Marginal Citations

**M1** 1992 c. 4. There are amendments to paragraph 2 of Schedule 11, which are not relevant to these Regulations.

2. The Employment Tribunals Act 1996 <sup>M2</sup> is amended as follows—

(a) in section 18(1) <sup>M3</sup> (cases where conciliation provisions apply)—

- (i) at the end of paragraph (g), omit “or”, and
- (ii) after paragraph (h), insert—

“(i) arising out of a contravention, or alleged contravention of regulation 3 or 6(2) of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002; or

(j) under regulation 9 of those Regulations.”;

(b) in section 21 (jurisdiction of the Employment Appeal Tribunal) in subsection (1) <sup>M4</sup> (which specifies the proceedings and claims to which the section applies)—

- (i) at the end of paragraph (i), omit “or”, and
- (ii) after paragraph (j), insert—

“or

(k) the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002.”.

#### Marginal Citations

**M2** 1996 c. 17. Under section 1(2) of the Employment Rights (Dispute Resolution) Act 1998, the Act, formerly the Industrial Tribunals Act 1996, may now be cited as the Employment Tribunals Act 1996.

**M3** Section 18(1) has been amended on a number of occasions to specify additional proceedings and claims to which the section applies.

**M4** Section 21 has been amended on a number of occasions to specify additional proceedings and claims to which the section applies.

3.—(1) The 1996 Act is amended as follows.

(2) In section 29(exclusions from the right to guarantee payments), omit subsection (2);

(3) In section 65 (exclusions from the right to remuneration during suspension from work on medical grounds), omit subsection (2);

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- (4) In section 86 (rights of employer and employee to minimum notice), omit subsection (5);
- (5) In section 92 (right to written statement of reasons for dismissal) in subsection (1), for paragraph (c) substitute—
  - “(c) if the employee is employed under a limited-term contract and the contract terminates by virtue of the limiting event without being renewed under the same contract.”
- (6) In subsection (6) of that section for paragraph (c) insert—
  - “(c) in relation to an employee who is employed under a limited-term contract which.”
- (7) In section 95 (circumstances in which an employee is dismissed), in subsection (1), for paragraph (b) insert—
  - “(b) he is employed under a limited-term contract and that contract terminates by virtue of the limiting event without being renewed under the same contract, or”.
- (8) In section 97 (effective date of termination) in paragraph (1), for paragraph (c) substitute—
  - “(c) in relation to an employee who is employed under a limited-term contract which terminates by virtue of the limiting event without being renewed under the same contract, means the date on which the termination takes effect.”
- (9) In section 105 <sup>M5</sup> (redundancy as unfair dismissal), in subsection (1)(c) (which requires one of a specified group of subsections to apply for a person to be treated as unfairly dismissed), for “or 7E” substitute “, (7E) and (7F) ”.
- (10) In that section, after (7E) insert—
  - “(7F) This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one specified in paragraph (3) of regulation 6 of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 (unless the case is one to which paragraph (4) of that regulation applies).”
- (11) In section 108 <sup>M6</sup> (exclusion of right not to be unfairly dismissed: qualifying period of employment), in subsection (3) (cases where no qualifying period of employment is required) omit “or” at the end of paragraph (hh) and after paragraph (i) insert—

“or

  - (j) paragraph (1) of regulation 6 of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 applies.”
- (12) In section 109 <sup>M7</sup> (exclusion of right: upper age limit), in subsection (2) (cases where upper age limit does not apply), omit “or” at the end of paragraph (hh) and after paragraph (i) insert—

“or

  - (j) paragraph (1) of regulation 6 of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 applies.”
- (13) In section 136 (circumstances in which an employee is dismissed for the purposes of the right to a redundancy payment), in subsection (1) for paragraph (b) substitute—
  - “(b) he is employed under a limited term contract and that contract terminates by virtue of the limiting event without being renewed under the same contract, or”.
- (14) In section 145 (relevant date for purposes of redundancy, in subsection (2), for paragraph (c) substitute—
  - “(c) in relation to an employee who is employed under a limited-term contract which terminates by virtue of the limiting event without being renewed under the same contract, means the date on which the termination takes effect.”
- (15) Sections 197 <sup>M8</sup> shall cease to have effect.
- (16) In section 199, subsection (6) is omitted.

(17) In section 203<sup>M9</sup> (fixed-term contracts: agreement to exclude right to redundancy payment), in subsection (2)—

(a) paragraph (d) is omitted, and

(b) in paragraph (f)<sup>M10</sup>, after sub-paragraph (ii) insert—

“(iii) paragraph (i) (proceedings arising out of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002),

(iv) paragraph (j) (proceedings under those Regulations),”.

(18) In section 235 (other definitions), after subsection (2) insert—

“(2A) For the purposes of this Act a contract of employment is a “limited-term contract” if—

(a) the employment under the contract is not intended to be permanent, and

(b) provision is accordingly made in the contract for it to terminate by virtue of a limiting event.

(2B) In this Act, “limiting event”, in relation to a contract of employment means—

(a) in the case of a contract for a fixed-term, the expiry of the term,

(b) in the case of a contract made in contemplation of the performance of a specific task, the performance of the task, and

(c) in the case of a contract which provides for its termination on the occurrence of an event (or the failure of an event to occur), the occurrence of the event (or the failure of the event to occur).”.

### Marginal Citations

**M5** Section 105 has been amended on a number of occasions to specify additional circumstances in which an employee dismissed by reason of redundancy is to be regarded as unfairly dismissed.

**M6** Section 108(2) was amended by S.I. 1999/1436, Article 3, reducing the qualifying period from two years to one year. Section 108(3) has been amended on a number of occasions to specify additional cases where the qualifying period does not apply.

**M7** Section 109(2) has been amended on a number of occasions to specify additional cases where the upper age limit does not apply.

**M8** Subsections (1) and (2) of section 197 of the 1996 Act were repealed by the Employment Relations Act 1999, sections 18(1) and 44 and Schedule 9.

**M9** Section 203(2)(d) was amended by the Employment Relations Act 1999, sections 18(1) and 44 and Schedule 9.

**M10** Section 203(2)(f) was amended by the Employment Relations Act 1999, sections 18(1) and 44 and Schedule 9.

## PART 2

### TRANSITIONAL PROVISIONS

4. Paragraph 1 of this Schedule applies where the relevant date (as defined in paragraph 3 of Schedule 11 to the Social Security Contributions and Benefits Act 1992) falls on or after 1st October 2002.

5.—(1) This paragraph applies to the dismissal of an employee employed under a contract for a fixed term of two years or more which consists of the expiry of the term without its being renewed,

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where the employee has agreed in accordance with section 197 of the 1996 Act to exclude any right to a redundancy payment in that event.

(2) The repeal of sections 197, 199(6) and 203(2)(d) of the 1996 Act provided for by paragraph 3(k) of this Schedule shall have effect in relation to a dismissal to which this paragraph applies where the relevant date (within the meaning of section 145 of the 1996 Act) falls on or after 1st October 2002, unless both the following conditions are satisfied—

- (a) that, where there has been no renewal of the contract, the contract was entered into before 1st October 2002 or, where there have been one or more renewals, the only or most recent renewal was agreed before that date, and
- (b) that the agreement to exclude any right to a redundancy payment was entered into and took effect before 1st October 2002.

**Changes to legislation:**

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