

SCHEDULE 1

Regulations 1 and 8

WORKFORCE AGREEMENTS

1. An agreement is a workforce agreement for the purposes of these Regulations if the following conditions are satisfied—

- (a) the agreement is in writing;
- (b) it has effect for a specified period not exceeding five years;
- (c) it applies either—
 - (i) to all of the relevant members of the workforce, or
 - (ii) to all of the relevant members of the workforce who belong to a particular group;
- (d) the agreement is signed—
 - (i) in the case of an agreement of the kind referred to in sub-paragraph (c)(i), by the representatives of the workforce, and in the case of an agreement of the kind referred to in sub-paragraph (c)(ii) by the representatives of the group to which the agreement applies (excluding, in either case, any representative not a relevant member of the workforce on the date on which the agreement was first made available for signature), or
 - (ii) if the employer employed 20 or fewer employees on the date referred to in sub-paragraph (d)(i), either by the appropriate representatives in accordance with that sub-paragraph or by the majority of the employees employed by him;
- (e) before the agreement was made available for signature, the employer provided all the employees to whom it was intended to apply on the date on which it came into effect with copies of the text of the agreement and such guidance as those employees might reasonably require in order to understand it fully.

2. For the purposes of this Schedule—

“a particular group” is a group of the relevant members of a workforce who undertake a particular function, work at a particular workplace or belong to a particular department or unit within their employer’s business;

“relevant members of the workforce” are all of the employees employed by a particular employer, excluding any employee whose terms and conditions of employment are provided for, wholly or in part, in a collective agreement;

“representatives of the workforce” are employees duly elected to represent the relevant members of the workforce, “representatives of the group” are employees duly elected to represent the members of a particular group, and representatives are “duly elected” if the election at which they were elected satisfied the requirements of paragraph 3 of this Schedule.

3. The requirements concerning elections referred to in paragraph 2 are that—

- (a) the number of representatives to be elected is determined by the employer;
- (b) the candidates for election as representatives of the workforce are relevant members of the workforce, and the candidates for election as representatives of a group are members of that group;
- (c) no employee who is eligible to be a candidate is unreasonably excluded from standing for election;
- (d) all the relevant members of the workforce are entitled to vote for representatives of the workforce, and all the members of a particular group are entitled to vote for representatives of the group;

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- (e) the employees entitled to vote may vote for as many candidates as there are representatives to be elected;
- (f) the election is conducted so as to secure that—
 - (i) so far as is reasonably practicable, those voting do so in secret, and
 - (ii) the votes given at the election are fairly and accurately counted.

SCHEDULE 2

Regulation 11

PART 1

AMENDMENTS TO PRIMARY LEGISLATION

1. In Schedule 11 to the Social Security Contributions and Benefits Act 1992(1) (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.
2. The Employment Tribunals Act 1996(2) is amended as follows—
 - (a) in section 18(1)(3) (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)(4) (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.”.
- 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);
 - (4) In section 86 (rights of employer and employee to minimum notice), omit subsection (5);

(1) 1992 c. 4. There are amendments to paragraph 2 of Schedule 11, which are not relevant to these Regulations.

(2) 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.

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

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

(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(5) (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(6) (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(7) (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—

(5) 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.

(6) 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.

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

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- “(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(8) shall cease to have effect.
- (16) In section 199, subsection (6) is omitted.
- (17) In section 203(9) (fixed-term contracts: agreement to exclude right to redundancy payment), in subsection (2)—
- (a) paragraph (d) is omitted, and
- (b) in paragraph (f)(10), 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).”.

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, 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—

(8) 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.

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

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

- (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.