

SCHEDULE 7

Duty to consider working beyond retirement - transitional provisions

4.—(1) This paragraph applies in a case where—

(a) notice of dismissal is given on or after the commencement date of at least—

(i) the period required by the contract of employment; or

(ii) if longer, the period required by section 86 of the 1996 Act; and

(b) the expiry date falls before 1st April 2007.

(2) Where this paragraph applies and the employer notifies the employee in writing of the employee's right to make a request under paragraph 5 of Schedule 6 before, or on the same day as, the day on which notice of dismissal is given—

(a) the employer shall be treated as complying with the duty in paragraph 2 of Schedule 6;

(b) a request shall be treated as being a request made under paragraph 5 of Schedule 6 provided it—

(i) is made after the employer notified the employee of his right to make a request;

(ii) satisfies the requirements of sub-paragraphs (2) and (3) of paragraph 5 of Schedule 6; and

(iii) is made—

(aa) where practicable, at least four weeks before the expiry date; or

(bb) where that is not practicable, as soon as reasonably practicable (whether before or after the expiry date) after the employer notified the employee of his right to make a request, but not more than four weeks after the expiry date.

(3) Where this paragraph applies but the employer does not notify the employee in writing of the employee's right to make a request under paragraph 5 of Schedule 6 before, or on the same day as, the day on which notice of dismissal is given—

(a) the duty to notify in accordance with paragraph 2 of Schedule 6 does not apply;

(b) the duty to notify in accordance with paragraph 4 of Schedule 6 applies as if—

(i) the employer had failed to notify in accordance with paragraph 2 of that Schedule; and

(ii) the duty was one to notify at any time before the expiry date;

(c) a request shall be treated as being a request made under paragraph 5 of Schedule 6 if it satisfies the requirements of sub-paragraphs (2) and (3) of that paragraph and is made—

(i) before any notification given in accordance with paragraph 4 of Schedule 6; or

(ii) after such notification and—

(aa) where practicable, at least four weeks before the expiry date; or

(bb) where that is not practicable, as soon as reasonably practicable (whether before or after the expiry date) after the employer notified the employee of his right to make a request, but not more than four weeks after the expiry date.