

SCHEDULES

SCHEDULE 16

MINOR AND CONSEQUENTIAL AMENDMENTS

PART III

TRADE UNION AND LABOUR RELATIONS ACT 1974

13 For paragraphs 7 and 8 of Schedule 1 (dismissal in connection with industrial action) substitute the following paragraph:—

- “7 (1) The provisions of this paragraph shall have effect in relation to an employee who claims that he has been unfairly dismissed by his employer where at the date of dismissal—
- (a) the employer was conducting or instituting a lock-out; or
 - (b) the employee was taking part in a strike or other industrial action.
- (2) In such a case an industrial tribunal shall not determine whether the dismissal was fair or unfair unless it is shown—
- (a) that one or more relevant employees of the same employer have not been dismissed, or
 - (b) that one or more such employees have been offered re-engagement, and that the employee concerned has not been offered re-engagement.
- (3) Where it is shown that the condition referred to in paragraph (b) of sub-paragraph (2) above is fulfilled, the provisions of paragraph 6 above and of section 34 of the Employment Protection Act 1975 shall have effect as if in that paragraph and that section for any reference to the reason or principal reason for which the employee was dismissed there were substituted a reference to the reason or principal reason for which he has not been offered re-engagement.
- (4) Paragraph 21(4) below shall apply in relation to a complaint to which sub-paragraph (3) above applies as if for references to the effective date of termination there were substituted a reference to the first date on which any relevant employee was offered re-engagement.
- (5) In this paragraph—
- (a) " date of dismissal " means—
 - (i) where the employee's contract of employment was terminated by notice, the date on which the employer's notice was given, and
 - (ii) in any other case, the effective date of termination.
 - (b) " relevant employees " means—

Status: This is the original version (as it was originally enacted).

- (i) in relation to a lock-out, employees who were directly interested in the trade dispute in contemplation or furtherance of which the lock-out occurred, and
 - (ii) in relation to a strike or other industrial action, employees who took part in it; and
- (c) any reference to an offer of re-engagement is a reference to an offer (made either by the original employer or by a successor of that employer or an associated employer) to re-engage an employee, either in the job which he held immediately before the date of dismissal or in a different job which would be reasonably suitable in his case.”