

*Status: Point in time view as at 25/09/2017.*

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## SCHEDULES

### SCHEDULE 11 **N.I.**

Section 149(3).

#### CIRCUMSTANCES IN WHICH PERIODS OF ENTITLEMENT TO STATUTORY SICK PAY DO NOT ARISE

- 1 A period of entitlement does not arise in relation to a particular period of incapacity for work in any of the circumstances set out in paragraph 2 below or in such other circumstances as may be prescribed.
- [<sup>F1</sup>1A Regulations under paragraph 1 above must be made with the concurrence of the Treasury.]

#### Textual Amendments

- F1** Sch. 11 para. 1A inserted (24.3.1999 for specified purposes and 1.4.1999 otherwise) by S.I. 1999/671, arts. 1(2)(b), 3(1), Sch. 1 para. 23 (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(c), Sch. 2 (subject to arts. 3-6)

- 2 The circumstances are that—
- <sup>F2</sup>(a) .....
  - <sup>F3</sup>(b) .....
  - (c) at the relevant date the employee's normal weekly earnings are less than the lower earnings limit then in force under section 5(1)(a) above;
  - [<sup>F4</sup>(d) in the period of 57 days ending immediately before the relevant date the employee had at least one day on which—
    - (i) he was entitled to incapacity benefit (or would have been so entitled had he satisfied the contribution conditions mentioned in section 30A(2)(a) above); <sup>F5</sup> . . .
    - <sup>F6</sup> . . .
    - <sup>F5</sup>(iii) .....
  - [<sup>F7</sup>(dd) in the period of 85 days ending immediately before the relevant date the employee had at least one day on which he was entitled to an employment and support allowance (or would have been so entitled had he satisfied the requirements in section 1(2) of the Welfare Reform Act (Northern Ireland) 2007).]
  - (f) the employee has done no work for his employer under his contract of service;
  - (g) on the relevant date there is <sup>F8</sup> . . . a stoppage of work due to a trade dispute at the employee's place of employment;
  - (h) the employee is, or has been, pregnant and the relevant date falls within the disqualifying period (within the meaning of section 149(12) above).

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**Textual Amendments**

- F2** Sch. 11 para. 2(a) repealed (1.10.2006) by The Employment Equality (Age) Regulations (Northern Ireland) 2006 (S.R. 2006/261), reg. 1(1), Sch. 7 para. 1(9), **Sch. 8(1)** (with reg. 50, Sch. 7 para. 1(10)(11))
- F3** Sch. 11 para. 2(b) omitted (1.10.2002) by virtue of Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 (S.R. 2002/298), reg. 11, **Sch. 2 para. 1(a)** (with Sch. 2 para. 4)
- F4** Sch. 11 para. 2(d) substituted for Sch. 2 para. 2(d)(e) (13.4.1995) by S.I. 1994/1898, art. 13(1), **Sch. 1 Pt. I para. 42(2)** (with art. 15(1)); S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F5** Sch. 11 para. 2(d)(iii) and preceding word repealed (3.11.2000 for specified purposes and 6.4.2001 otherwise) by S.I. 1999/3147 (N.I. 11), art. 76, **Sch. 10 Pt. IV**; S.R. 2000/332, **art. 2(3)(g)(4)(5)** (subject to art. 4)
- F6** Words in Sch. 11 para. 6(2)(d) repealed (6.4.1999) by S.I. 1998/1506 (N.I. 10), art. 78(2), **Sch. 7**; S.R. 1998/312, art. 2(b), **Sch. Pt. III**
- F7** Sch. 11 para. 2(dd) inserted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) Regulations (Northern Ireland) 2008 (S.R. 2008/286), regs. 1(b), **2(3)**
- F8** Words in Sch. 11 para. 2(g) repealed (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(2), **Sch. 3**; S.R. 1996/401, **art. 2(b)**

3 In this Schedule “relevant date” means the date on which a period of entitlement would begin in accordance with section 149 above if this Schedule did not prevent it arising.

4 <sup>F9</sup> .....

**Textual Amendments**

- F9** Sch. 11 para. 4 omitted (1.10.2002) by virtue of Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 (S.R. 2002/298), reg. 11, **Sch. 2 para. 1(b)** (with Sch. 2 para. 4)

<sup>F10</sup>5 .....

**Textual Amendments**

- F10** Sch. 11 para. 5 repealed (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1)(2), Sch. 1 Pt. I para. 42(3), **Sch. 2** (with art. 15(1)); S.R. 1994/450, art. 2(d), **Sch. Pt. IV**

[<sup>F11</sup>5A.(1) Paragraph 2(d)(i) above does not apply if, at the relevant date, the employee is over pensionable age and is not entitled to incapacity benefit.

(2) Paragraph 2(d)(i) above ceases to apply if, at any time after the relevant date, the employee is over pensionable age and is not entitled to incapacity benefit.

(3) In this paragraph “pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995.]

**Textual Amendments**

- F11** Sch. 11 para. 5A inserted (6.4.2007) by The Employment Equality (Age) (Consequential Amendments) Regulations (Northern Ireland) 2007 (S.R. 2007/225), regs. 1(1), **2(2)**

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- 6 For the purposes of paragraph 2(f) above, if an employee enters into a contract of service which is to take effect not more than 8 weeks after the date on which a previous contract of service entered into by him with the same employer ceased to have effect, the two contracts shall be treated as one.
- 7 Paragraph 2(g) above does not apply in the case of an employee who proves that at no time on or before the relevant date did he have a direct interest in the trade dispute in question.
- 8 Paragraph 2(h) above does not apply in relation to an employee who has been pregnant if her pregnancy terminated, before the beginning of the disqualifying period, otherwise than by confinement (as defined for the purposes of statutory maternity pay in section 167(1) above).

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