

Status: Point in time view as at 31/12/2020.

Changes to legislation: Employment Rights Act 1996, SCHEDULE 2 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 241.

TRANSITIONAL PROVISIONS, SAVINGS AND TRANSITORY PROVISIONS

PART I

TRANSITIONAL PROVISIONS AND SAVINGS

General transitionals and savings

- 1 The substitution of this Act for the provisions repealed or revoked by this Act does not affect the continuity of the law.
- 2 (1) Anything done, or having effect as done, (including the making of subordinate legislation) under or for the purposes of any provision repealed or revoked by this Act has effect as if done under or for the purposes of any corresponding provision of this Act.
- (2) Sub-paragraph (1) does not apply to the making of any subordinate legislation to the extent that it is reproduced in this Act.
- 3 Any reference (express or implied) in this Act or any other enactment, or in any instrument or document, to a provision of this Act is (so far as the context permits) to be read as (according to the context) being or including in relation to times, circumstances and purposes before the commencement of this Act a reference to the corresponding provision repealed or revoked by this Act.
- 4 (1) Any reference (express or implied) in any enactment, or in any instrument or document, to a provision repealed or revoked by this Act is (so far as the context permits) to be read as (according to the context) being or including in relation to times, circumstances and purposes after the commencement of this Act a reference to the corresponding provision of this Act.
- (2) In particular, where a power conferred by an Act is expressed to be exercisable in relation to enactments contained in Acts passed before or in the same Session as the Act conferring the power, the power is also exercisable in relation to provisions of this Act which reproduce such enactments.
- 5 Paragraphs 1 to 4 have effect in place of section 17(2) of the ^{M1}Interpretation Act 1978 (but are without prejudice to any other provision of that Act).

Marginal Citations

M1 1978 c. 30.

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Preservation of old transitionals and savings

- 6 (1) The repeal by this Act of an enactment previously repealed subject to savings (whether or not in the repealing enactment) does not affect the continued operation of those savings.
- (2) The repeal by this Act of a saving made on the previous repeal of an enactment does not affect the operation of the saving in so far as it remains capable of having effect.
- (3) Where the purpose of an enactment repealed by this Act was to secure that the substitution of the provisions of the Act containing that enactment for provisions repealed by that Act did not affect the continuity of the law, the enactment repealed by this Act continues to have effect in so far as it is capable of doing so.

Employment particulars [F¹ for pre-TURERA employees]

Textual Amendments

F1 Words in *Sch. 2 para. 7 heading* inserted (6.4.2020) by *The Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018 (S.I. 2018/1378), regs. 1, 9(2)(a)*

- 7 (1) In this paragraph “pre-TURERA employee” means an employee whose employment with his employer began before 30th November 1993 (the day on which section 26 of the ^{M2}Trade Union Reform and Employment Rights Act 1993 came into force), whether or not the provisions of sections 1 to 6 of the ^{M3}Employment Protection (Consolidation) Act 1978, as they had effect before the substitution made by that section, applied to him before that date.
- (2) Subject to the following provisions of this paragraph [F² and paragraph 7B], sections 1 to 7 of this Act do not apply to a pre-TURERA employee (but the provisions of sections 1 to 6 of the Employment Protection (Consolidation) Act 1978, as they had effect before the substitution made by section 26 of the Trade Union Reform and Employment Rights Act 1993, continue in force in his case).
- (3) Where a pre-TURERA employee, at any time [F³ before 6 April 2020]—
- (a) on or after the day on which this Act comes into force, and
 - (b) either before the end of his employment or within the period of three months beginning with the day on which his employment ends,
- requests from his employer a statement under section 1 of this Act, the employer shall (subject to section 5 and any other provision disapplying or having the effect of disapplying sections 1 to 4) be treated as being required by section 1 to give him a written statement under that section not later than two months after the request is made; and section 4 of this Act shall (subject to that) apply in relation to the employee after he makes the request.
- (4) An employer is not required to give an employee a statement under section 1 pursuant to sub-paragraph (3)—
- (a) on more than one occasion, or
 - (b) if he has already given him a statement pursuant to paragraph 3(3) of Schedule 9 to the ^{M4}Trade Union Reform and Employment Rights Act 1993.
- (5) Where—

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- (a) on or after the day on which this Act comes into force there is in the case of a pre-TURERA employee a change in any of the matters particulars of which would, had he been given a statement of particulars on 30th November 1993 under section 1 of the ^{M5}Employment Protection (Consolidation) Act 1978 (as substituted by section 26 of the Trade Union Reform and Employment Rights Act 1993), have been included or referred to in the statement, and
- (b) he has not previously requested a statement under sub-paragraph (3) or paragraph 3(3) of Schedule 9 to the ^{M6}Trade Union Reform and Employment Rights Act 1993,

subsections (1) and (6) of section 4 of this Act shall be treated (subject to section 5 and any other provision disapplying or having the effect of disapplying section 4) as requiring his employer to give him a written statement containing particulars of the change at the time specified in subsection (3) of section 4; and the other provisions of section 4 apply accordingly.

Textual Amendments

- F2** Words in Sch. 2 para. 7(2) inserted (6.4.2020) by [The Employment Rights \(Employment Particulars and Paid Annual Leave\) \(Amendment\) Regulations 2018 \(S.I. 2018/1378\)](#), regs. 1, **9(2)(b)**
- F3** Words in Sch. 2 para. 7(3) inserted (6.4.2020) by [The Employment Rights \(Employment Particulars and Paid Annual Leave\) \(Amendment\) Regulations 2018 \(S.I. 2018/1378\)](#), regs. 1, **9(2)(c)**

Marginal Citations

- M2** 1993 c. 19.
M3 1978 c. 44.
M4 1993 c. 19.
M5 1978 c. 44.
M6 1993 c. 19.

[^{F4}Employment particulars for pre-6 April 2020 employees

Textual Amendments

- F4** Sch. 2 paras. 7A, 7B inserted (6.4.2020) by [The Employment Rights \(Employment Particulars and Paid Annual Leave\) \(Amendment\) Regulations 2018 \(S.I. 2018/1378\)](#), regs. 1, **9(3)**

- 7A** (1) In this paragraph an “existing employee” means an employee whose employment with his employer began on or after 30th November 1993 and before 6th April 2020.
- (2) Subject to paragraph 7B, sections 1 to 7 of this Act apply to an existing employee without the amendments made by regulations 2 to 6 of the Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018.

Request for employment particulars by pre-6 April 2020 employee or pre- TURERA employee

- 7B** (1) Where an existing employee (as defined in paragraph 7A(1)) or a pre-TURERA employee (as defined in paragraph 7(1)) at any time—
- (a) on or after 6 April 2020, and

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- (b) either before the end of the employee's employment or within the period of three months beginning with the day on which the employee's employment ends,

requests from the employer a statement under section 1 of this Act, the employer shall (subject to section 5 and any other provisions disapplying or having the effect of disapplying sections 1 to 4) be treated as being required by section 1 to give him a written statement under that section not later than 1 month after the request is made and section 4 of this Act shall (subject to that) apply in relation to the employee after he makes the request.

- (4) An employer is not required to give an existing employee or a pre-TURERA employee a statement under section 1 pursuant to sub-paragraph (1) on more than one occasion.

- (5) Where—

- (a) on or after 6 April 2020 there is in the case of an existing employee or a pre-TURERA employee a change in any of the matters particulars of which would, had they have been given a statement of particulars on or after 6 April 2020 under section 1 of this Act (as amended), have been included or referred to in the statement, and

(b) he has not previously requested a statement under sub-paragraph (1), subsection (1) of section 4 of this Act shall be treated (subject to section 5 and any other provision disapplying or having the effect of disapplying section 4) as requiring his employer to give him a written statement containing particulars of the change at the time specified in subsection (3) of section 4; and the other provisions of section 4 apply accordingly.

- (6) A reference in this paragraph to section 1 or section 4 is a reference to that section as amended by the Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018.]

Monetary limits in old cases

- 8 In relation to any case in which (but for this Act) a limit lower than that set by Article 3 of the ^{M7}Employment Protection (Increase of Limits) Order 1995 would have applied in accordance with Article 4 of that Order, this Act has effect as if it reproduced that lower limit.

Marginal Citations

M7 [S.I. 1995/1953](#).

Shop workers and betting workers to whom old maternity provisions applied

- 9 (1) This paragraph applies where an employee exercised a right to return to work under Part III of the ^{M8}Employment Protection (Consolidation) Act 1978 at a time when the amendments of that Part made by the Trade Union Reform and Employment Rights Act 1993 did not have effect in her case (so that her right was a right to return to work in the job in which she was employed under the original contract of employment).

- (2) Section 36(4) shall have effect as if for paragraph (b) there were substituted—

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“(b) under her original contract of employment, she was a shop worker, or a betting worker, but was not employed to work only on Sunday.”

(3) If the employee was employed as a shop worker under her original contract of employment, she shall not be regarded as failing to satisfy the condition in section 36(2)(a) or (c) or 41(1)(c) merely because during her pregnancy she was employed under a different contract of employment by virtue of section 60(2) of the ^{M9}Employment Protection (Consolidation) Act 1978 (as it had effect before the commencement of section 24 of the ^{M10}Trade Union Reform and Employment Rights Act 1993) or otherwise by reason of her pregnancy.

(4) In this paragraph, and in section 36(4)(b) as substituted by sub-paragraph (2), “original contract of employment” has the meaning given by section 153(1) of the Employment Protection (Consolidation) Act 1978 as originally enacted.

Extent Information

E1 Sch. 2 para. 9, which previously extended to England and Wales only, extends to England and Wales and Scotland from 6.4.2004 by virtue of the amendment to s. 244(2) by [Sunday Working \(Scotland\) Act 2003 \(c. 18\)](#), **ss. 1(5), 3**; S.I. 2004/958, **art. 2**

Marginal Citations

M8 1978 c. 44.

M9 1978 c. 44.

M10 1993 c. 19.

Validity of provisions deriving from certain regulations

10 Any question as to the validity of any of sections 47, 61, 62, 63 and 103, which derive from the ^{M11}Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 made under subsection (2) of section 2 of the ^{M12}European Communities Act 1972, shall be determined as if those provisions were contained in regulations made under that subsection [^{F5}before the repeal of that subsection by section 1 of the European Union (Withdrawal) Act 2018].

Textual Amendments

F5 Words in [Sch. 2 para. 10](#) inserted (31.12.2020) by [The Employment Rights \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/535\)](#), reg. 1(1), **Sch. 1 para. 3** (with [Sch. 1 para. 22](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Marginal Citations

M11 S.I. 1995/2587.

M12 1972 c. 68.

Unfair dismissal

11 Part X does not apply to a dismissal from employment under a contract for a fixed term of two years or more (not being a contract of apprenticeship) if—
(a) the contract was made before 28th February 1972, and

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- (b) the dismissal consists only of the expiry of that term without its being renewed.

Redundancy payments

- 12 (1) Section 135 does not apply to an employee who immediately before the relevant date is employed under a contract for a fixed term of two years or more (not being a contract of apprenticeship) if the contract was made before 6th December 1965.
- (2) Section 197(3) does not apply if the contract was made before 6th December 1965.

Periods of employment

- 13 (1) The reference in section 215(2)(b) to a person being an employed earner for the purposes of the ^{M13}Social Security Contributions and Benefits Act 1992 in respect of whom a secondary Class 1 contribution was payable under that Act (whether or not it was in fact paid) shall be construed—
- (a) as respects a week of employment after 1st June 1976 and before 1st July 1992, as a reference to a person being an employed earner for the purposes of the ^{M14}Social Security Act 1975 in respect of whom a secondary Class 1 contribution was payable under that Act (whether or not it was in fact paid),
- (b) as respects a week of employment after 6th April 1975 and before 1st June 1976, as a reference to a person being an employed earner for the purposes of the ^{M15}Social Security Act 1975, and
- (c) as respects a week of employment before 6th April 1975, as a reference to a person being an employee in respect of whom an employer’s contribution was payable in respect of the corresponding contribution week (whether or not it was in fact paid).
- (2) For the purposes of the application of sub-paragraph (1) to a week of employment where the corresponding contribution week began before 5th July 1948, an employer’s contribution shall be treated as payable as mentioned in that sub-paragraph if such a contribution would have been so payable had the statutory provisions relating to national insurance in force on 5th July 1948 been in force in that contribution week.
- (3) The references in subsection (4) of section 215 to the ^{M16}Social Security Contributions and Benefits Act 1992 include the ^{M17}Social Security Act 1975; and that subsection applies to any question arising whether an employer’s contribution was or would have been payable as mentioned in sub-paragraph (1) or (2).
- (4) In this paragraph—
- “employer’s contribution” has the same meaning as in the ^{M18}National Insurance Act 1965, and
- “corresponding contribution week”, in relation to a week of employment, means a contribution week (within the meaning of that Act) of which so much as falls within the period beginning with midnight between Sunday and Monday and ending with Saturday also falls within that week of employment.

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Marginal Citations

- M13 1992 c. 4.
- M14 1975 c. 14.
- M15 1975 c. 14.
- M16 1992 c. 4.
- M17 1975 c. 14.
- M18 1965 c. 51.

- 14 (1) Subject to paragraph 13 and sub-paragraphs (2) and (3) of this paragraph, Chapter I of Part XIV applies to periods before this Act comes into force as it applies to later periods.
- (2) If, during the whole or any part of a week beginning before 6th July 1964, an employee was absent from work—
- (a) because he was taking part in a strike, or
 - (b) because of a lock-out by his employer,
- the week counts as a period of employment.
- (3) Any week which counted as a period of employment in the computation of a period of employment for the purposes of the ^{M19}Employment Protection (Consolidation) Act 1978 counts as a period of employment for the purposes of this Act; and any week which did not break the continuity of a person's employment for the purposes of that Act shall not break the continuity of a period of employment for the purposes of this Act.

Marginal Citations

- M19 1978 c. 44.

PART II

TRANSITORY PROVISIONS

Occupational pension scheme trustees

- 15 ^{F6}

Textual Amendments

- F6 Sch. 2 para. 15 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), Sch. 1 Pt. 8

Armed forces

- 16 (1) If section 31 of the ^{M20}Trade Union Reform and Employment Rights Act 1993 has not come into force before the commencement of this Act, this Act shall have effect until the relevant commencement date as if for section 192 there were substituted—

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“192 Armed forces.

Section 191—

- (a) does not apply to service as a member of the naval, military or air forces of the Crown, but
 - (b) does apply to employment by an association established for the purposes of Part XI of the ^{M21}Reserve Forces Act 1996.”
- (2) The reference in sub-paragraph (1) to the relevant commencement date is a reference—
- (a) if an order has been made before the commencement of this Act appointing a day after that commencement as the day on which section 31 of the ^{M22}Trade Union Reform and Employment Rights Act 1993 is to come into force, to the day so appointed, and
 - (b) otherwise, to such day as the Secretary of State may by order appoint.

Marginal Citations

M20 1993 c. 19.
M21 1996 c. 14.
M22 1993 c. 19.

- 17 (1) If Part XI of the Reserve Forces Act 1996 has not come into force before the commencement of this Act, section 192 of this Act shall have effect until the relevant commencement date as if for “Part XI of the Reserve Forces Act 1996” there were substituted “ Part VI of the ^{M23}Reserve Forces Act 1980 ”.
- (2) The reference in sub-paragraph (1) to the relevant commencement date is a reference—
- (a) if an order has been made before the commencement of this Act appointing a day after that commencement as the day on which Part XI of the Reserve Forces Act 1996 is to come into force, to the day so appointed, and
 - (b) otherwise, to such day as the Secretary of State may by order appoint.

Marginal Citations

M23 1980 c. 9.

Disability discrimination

^{F7}18

Textual Amendments

F7 Sch. 2 para. 18 repealed (1.8.1998) by 1998 c. 8, s. 15, **Sch. 2**; S.I. 1998/1658, art. 2(1), **Sch. 1**

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