

Status: Point in time view as at 01/04/2010.

Changes to legislation: Tax Credits Act 2002, SCHEDULE 1 is up to date with all changes known to be in force on or before 21 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 1

Section 27

RIGHTS OF EMPLOYEES

Right not to suffer detriment: Great Britain

1 (1) The Employment Rights Act 1996 (c. 18) has effect subject to the following amendments.

(2) After section 47C insert—

“47D Tax credits

(1) An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer, done on the ground that—

- (a) any action was taken, or was proposed to be taken, by or on behalf of the employee with a view to enforcing, or otherwise securing the benefit of, a right conferred on the employee by regulations under section 25 of the Tax Credits Act 2002,
- (b) a penalty was imposed on the employer, or proceedings for a penalty were brought against him, under that Act, as a result of action taken by or on behalf of the employee for the purpose of enforcing, or otherwise securing the benefit of, such a right, or
- (c) the employee is entitled, or will or may be entitled, to working tax credit.

(2) It is immaterial for the purposes of subsection (1)(a) or (b)—

- (a) whether or not the employee has the right, or
- (b) whether or not the right has been infringed,

but, for those provisions to apply, the claim to the right and (if applicable) the claim that it has been infringed must be made in good faith.

(3) Subsections (1) and (2) apply to a person who is not an employee within the meaning of this Act but who is an employee within the meaning of section 25 of the Tax Credits Act 2002, with references to his employer in those subsections (and sections 48(2) and (4) and 49(1)) being construed in accordance with that section.

(4) Subsections (1) and (2) do not apply to an employee if the detriment in question amounts to dismissal (within the meaning of Part 10).”

(3) In section 48 (complaints to employment tribunals), after subsection (1A) insert—

“(1B) A person may present a complaint to an employment tribunal that he has been subjected to a detriment in contravention of section 47D.”

(4) In section 49 (remedies), at the end insert—

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“(7) Where—

- (a) the complaint is made under section 48(1B) by a person who is not an employee, and
- (b) the detriment to which he is subjected is the termination of his contract with the person who is his employer for the purposes of section 25 of the Tax Credits Act 2002,

any compensation must not exceed the compensation that would be payable under Chapter 2 of Part 10 if the complainant had been an employee and had been dismissed for the reason specified in section 104B.”

(5) In section 192(2)(aa) (armed forces)—

- (a) for “section 45A,” substitute “ sections 45A, 47C and 47D, ”, and
- (b) for “that section” substitute “ those sections ”.

(6) In—

- (a) section 194(2)(c) (House of Lords staff), and
 - (b) section 195(2)(c) (House of Commons staff),
- for “and 47C” substitute “ , 47C and 47D ”.

Right not to suffer detriment: Northern Ireland

- 2 (1) The Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)) has effect subject to the following amendments.
- (2) After Article 70C insert—

Tax credits

“70D(1) An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer, done on the ground that—

- (a) any action was taken, or was proposed to be taken, by or on behalf of the employee with a view to enforcing, or otherwise securing the benefit of, a right conferred on the employee by regulations under section 25 of the Tax Credits Act 2002,
- (b) a penalty was imposed on the employer, or proceedings for a penalty were brought against him, under that Act, as a result of action taken by or on behalf of the employee for the purpose of enforcing, or otherwise securing the benefit of, such a right, or
- (c) the employee is entitled, or will or may be entitled, to working tax credit.

(2) It is immaterial for the purposes of paragraph (1)(a) or (b)—

- (a) whether or not the employee has the right, or
- (b) whether or not the right has been infringed,

but, for those provisions to apply, the claim to the right and (if applicable) the claim that it has been infringed must be made in good faith.

(3) Paragraphs (1) and (2) apply to a person who is not an employee within the meaning of this Order but who is an employee within the meaning of section 25 of the Tax Credits Act 2002, with references to his employer in

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those paragraphs (and Articles 71(2) and (4) and 72(1)) being construed in accordance with that section.

(4) Paragraphs (1) and (2) do not apply to an employee if the detriment in question amounts to dismissal (within the meaning of Part 11).”

(3) In Article 71 (complaints to industrial tribunals), after paragraph (1A) insert—

“(1B) A person may present a complaint to an industrial tribunal that he has been subjected to a detriment in contravention of Article 70D.”

(4) In Article 72 (remedies), at the end insert—

“(7) Where—

- (a) the complaint is made under Article 71(1B) by a person who is not an employee, and
- (b) the detriment to which he is subjected is the termination of his contract with the person who is his employer for the purposes of section 25 of the Tax Credits Act 2002,

any compensation must not exceed the compensation that would be payable under Chapter 2 of Part 11 if the complainant had been an employee and had been dismissed for the reason specified in Article 135B.”

(5) In Article 237(2)(aa) (armed forces)—

- (a) for “Article 68A” substitute “ Articles 68A, 70C and 70D ”, and
- (b) for “that Article” substitute “ those Articles ”.

Right not to be unfairly dismissed: Great Britain

3 (1) The Employment Rights Act 1996 (c. 18) has effect subject to the following amendments.

(2) For section 104B substitute—

“104B Tax credits

(1) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that—

- (a) any action was taken, or was proposed to be taken, by or on behalf of the employee with a view to enforcing, or otherwise securing the benefit of, a right conferred on the employee by regulations under section 25 of the Tax Credits Act 2002,
- (b) a penalty was imposed on the employer, or proceedings for a penalty were brought against him, under that Act, as a result of action taken by or on behalf of the employee for the purpose of enforcing, or otherwise securing the benefit of, such a right, or
- (c) the employee is entitled, or will or may be entitled, to working tax credit.

(2) It is immaterial for the purposes of subsection (1)(a) or (b)—

- (a) whether or not the employee has the right, or
- (b) whether or not the right has been infringed,

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but, for those provisions to apply, the claim to the right and (if applicable) the claim that it has been infringed must be made in good faith.”

- (3) In section 105 (redundancy as unfair dismissal), after subsection (7A) continue to insert—

“(7B) This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in subsection (1) of section 104B (read with subsection (2) of that section).”

- (4) In section 108(3) (cases where no qualifying period of employment is required) and section 109(2) (cases where upper age limit does not apply), after paragraph (gg) continue to insert—

“(gh) subsection (1) of section 104B (read with subsection (2) of that section) applies.”.

Right not to be unfairly dismissed: Northern Ireland

- 4 (1) The Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)) has effect subject to the following amendments.
- (2) For Article 135B substitute—

Tax credits

“135B) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that—

- (a) any action was taken, or was proposed to be taken, by or on behalf of the employee with a view to enforcing, or otherwise securing the benefit of, a right conferred on the employee by regulations under section 25 of the Tax Credits Act 2002,
- (b) a penalty was imposed on the employer, or proceedings for a penalty were brought against him, under that Act, as a result of action taken by or on behalf of the employee for the purpose of enforcing, or otherwise securing the benefit of, such a right, or
- (c) the employee is entitled, or will or may be entitled, to working tax credit.

(2) It is immaterial for the purposes of paragraph (1)(a) or (b)—

- (a) whether or not the employee has the right, or
- (b) whether or not the right has been infringed,

but, for those provisions to apply, the claim to the right and (if applicable) the claim that it has been infringed must be made in good faith.”

- (3) In Article 137 (redundancy as unfair dismissal), after paragraph (6A) continue to insert—

“(6B) This paragraph applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in paragraph (1) of Article 135B (read with paragraph (2) of that Article).”

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- (4) In Article 140(3) (cases where no qualifying period of employment is required) and Article 141(2) (cases where upper age limit does not apply), after sub-paragraph (ff) continue to insert—
- “(fg) paragraph (1) of Article 135B (read with paragraph (2) of that Article) applies.”.

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