



2008 CHAPTER 13

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 3

SAFEGUARDS: EMPLOYMENT AND PRE-EMPLOYMENT

Protection of employment rights

Enforcement of the right

56.—(1) A worker may present a complaint to an industrial tribunal that the worker has been subjected to a detriment in contravention of section 55.

(2) Subject to the following provisions of this section, the provisions of Articles 71(2) to (4) and 72 of the Employment Rights Order (complaints to industrial tribunals and remedies), apply in relation to a complaint under this section as they apply in relation to a complaint under Article 71 of that Order, but taking references in those provisions to the employer as references to the employer within the meaning of section 55(1).

(3) Where—

(a) the detriment to which the worker is subjected is the termination of the worker's contract, but

(b) that contract is not a contract of employment,

any compensation awarded under Article 72 of the Employment Rights Order by virtue of subsection (2) must not exceed the limit specified in subsection (4).

(4) The limit is the total of—

- (a) the sum which would be the basic award for unfair dismissal, calculated in accordance with Article 153 of the Employment Rights Order, if the worker had been an employee within the meaning of that Order and the contract terminated had been a contract of employment, and
 - (b) the sum for the time being specified in Article 158(1) of that Order which is the limit for a compensatory award to a person calculated in accordance with Article 157 of that Order.
- (5) Where the worker has been working under arrangements which do not fall to be regarded as a worker's contract for the purposes of the Employment Rights Order, the worker is to be treated for the purposes of subsections (3) and (4) as if any arrangements under which the worker has been working constituted a worker's contract falling within Article 3(3)(b) of that Order.
- (6) In Article 20(1) of the [Industrial Tribunals \(Northern Ireland\) Order 1996 \(NI 18\)](#) (proceedings where conciliation is available), after sub-paragraph (q) add “, or
- (r) under section 56 of the Pensions (No. 2) Act (Northern Ireland) 2008.”.