

SCHEDULES

SCHEDULE 2

Article 256.

TRANSITIONAL PROVISIONS, SAVINGS AND TRANSITORY PROVISIONS

PART I

TRANSITIONAL PROVISIONS AND SAVINGS

General transitionals and savings

1. The substitution of this Order for the provisions repealed or revoked by this Order does not affect the continuity of the law.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or having effect as done, (including the making of subordinate legislation) under or for the purposes of any provision repealed or revoked by this Order has effect as if done under or for the purposes of any corresponding provision of this Order.

(2) Sub-paragraph (1) does not apply to the making of any subordinate legislation to the extent that it is reproduced in this Order.

3. Any reference (express or implied) in this Order or any other statutory provision, or in any instrument or document, to a provision of this Order 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circumstances and purposes before the coming into operation of this Order a reference to the corresponding provision repealed or revoked by this Order.

4.—(1) Any reference (express or implied) in any statutory provision, or in any instrument or document, to a provision repealed or revoked by this Order is (so far as the context permits) to be read as (according to the context) being or including in relation to times, circumstances and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 coming into operation of this Order a reference to the corresponding provision of this Order.

(2) In particular, where a power conferred by a statutory provision is expressed to be exercisable in relation to statutory provisions passed or made before the statutory provision conferring the power, the power is also exercisable in relation to provisions of this Order which reproduce such statutory provisions.

5. Paragraphs 1 to 4 have effect in place of section 29 of the Interpretation Act (Northern Ireland) 1954 (but are without prejudice to any other provision of that Act).

Preservation of old transitionals and savings

6.—(1) The repeal by this Order of a statutory provision previously repealed subject to savings (whether or not in the repealing provision) does not affect the continued operation of those savings.

(2) The repeal by this Order of a saving made on the previous repeal of a statutory provision does not affect the operation of the saving in so far as it remains capable of having effect.

Status: Point in time view as at 07/10/2013.

Changes to legislation: The Employment Rights (Northern Ireland) Order 1996, SCHEDULE 2 is up to date with all changes known to be in force on or before 22 June 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)

(3) Where the purpose of a statutory provision repealed by this Order was to secure that the substitution of provisions of that statutory provision for provisions repealed by that statutory provision did not affect the continuity of the law, the statutory provision repealed by this Order continues to have effect in so far as it is capable of doing so.

Employment particulars

7.—(1) In this paragraph “existing employee” means an employee whose employment with his employer began before 7th December 1994, whether or not the provisions of section 4 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 applied to him before that date.

(2) Subject to the following provisions of this paragraph, Articles 33 to 39 do not apply to an existing employee (but the provisions of section 4 of the Act of 1965 continue in force in his case).

(3) Where an existing employee, at any time—

- (a) on or after the day on which this Order comes into operation, 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 Article 33, the employer shall (subject to Article 37 and any other provision disapplying or having the effect of disapplying Articles 33 to 36) be treated as being required by Article 33 to give him a written statement under that Article not later than two months after the request is made; and Article 36 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 Article 33 pursuant to sub-paragraph (3)—

- (a) on more than one occasion, or
- (b) if he has already given him a statement pursuant to paragraph 2(3) of Schedule 7 to the Industrial Relations (Northern Ireland) Order 1993.

(5) Where—

- (a) on or after the day on which this Order comes into operation there is in the case of an existing employee a change in any of the matters particulars of which would, had he been given a statement of particulars on 7th December 1994 under Article 43 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976, have been included or referred to in the statement, and
- (b) he has not previously requested a statement under sub-paragraph (3) or paragraph 2(3) of Schedule 7 to the Industrial Relations (Northern Ireland) Order 1993,

paragraphs (1) and (6) of Article 36 shall be treated (subject to Article 37 and any other provision disapplying or having the effect of disapplying Article 36) as requiring his employer to give him a written statement containing particulars of the change at the time specified in paragraph (3) of Article 36; and the other provisions of Article 36 apply accordingly.

Monetary limits in old cases

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

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Periods of employment

9.—(1) The reference in Article 11(2)(b) to a person being an employed earner for the purposes of the Social Security Contributions and Benefits (Northern Ireland) 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 Social Security (Northern Ireland) Act 1975 in respect of whom a secondary Class 1 contribution was payable under that Act (whether or not it was in fact paid), and
- (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 Social Security (Northern Ireland) Act 1975.

(2) The references in paragraph (4) of Article 11 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 include the Social Security (Northern Ireland) Act 1975; and that paragraph applies to any question arising whether an employer's contribution was or would have been payable as mentioned in sub-paragraph (1).

10.—(1) Subject to paragraph 9 and sub-paragraph (2), Chapter III of Part I applies to periods before this Order comes into operation as it applies to later periods.

(2) Any week which counted as a period of employment in the computation of a period of employment for the purposes of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 or the Industrial Relations (Northern Ireland) Order 1976 counts as a period of employment for the purposes of this Order; and any week which did not break the continuity of a person's employment for the purposes of that Act or Order shall not break the continuity of a period of employment for the purposes of this Order.

PART II

TRANSITORY PROVISIONS

Occupational pension scheme trustees

11.—(1) If Articles 42 to 46 of the Pensions (Northern Ireland) Order 1995 have not come into operation before the coming into operation of this Order, this Order shall have effect with the omission of Articles 69,86 to 88 and 133 until the relevant commencement date.

(2) The reference in sub-paragraph (1) to the relevant commencement date is a reference—

- (a) if an order has been made before the coming into operation of this Order appointing a day after that coming into operation as the day on which Articles 42 to 46 of the Pensions (Northern Ireland) Order 1995 are to come into operation, to the day so appointed, and
- (b) otherwise, to such day as the Department may by order appoint^{F1}.

F1 partly exercised by SR 1996/475

Status: Point in time view as at 07/10/2013.

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Armed forces

12.—(1) If Article 10 of the Industrial Relations (Northern Ireland) Order 1993 has not come into operation before the coming into operation of this Order, this Order shall have effect until the relevant commencement date as if for Article 237 there were substituted—

“Armed forces

237. Article 236—

- (a) does not apply to services 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 VI of the 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 coming into operation of this Order appointing a day after that coming into operation as the day on which Article 10 of the Industrial Relations (Northern Ireland) Order 1993 is to come into operation, to the day so appointed, and
- (b) otherwise, to such day as the Department may by order appoint.

Para. 13 rep. by 1998 NI 8

Status:

Point in time view as at 07/10/2013.

Changes to legislation:

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