

## SCHEDULE 1

Regulations 1 and 8

### WORKFORCE AGREEMENTS

1. An agreement is a workforce agreement for the purposes of these Regulations if the following conditions are satisfied –

- (a) the agreement is in writing;
- (b) it has effect for a specified period not exceeding five years;
- (c) it applies either –
  - (i) to all of the relevant members of the workforce, or
  - (ii) to all of the relevant members of the workforce who belong to a particular group;
- (d) the agreement is signed –
  - (i) in the case of an agreement of the kind referred to in sub-paragraph (c)(i), by the representatives of the workforce, and in the case of an agreement of the kind referred to in sub-paragraph (c)(ii) by the representatives of the group to which the agreement applies (excluding, in either case, any representative not a relevant member of the workforce on the date on which the agreement was first made available for signature), or
  - (ii) if the employer employed 20 or fewer employees on the date referred to in sub-paragraph (d)(i), either by the appropriate representatives in accordance with that sub-paragraph or by the majority of the employees employed by him;
- (e) before the agreement was made available for signature, the employer provided all the employees to whom it was intended to apply on the date on which it came into operation with copies of the text of the agreement and such guidance as those employees might reasonably require in order to understand it fully.

2. For the purposes of this Schedule –

“a particular group” is a group of the relevant members of a workforce who undertake a particular function, work at a particular workplace or belong to a particular department or unit within their employer’s business;

“relevant members of the workforce” are all of the employees employed by a particular employer, excluding any employee whose terms and conditions of employment are provided for, wholly or in part, in a collective agreement;

“representatives of the workforce” are employees duly elected to represent the relevant members of the workforce, “representatives of the group” are employees duly elected to represent the members of a particular group, and representatives are “duly elected” if the election at which they were elected satisfied the requirements of paragraph 3 of this Schedule.

3. The requirements concerning elections referred to in paragraph 2 are that –

- (a) the number of representatives to be elected is determined by the employer;
- (b) the candidates for election as representatives of the workforce are relevant members of the workforce, and the candidates for election as representatives of a group are members of the group;
- (c) no employee who is eligible to be a candidate is unreasonably excluded from standing for election;
- (d) all the relevant members of the workforce are entitled to vote for representatives of the workforce, and all the members of a particular group are entitled to vote for representatives of the group;

- (e) the employees entitled to vote may vote for as many candidates as there are representatives to be elected;
- (f) the election is conducted so as to secure that –
  - (i) so far as is reasonably practicable, those voting do so in secret, and
  - (ii) the votes given at the election are fairly and accurately counted.

## SCHEDULE 2

Regulation 11

### PART I

#### AMENDMENTS TO PRIMARY LEGISLATION

1. In Schedule 11 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(1)</sup> (circumstances in which periods of entitlement to statutory sick pay do not arise) –
  - (a) in paragraph 2, omit sub-paragraph (b), and
  - (b) omit paragraph 4.
- 2.—(1) The 1996 Order is amended in accordance with sub-paragraphs (2) to (16).
- (2) In Article 2(3) (Interpretation – general), after the definition of “job” insert –
  - ““limited-term contract” means a contract of employment whereby –
    - (a) the employment under the contract is not intended to be permanent, and
    - (b) provision is accordingly made in the contract for it to terminate by virtue of a limiting event.”; and
  - ““limiting event”, in relation to a contract of employment means –
    - (a) in the case of a contract for a fixed-term, the expiry of the term,
    - (b) in the case of a contract made in contemplation of the performance of a specific task, the performance of the task, and
    - (c) in the case of a contract which provides for its termination on the occurrence of an event (or the failure of an event to occur), the occurrence of the event (or the failure of the event to occur).”.
- (3) In Article 61 (exclusions from the right to guarantee payment) omit paragraph (2).
- (4) In Article 97 (exclusions from the right to remuneration during suspension on medical grounds), omit paragraph (2).
- (5) In Article 118 (rights of employer and employee to minimum notice) omit paragraph (5).
- (6) In Article 124 (right to written statement of reasons for dismissal) –
  - (a) in paragraph (1), for sub-paragraph (c) substitute –
    - “(c) if the employee is employed under a limited-term contract and the contract terminates by virtue of the limiting event without being renewed.”; and
  - (b) in paragraph (6), for sub-paragraph (c) substitute –

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<sup>(1)</sup> 1992 c. 7. Amendments have been made to paragraph 2 of Schedule 11 which are not relevant to these Regulations

“(c) in relation to an employee who is employed under a limited-term contract which terminates by virtue of the limiting event without being renewed under the same contract, means the date on which the termination takes effect.”

(7) In Article 127 (circumstances in which an employee is dismissed), in paragraph (1), for sub-paragraph (b) substitute –

“(b) he is employed under a limited-term contract that terminates by virtue of the limiting event without being renewed, or”

(8) In Article 129(1) (effective date of termination), for sub-paragraph (c) substitute –

“(c) in relation to an employee who is employed under a limited-term contract which terminates by virtue of the limiting event without being renewed, means the date on which the termination takes effect.”

(9) In Article 137 (redundancy as unfair dismissal) in paragraph (1)(c)(2) (which requires one of a specified group of paragraphs to apply for a person to be treated as unfairly dismissed) for the words “(2) to (7C)” substitute “(3) to (7D)”.

(10) In that Article, after paragraph (7C) insert –

“(7D) This paragraph applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one specified in paragraph (3) of regulation 6 of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 (unless the case is one to which paragraph (4) of that regulation applies).”

(11) In Article 140(3) (exclusion of right not to be unfairly dismissed: qualifying period of employment) in paragraph (3) (cases where no qualifying period of employment is required) omit “or” at the end of sub-paragraph (k) and after sub-paragraph (l) insert – “or

(m) paragraph (1) of regulation 6 of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 applies.”

(12) In Article 141 (exclusion of right: upper age limit) in paragraph (2)(4) (cases where upper age limit does not apply) omit “or” at the end of paragraph (k) and after paragraph (l) insert – “or

(m) paragraph (1) of regulation 6 of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 applies.”

(13) In Article 171 (circumstances in which an employee is dismissed for the purposes of the right to a redundancy payment), in paragraph (1), for sub-paragraph (b) substitute –

“(b) he is employed under a limited-term contract and that contract terminates by virtue of the limiting event without being renewed, or”

(14) In Article 180 (relevant date for the purposes of redundancy), in paragraph (2), for sub-paragraph (c) substitute –

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(2) Article 137 has been amended on a number of occasions to specify additional circumstances in which an employee dismissed by reason of redundancy is to be regarded as unfairly dismissed; paragraph (7A) was inserted by Article 18 and paragraph 2 to Schedule 5 of *S.I. 1999/2790 (N.I. 9)*; paragraph (7B) was inserted by regulation 30(1) of *S.I. 1999/3323*; paragraph (7C) was inserted by regulation 10 and paragraph 1(1) of the Schedule to *S.R. 2000 No. 219*; other amendments have been made to Article 137 not relevant to these Regulations

(3) Article 140(1) was amended by the Unfair Dismissal and Statement of Reasons for Dismissal (Variation of Qualifying Period) Order (Northern Ireland) 1999 *S.R. 1999 No. 277*, paragraph 5, reducing the qualifying period from two years to one year. Article 140(3) has been amended on a number of occasions to specify additional cases where the qualifying period does not apply

(4) Article 141(2) has been amended by *S.R. 1998 No. 386*, regulation 32(4); *S.I. 1998/1763 (N.I.17)*, Article 10(2); *1998 c. 39*, Section 26(4); *1999 c. 10*, paragraph 4(4) of Schedule 3; *S.I. 1999/3323*, regulation 30(3); and *S.R. 2000 No. 219*, paragraph 1(3) to the Schedule to specify additional cases where the upper age limit does not apply

*Status: This is the original version (as it was originally made).*

“(c) in relation to an employee who is employed under a limited-term contract which terminates by virtue of the limiting event without being renewed, means the date on which the termination takes effect.”.

(15) Articles 240(5), 242(6) and 245(2)(d)(6) (fixed-term contracts: agreement to exclude right to redundancy payment) are repealed.

(16) In Article 245 (restrictions on contracting out), in paragraph (2)(f) for the words from “Article 20(1)(c)” to “Order 1996” substitute –

“the following provisions of Article 20(1) of the Industrial Tribunals (Northern Ireland) Order 1996 (cases where conciliation available) –

(i) sub-paragraph (c) (proceedings under this Order);

(ii) sub-paragraph (i) (proceedings arising out of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002;

(iii) sub-paragraph (j) (proceedings under those Regulations);”.

3. In the Industrial Tribunals (Northern Ireland) Order 1996(7), Article 20(1)(8) (cases where conciliation provisions apply) is amended as follows –

(a) at the end of sub-paragraph (g), omit “or”, and

(b) after sub-paragraph (h), insert – “or

(i) arising out of a contravention, or alleged contravention, of regulation 3 or 6(2) of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002; or

(ii) under regulation 9 of those Regulations.”.

## PART II

### TRANSITIONAL PROVISIONS

4. Paragraph 1 of this Schedule applies where the relevant date (as defined in paragraph 3 of Schedule 11 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992(9) falls on or after 1st October 2002.

5.—(1) This paragraph applies to the dismissal of an employee employed under a contract for a fixed term of two years or more which consists of the expiry of the term without its being renewed, where the employee has agreed in accordance with Article 240 of the 1996 Order to exclude any right to a redundancy payment in that event.

(2) The repeal of Articles 240, 242(6) and 245(2)(d) of the 1996 Order provided for by paragraph 3(15) of this Schedule shall have effect in relation to a dismissal to which this paragraph applies where the relevant date (within the meaning of Article 180 of the 1996 Order) falls on or after 1st October 2002, unless both the following conditions are satisfied –

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(5) Paragraph (1) of Article 240 of the 1996 Order was repealed by the Employment Relations (Northern Ireland) Order 1999, Articles 20(1) and 40 and Schedule 9

(6) Article 245(2)(d) was amended by the Employment Relations (Northern Ireland) Order 1999, Article 40 and Schedule 9

(7) 1996/1921 (N.I. 18 )

(8) Article 20(1) has been amended on a number of occasions to specify additional proceedings and claims in respect of which the Labour Relations Agency has a duty to conciliate. Paragraph (g) was inserted by regulation 33(2) of S.I. 1999/3233; paragraph (h) was inserted by regulation 10 and paragraph 2 of the Schedule to S.R. 2000 No. 219

(9) 1992 c. 7. Paragraph 2 of Schedule 11 has been amended by paragraph 42 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

- (a) that, where there has been no renewal of the contract, the contract was entered into before 1st October 2002 or, where there have been one or more renewals, the only or most recent renewal was agreed before that date, and
- (b) that the agreement to exclude any right to a redundancy payment was entered into before 1st October 2002.