

**2002 No. 356 (C. 29)**

**EMPLOYMENT**

**Employment (2002 Order) (Commencement and Transitional  
and Saving Provisions) Order (Northern Ireland) 2002**

*Made - - - - - 21st November 2002*

The Department for Employment and Learning, in exercise of the powers conferred on it by Article 1(2) and (3) of the Employment (Northern Ireland) Order 2002(a), and of every other power enabling it in that behalf, hereby makes the following Order:

**Citation and interpretation**

1.—(1) This Order may be cited as the Employment (2002 Order) (Commencement and Transitional and Saving Provisions) Order (Northern Ireland) 2002.

(2) In this Order “the 2002 Order” means the Employment (Northern Ireland) Order 2002.

**Appointed Day**

2.—(1) The provisions of the 2002 Order specified in Part I of Schedule 1 shall come into operation on 23rd November 2002.

(2) The provisions of the 2002 Order specified in Part II of Schedule 1 shall come into operation on 8th December 2002.

(3) The provisions of the 2002 Order specified in Part III of Schedule 1 shall come into operation on 6th April 2003.

**Transitional and saving provisions**

3. The transitional and saving provisions in Schedule 2 shall have effect.

Sealed with the Official Seal of the Department for Employment and Learning on 21st November 2002.

(L.S.)

*R. B. Gamble*

A senior officer of the Department for Employment and Learning

SCHEDULE 1

Article 2(1)

PART I

PROVISIONS COMING INTO OPERATION ON 23RD NOVEMBER 2002

<i>Provisions</i>	<i>Subject Matter of Provisions</i>
Article 2	Interpretation
Article 6, for the purpose only of authorising the making of regulations	Statutory adoption pay: relationship with benefits and other payments, etc.
Article 14	Rights during and after maternity leave
Article 17(1), so far as relating to paragraph 4(9) of Schedule 2	Amendments and revocations
In Schedule 2, paragraph 4(9)	Amendments and revocations

Article 2(2)

PART II

PROVISIONS COMING INTO OPERATION ON 8TH DECEMBER 2002

<i>Provisions</i>	<i>Subject Matter of Provisions</i>
Articles 3 to 13	Adoption and Paternity
Article 16	Regulations
Article 17(1) so far as relating to the paragraphs of Schedule 2 specified below	Amendments and revocations
Article 17(2)	Amendments and revocations
Schedule 1	Penalties: procedure and appeals
In Schedule 2 – (i) paragraph 1; (ii) paragraph 2; (iii) paragraph 4(1), (2), (5), (6), (7), (10), (11), (12), (13), (14) and (15) (iv) paragraph 7	Amendments and revocations

PART III

PROVISIONS COMING INTO OPERATION ON 6TH APRIL 2003

<i>Provisions</i>	<i>Subject Matter of Provisions</i>
Article 15	Flexible Working
Article 17(1), so far as relating to the paragraphs of Schedule 2 specified below	Amendments and revocations
In Schedule 2, paragraphs 3, 4(3), (4), (8), (16), (17), (18), (19), 5 and 6	

SCHEDULE 2

Article 3

TRANSITIONAL AND SAVING PROVISIONS

1.—(1) Article 70D of the Employment Rights (Northern Ireland) Order 1996<sup>(a)</sup> inserted by Article 15(3) of the 2002 Order (Flexible working) shall have effect only in relation to an act or deliberate failure to act which takes place on or after 6th April 2003.

(2) For the purposes of sub-paragraph (1) –

(a) where an act extends over a period, the reference to the date of the act is a reference to the last day of that period; and

(b) a deliberate failure to act is to be treated as done when it was decided on.

(3) For the purposes of sub-paragraph (2), in the absence of evidence establishing the contrary an employer shall be taken to decide on a deliberate failure to act –

(a) when he does an act inconsistent with doing the failed act, or

(b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.

2.—(1) The amendments to Articles 70C and 71(1) of the Employment Rights (Northern Ireland) Order 1996 made by paragraph 4(6), (7) and (8) of Schedule 2 to the 2002 Order shall have effect only in relation to an act or deliberate failure to act which takes place on or after 6th April 2003.

(2) For the purposes of sub-paragraph (1) –

(a) where an act extends over a period, the reference to the date of the act is a reference to the last day of that period; and

(b) a deliberate failure to act is to be treated as done when it was decided on.

(3) For the purposes of sub-paragraph (2), in the absence of evidence establishing the contrary an employer shall be taken to decide on a deliberate failure to act –

(a) when he does an act inconsistent with doing the failed act, or

(b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.

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(a) S.I. 1996 No. 1919 (N.I. 16)

## EXPLANATORY NOTE

*(This note is not part of the Order.)*

This Order brings into operation –

- (a) on 23rd November 2002, the provisions of the Employment (Northern Ireland) Order 2002 specified in Part I of Schedule 1, which relate to rights during and after maternity leave, subject to the transitional and saving provisions in paragraph 1 of Schedule 2;
- (b) on 8th December 2002, the provisions of the Employment (Northern Ireland) Order 2002 specified in Part II of Schedule 1, which include provisions relating to Paternity and Adoption and administration and enforcement of statutory paternity pay and statutory adoption pay;
- (c) on 6th April 2003, the provisions of the Employment (Northern Ireland) Order 2002 specified in Part III of Schedule 1, which include provisions relating to funding of employers' liabilities, power to confer rights on individuals; amendment, and flexible working subject to the transitional and saving provisions in paragraphs 2 and 3 of Schedule 2.

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