
Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

SCHEDULES

SCHEDULE 16

MINOR AND CONSEQUENTIAL AMENDMENTS

PART II

CONTRACTS OF EMPLOYMENT ACT 1972

- 1 In sections 1(1) to (3) and 2 (minimum period of notice) for the words " thirteen weeks ", wherever they occur, substitute the words " four weeks ".
- 2 In section 1(1) for paragraphs (b) to (e) substitute the following paragraphs—
 - “(b) shall be not less than one week's notice for each year of continuous employment if his period of continuous employment is two years or more but less than twelve years ; and
 - (c) shall be not less than twelve weeks' notice if his period of continuous employment is twelve years or more.”.
- 3 In section 1(4) (contract for a term certain to be treated in certain cases as a contract for an indefinite period) for the words " thirteen weeks " substitute the words " twelve weeks ".
- 4 In section 4(1) (written statement of terms of employment).—
 - (a) after the words " the date when the employment began ", insert the words " stating whether any employment with a previous employer counts as part of the employee's continuous period of employment with him, and if so specifying the date on which the continuous period of employment began "; and
 - (b) after paragraph (e) insert " and (f) the title of the job which the employee is employed to do: ".
- 5 In section 4(2) (written particulars to contain note about grievance procedure)—
 - (a) at the beginning insert the words " Subject to subsection (2A) of this section "; and
 - (b) for paragraphs (b) and (c) substitute the following paragraphs:—
 - “(a) specifying any disciplinary rules applicable to the employee, or referring to a document which is reasonably accessible to the employee and which specifies such rules ;
 - (b) specifying, by description or otherwise—
 - (i) a person to whom the employee can apply if he is dissatisfied with any disciplinary decision relating to him ; and
 - (ii) a person to whom the employee can apply for the purpose of seeking redress of any grievance relating to his employment,

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

and the manner in which any such applications should be made ; and

- (c) where there are further steps consequent upon any such application, explaining those steps or referring to a document which is reasonably accessible to the employee and which explains them.”.

6 After section 4(2) insert the following subsection—

“(2A) The provisions of paragraphs (a) to (c) of subsection (2) of this section shall not apply to rules, disciplinary decisions, grievances or procedures relating to health or safety at work.”.

7 In section 4(7) (part-time employment)—

- (a) at the beginning insert the words " Subject to the following provisions of this section, "; and
- (b) for the words " twenty-one hours" substitute the words " sixteen hours " .

8 After section 4(7) insert the following subsections—

“(8) If the employee's relations with his employer cease to be governed by a contract which normally involves work for sixteen hours or more weekly and become governed by a contract which normally involves employment for eight hours or More, but less than sixteen hours, weekly, the employee shall nevertheless for a period of twenty-six weeks computed in accordance with the next following subsection be treated for the purposes of the foregoing subsection as if his contract normally involved employment for sixteen hours or more weekly.

(9) In computing the said period of twenty-six weeks no account shall be taken of any week—

- (a) during which the employee is in fact employed for sixteen hours or more ;
- (b) during which the employee takes part in a strike (as defined in paragraph 11 of Schedule 1 to this Act), or is absent from work because of a lock-out (as so defined) by his employer ; or
- (c) during which there is no contract of employment but which, by virtue of paragraph 5(1) of Schedule 1 to this Act, counts in computing a period of continuous employment

(10) An employee whose relations with his employer are governed by a contract of employment which normally involves employment for eight hours or more, but less than sixteen hours, weekly shall nevertheless, if he has been continuously employed for a period of five years or more (computed in accordance with Schedule 1 to this Act) be treated for the purposes of subsection (7) of this section as if his contract normally involved employment for sixteen hours or more weekly.”.

9 In section 5(4) (written statement of change in terms of employment), after the word " but" insert the words " subject to subsection (5) of this section " , and after that subsection insert the following subsection—

“(5) A written statement under this section which informs an employee of such a change in his terms of employment as is referred to in subsection (4)(b) of

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

this section shall specify the date on which the employee's continuous period of employment began.”.

10 In section 9 (excluded categories of employees)—

(a) after subsection (2) insert the following subsection:—

“(2A) Section 1 of this Act shall not apply to a person employed under a contract made in contemplation of the performance of a specific task which is not expected to last for more than twelve weeks, unless the employee has been continuously employed for a period of more than twelve weeks (computed in accordance with Schedule 1 to this Act).”; and

(b) in subsection (3) for the words from " father " to " daughter " substitute the words " husband or wife ".

11 For section 10 (power to vary number of weekly hours of employment necessary to qualify for rights) substitute the following section:—

“10 Power to vary number of weekly hours of employment necessary to qualify for rights.

(1) The Secretary of State shall have power by order to provide that this Act shall have effect as if—

(a) for each of the references to sixteen hours in section 4(7) to (10) of this Act and in paragraphs 3, 4, 4A, 4B and 4C of Schedule 1 to this Act there were substituted a reference to such other number of hours less than sixteen as may be specified in the order ; and

(b) as if for each of the references to eight hours in section 4(7), (8) and (10) of this Act and in paragraphs 4B and 4C of the said Schedule there were substituted a reference to such other number of hours less than eight as may be specified in the order.

(2) An order under the foregoing subsection shall affect the operation of Schedule 1 to this Act as respects periods before the order takes effect as well as respects later periods.

(3) An order under this section may contain such transitional and other supplemental and incidental provisions as appear to the Secretary of State to be expedient, and may be varied or revoked by a further order so made.

(4) An order under this section shall be made by statutory instrument, but no such order shall be made unless a draft of the order has been laid before Parliament and approved by resolution of each House.”.

12 For paragraph 1(1) of Schedule 1 (computation of period of employment) substitute the following sub-paragraph—

“(1) Where an employee's period of employment is, for the purposes of any enactment (including any enactment contained in this Act), to be computed in accordance with this Schedule, it shall be computed in weeks, and in any such enactment which refers to a period of employment expressed in years, a year means 52 weeks (whether continuous or discontinuous) which count in computing a period of employment.”.

13 In paragraph 3 and 4 of Schedule 1 for the words " twenty-one hours" wherever they occur substitute the words " sixteen hours ".

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- 14 After paragraph 4 of Schedule 1 insert the following paragraphs—
- “4A (1) If the employee's relations with his employer cease to be governed by a contract which normally involves work for sixteen hours or more weekly and become governed by a contract which normally involves employment for eight hours or more, but less than sixteen hours, weekly, and but for that change the later weeks would count in computing a period of employment, or would not break the continuity of a period of employment, then those later weeks shall count in computing a period of employment or, as the case may be, shall not break the continuity of a period of employment, notwithstanding that change.
- (2) Not more than twenty-six weeks shall count under this paragraph between any two periods falling under paragraph 4 of this Schedule, and in computing the said figure of twenty-six weeks no account shall be taken of any week which counts in computing a period of employment, or does not break the continuity of a period of employment, otherwise than by virtue of this paragraph.
- 4B (1) An employee whose relations with his employer are governed, or have been from time to time governed, by a contract of employment which normally involves employment for eight hours or more, but less than sixteen hours, weekly shall nevertheless, if he satisfies the condition referred to in the next following sub-paragraph, be treated for the purposes of this Schedule (apart from this paragraph) as if his contract normally involved employment for sixteen hours or more weekly, and had at all times at which there was a contract during the period of employment of five years or more referred to in the next following sub-paragraph normally involved employment for sixteen hours or more weekly.
- (2) The foregoing sub-paragraph shall apply if the employee, on the date by reference to which the length of any period of employment falls to be ascertained in accordance with the provisions of this Schedule, has been continuously employed, within the meaning of the next following sub-paragraph, for a period of five years or more.
- (3) In computing, for the purposes of the foregoing sub-paragraph, an employee's period of employment the provisions of this Schedule (apart from this paragraph) shall apply but as if, in paragraphs 3 and 4, for the words "sixteen hours" wherever they occur, there were substituted the words " eight hours ".
- 4C (1) If an employee has, at any time during the relevant period of employment, been continuously employed for a period which qualifies him for any right which requires a qualifying period of continuous employment computed in accordance with this Schedule, then, he shall be regarded for the purposes of qualifying for that right as continuing to satisfy that requirement until the condition referred to in sub-paragraph (3) of this paragraph occurs.
- (2) In this paragraph the relevant period of employment means the period of employment ending on the date by reference to which the length of any period of employment falls to be ascertained which would be continuous (in accordance with the provisions of this Schedule) if at all relevant times the employee's relations with the employer had been governed

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

by a contract of employment which normally involved employment for sixteen hours or more weekly.

(3) The condition which defeats the operation of sub-paragraph (1) of this paragraph is that in a week subsequent to the time at which the employee qualified as referred to in that sub-paragraph—

(a) his relations with his employer are governed by a contract of employment which normally involves employment for less than eight hours weekly ; and

(b) he is employed in that week for less than sixteen hours.

(4) If, in a case in which an employee is entitled to any right by virtue of sub-paragraph (1) of this paragraph, it is necessary for the purpose of ascertaining the amount of his entitlement to determine for what period he has been continuously employed, he shall be regarded for that purpose as having been continuously employed throughout the relevant period.”.

15 In paragraph 5(1) of Schedule 1 after paragraph (c) insert the following paragraph:

—
“or

(d) absent from work wholly or partly because of pregnancy or confinement,” and for the words “ or paragraph 4 ” substitute the words “ , 4 or 4A.”

16 In paragraph 5(2) of Schedule 1, after the words “paragraph (c)” insert the words “ or, subject to paragraph 5A below, paragraph (a) ”, and for the words “ two periods falling under paragraphs 3 and 4 ” substitute the words “ periods falling under paragraph 3, 4 or 4A ”.

17 After paragraph 5 of Schedule 1, insert the following paragraph:—

“5A If an employee returns to work in accordance with section 49 of the Employment Protection Act 1975 after a period of absence from work wholly or partly occasioned by pregnancy or confinement, every week during that period shall count in computing a period of employment, notwithstanding that it does not fall under paragraph 3, 4 or 4A of this Schedule.”.

18 In paragraph 6(1) of Schedule 1, for the words “paragraph 4 or paragraph 5 ”, substitute the words “ 4, 4A, 5, or 5A ”.

19 For paragraph 10 of Schedule 1, substitute the following paragraph:—

“10 (1) If an employee of an employer is taken into the employment of another employer who, at the time when the employee enters his employment is an associated employer of the first mentioned employer, the employee's period of employment at that time shall count as a period of employment with the second mentioned employer and the change of employer shall not break the continuity of the period of employment.

(2) For the purposes of this paragraph, any two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control, or if both are companies of which a third person (directly or indirectly) has control; and the expression “ associated employer ” shall be construed accordingly.”.