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*Status: Point in time view as at 01/02/1991.*

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## SCHEDULES

### SCHEDULE 1

#### COMPENSATION FOR CERTAIN DISMISSALS

##### *Power of Secretary of State to make payments*

- 1 The Secretary of State may, if he thinks fit, pay to a person who satisfies the conditions specified in paragraph 2 an amount not exceeding that specified in paragraph 3.

##### *Conditions of eligibility*

- 2 (1) A person may apply for compensation under this Schedule where—
- (a) he was dismissed from his employment on or after 16th September 1974 (when the 1974 closed shop provisions came into force) and before 15th August 1980 (when the 1980 amendments came into force);
  - (b) he did not bring, or brought but did not succeed in, a complaint of unfair dismissal; and
  - (c) if the 1980 amendments had been in force in relation to his dismissal (the law otherwise being as it was at the time), he would have been entitled by virtue of those amendments to succeed in a complaint of unfair dismissal.

- (2) In this paragraph—

“the 1974 closed shop provisions” means paragraph 6(5) of Schedule 1 to the 1974 Act, later amended by sections 1(e) and 3(5) of the 1976 Act and consolidated in subsection (3) of section 58 of the 1978 Act; and

“the 1980 amendments” means the amendments of section 58 of the 1978 Act made by section 7 of, and paragraph 12 of Schedule 1 to, the 1980 Act, except so far as relating to the approval of union membership agreements by ballot, or, in relation to a dismissal occurring before 1st November 1978 (when section 58 came into force), corresponding amendments of paragraph 6 of Schedule 1 to the 1974 Act.

##### *Maximum amount of compensation*

- 3 The maximum amount which the Secretary of State may pay to a person in respect of his dismissal is the amount which that person would have been awarded if he had brought a successful complaint of unfair dismissal—
- (a) disregarding any question of an order for reinstatement or re-engagement;

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- (b) assuming, in relation to a dismissal occurring before 1st June 1976, that the provisions of the 1975 Act were in force relating to the basic award of compensation; and
  - (c) taking into account the actual loss sustained by him rather than such loss as might have been foreseen at the time,
- together with interest from the date of the dismissal calculated at the rate from time to time in force under section 17 of the <sup>M1</sup>Judgments Act 1838.

**Marginal Citations**

**M1** 1838 c. 110.

*Construction of references to date of dismissal*

- 4 (1) Subject to the following provisions of this paragraph, references in paragraphs 2 and 3 to the date of a dismissal are to the effective date of termination in relation to that dismissal as defined in section 55(4) of the 1978 Act.
- (2) In ascertaining for the purposes of those paragraphs whether a dismissal occurred before the commencement of any provision of the 1975, 1978 or 1980 Acts, that is to say in ascertaining—
- (a) for the purpose of paragraph 2(1)(a) whether a person was dismissed before 15th August 1980,
  - (b) for the purpose of paragraph 2(2) whether a dismissal occurred before 1st November 1978, or
  - (c) for the purpose of paragraph 3(b) whether a dismissal occurred before 1st June 1976,
- references to the date of the dismissal shall be construed in accordance with sub-paragraph (3) in the cases where that sub-paragraph applies.
- (3) Where the notice required to be given by an employer by section 1(1) of the <sup>M2</sup>Contracts of Employment Act 1972 or section 49 of the 1978 Act (minimum period of notice) would, if duly given when notice of termination was given by the employer, or (where no notice was given) when the contract of employment was terminated by the employer, have expired on a date later than the effective date of termination as defined by section 55(4) of the 1978 Act, that later date shall be treated for the purposes mentioned in sub-paragraph (2) as the date of the dismissal.

**Marginal Citations**

**M2** 1972 c. 53.

*Making an application*

- 5 An application for compensation under this Schedule must be made in writing to the Secretary of State within twelve months from the passing of this Act or such further period as the Secretary of State may allow.

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### *Reference of questions to appointed person*

- 6
- (1) The Secretary of State may, if he thinks fit, before deciding an application for compensation under this Schedule, refer any question arising in connection with the application for inquiry and report by a person appointed by him under this paragraph.
  - (2) In any such case the applicant shall be informed of the identity of the appointed person and of the question or questions referred and shall be given an opportunity to make representations to the appointed person including oral representations if he so wishes.
  - (3) The Secretary of State may pay to any person attending at any place for the purpose of making such representations such travelling and other allowances as would be payable in connection with attendance at an industrial tribunal.
  - (4) A person may be appointed by the Secretary of State under this paragraph either for the purposes of a particular reference or for the purpose of such references as may from time to time be made to him; and the Secretary of State may pay to a person so appointed such remuneration and such travelling and other allowances as he may determine with the approval of the Treasury.

### *Consideration of application*

- 7
- In considering an application for compensation under this Schedule, the Secretary of State shall have regard to, but shall not be bound by—
- (a) the findings of any industrial tribunal in proceedings arising out of the dismissal in question; and
  - (b) any report made in relation to the application by a person appointed under paragraph 6.

### *Notification of decision*

- 8
- (1) The Secretary of State shall notify the applicant in writing of his decision.
  - (2) The notification shall be accompanied by a copy of any report made in relation to the application by a person appointed under paragraph 6.

### *Reconsideration of decision*

- 9
- (1) The Secretary of State may, of his own motion or on the request of the applicant, reconsider his decision on any application for compensation under this Schedule on the ground that the decision was made in ignorance of, or was based on a mistake as to, some material fact.
  - (2) Where the Secretary of State decides of his own motion to reconsider a decision, he shall inform the applicant of that fact and of the grounds for reopening the case.
  - (3) A request by the applicant for reconsideration of the decision on his application must be made in writing to the Secretary of State within three months from the date on

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which the decision was notified to him, or such further period as the Secretary of State may allow.

- (4) The provisions of paragraphs 6 to 8 shall, with the necessary modifications, apply in relation to the reconsideration of an application as they apply in relation to the original consideration of an application.

*Liability to repay in certain cases*

- 10 (1) Where, for the purpose of obtaining compensation under this Schedule for himself or for another, any person misrepresents or fails to disclose any material fact, whether fraudulently or otherwise, the person to whom any such payment is in consequence made shall be liable to repay so much of it as the Secretary of State may direct, unless he can show that the misrepresentation or failure occurred without his connivance or consent.
- (2) Except as provided by this paragraph, the reconsideration of a decision under paragraph 9 shall not give rise to a liability to repay.
- (3) Any sum received by the Secretary of State by virtue of this paragraph shall be paid into the Consolidated Fund.

*False statement of an offence*

- 11 (1) It is an offence for a person to make, for the purpose of obtaining compensation under this Schedule for himself or for another, a statement which is false in a material particular and which he knows to be so false.
- (2) An offence under this paragraph is punishable on summary conviction with a fine not exceeding [<sup>F1</sup>level 5 on the standard scale].

**Textual Amendments**

**F1** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G

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