Minimum Notice and Terms of Employment Act 1973

FIRST SCHEDULE

Computation of Continuous Service.

Section 4

Continuity of Service

1. The service of an employee in his employment shall be deemed to be continuous unless that service is terminated by—

(*a*) the dismissal of the employee by his employer, or

(*b*) the employee voluntarily leaving his employment.

2. A lock-out shall not amount to a dismissal of the employee by his employer.

3. A lay-off shall not amount to the termination by an employer of his employee's service.

4. A strike by an employee shall not amount to that employee's voluntarily leaving his employment.

F11[5. An employee who claims and receives redundancy payment in respect of lay-off or short time shall be deemed to have voluntarily left his employment.]

6. The continuous service of an employee in his employment shall not be broken by the dismissal of the employee by his employer followed by the immediate re-employment of the employee.

F12[7. Where the whole or part of a trade, business or undertaking was or is transferred to another person either before or after the passing of this Act, the service of an employee before the transfer in the trade, business or undertaking, or the part thereof so transferred—

(*a*) shall be reckoned as part of the service of the employee with the transferee, and

(*b*) the transfer shall not operate to break the continuity of the service of the employee,

unless the employee received and retained redundancy payment from the transferor at the time of and by reason of the transfer.]

Computable Service

8. Any week in which an employee is not normally expected to work for at least F13[eighteen hours] or more will not count in computing a period of service.

9. If an employee is absent from his employment by reason of service in the Reserve Defence Force, such period of absence shall count as a period of service.

10. If an employee is absent from his employment for not more than twenty-six weeks between consecutive periods of employment because of—

(*a*) a lay-off,

(*b*) sickness or injury, or

(*c*) by agreement with his employer,

such period shall count as a period of service.

11. If, in any week or part of a week, an employee is absent from his employment because he was taking part in a strike in relation to the trade or business in which he is employed, that week shall not count as a period of service.

12. If, in any week or part of a week, an employee was, for the whole or any part of the week, absent from work because of a lock-out by his employer, that week shall count as a period of service.

13. If, in any week or part of a week, an employee is absent from his employment by reason of a strike or lock-out in a trade or business other than that in which he is employed, that week shall count as a period of service.

F14[14. For the avoidance of doubt, a civil servant shall be considered as having given continuous service, notwithstanding the fact that the civil servant may have served in more than one Department or Scheduled Office provided that the service would otherwise, by virtue of the provisions of this Schedule, be considered to be continuous.]

Annotations

Amendments:

F11 Substituted (9.05.1977) by *Unfair Dismissals Act 1977* (10/1977), s. 20, S.I. No. 138 of 1977.

F12 Substituted (1.10.1993) by *Unfair Dismissals (Amendment) Act 1993* (22/1993), s. 15, commenced as per s. 17(4).

F13 Substituted (30.11.1984) by *Protection of Employees (Employers Insolvency) Act 1984* (21/1984), s. 13(b), commenced upon enactment.

F14 Inserted (4.07.2006) by *Civil Service Regulation (Amendment) Act 2005* (18/2005), s. 26(b), S.I. No. 363 of 2006.

Modifications (not altering text):

C7 The limitation on the application of this Act imposed by para. 8 is restricted (20.12.2001) by *Protection of Employees (Part-Time Work) Act 2001* (45/2001), s. 8, S.I. No. 636 of 2001.

Application of relevant enactments.

8.—Each relevant enactment shall apply to a part-time employee in the same manner, and subject to the like exceptions not inconsistent with this section, as it applies, other than by virtue of this Act, to an employee to whom that enactment relates.

C8 Power to amend para. 8 by order provided (30.11.1984) by *Protection of Employees (Employers Insolvency) Act 1984* (21/1984), s. 11(4)(b), commenced on enactment.

Power to amend Act.
11.— ...

(4) The Minister may from time to time by order amend ...

(b) paragraph 8, as amended by the said section 13, of the First Schedule to the Act of 1973,

so as to vary the number of hours specified in that paragraph.

Editorial Notes:

E20 Previous affecting provision: application of First Schedule confirmed and modified (6.04.1991) by *Worker Protection (Regular Part-Time Employees) Act 1991* (5/1991), s. 2(1)-(3), S.I. No. 75 of 1991; repealed (20.12.2001) by *Protection of Employees (Part-Time Work) Act 2001* (45/2001), s. 5, S.I. No. 636 of 2001.

E21 Previous affecting provision: para. 7 substituted (9.05.1977) by *Unfair Dismissals Act 1977* (10/1977), s. 20, S.I. No. 138 of 1977; substituted as per F-note above.