

**EMPLOYMENT (TERMINATION AND REDUNDANCY
PAYMENTS)**

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**THE EMPLOYMENT (TERMINATION AND
REDUNDANCY PAYMENTS) ACT**

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THE EMPLOYMENT (TERMINATION AND
REDUNDANCY PAYMENTS) ACT

Acts
31 of 1974,
6 of 1986,
7 of 2008.

[9th December, 1974.]

PART I—*Preliminary*

1. This Act may be cited as the Employment (Termination and Redundancy Payments) Act. Short title.

2.—(1) In this Act, unless the context otherwise requires— Interpreta-
tion.

“the appointed day” means 9th December, 1974;

“business” includes—

(a) a trade or profession; and

(b) any activity carried on by a body of persons, whether corporate or incorporate;

“cease” and “diminish” mean respectively cease or diminish either permanently or temporarily and from whatsoever cause;

“employee” means an individual who has entered into or works (or, in the case of a contract which has been terminated, worked) under a contract with an employer, whether the contract be for manual labour, clerical work or otherwise, be express or implied, oral or in writing, but does not include—

(a) any person employed by the Government; or

(b) any person employed in the service of the Council of the Kingston and St. Andrew Corporation or in the service of any Parish Council, and “employer” and any reference to employment shall be construed accordingly;

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“public holiday” means—

- (a) any day which under the provisions of any enactment for the time being in force is, or is declared to be, or is proclaimed as, a public general holiday; and
- (b) Good Friday and Christmas Day;

“the relevant date” in relation to the dismissal of an employees means—

- (a) where his contract of employment is terminated by notice given by his employer, the date on which that notice expires;
- (b) where his contract of employment is terminated without notice, whether by the employer or the employee, the date on which the termination takes effect;
- (c) where he is employed under a contract for a fixed term and that term expires, the date on which that term expires;
- (d) where he has been employed in seasonal employment and any of the events mentioned in paragraphs (b) and (c) of subsection (3) of section 5 occurs, the date on which the event occurs;

“seasonal employment” means employment provided by an employer during a specific part (commencing at approximately the same time in each year) of each of two or more consecutive years, and “season” shall be construed accordingly.

(2) Subject to the provisions of subsection (3) any provision in any agreement (whether a contract of employment or not) shall be void in so far as it purports to exclude or limit the operation of any provision of this Act.

(3) Subsection (2) shall not apply to any agreement of a kind mentioned in section 8.

(4) For the purposes of the application of the provisions of Part III to an employee in a private household, those provisions (except section 7) shall apply as if the household were a business and the maintenance of the household were the carrying on of that business by the employer.

PART II. *Minimum period of notice, and right to certain facilities*

3.—(1) The notice required to be given by an employer to terminate the contract of employment of an employee who has been continuously employed for four weeks or more shall be—

Minimum
period of
notice.

(a) not less than two weeks' notice if his period of continuous employment is less than five years;

(b) not less than four weeks' notice if his period of continuous employment is five years or more but less than ten years;

(c) not less than six weeks' notice if his period of continuous employment is ten years or more but less than fifteen years;

(d) not less than eight weeks' notice if his period of continuous employment is fifteen years or more but less than twenty years;

6/1986
S.2

(e) not less than twelve weeks' notice if his period of continuous employment is twenty years or more,

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and shall be in writing unless it is given in the presence of a credible witness.

(2) An employee who has been continuously employed for four weeks or more shall give not less than two weeks' notice to terminate his contract of employment.

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(3) The provisions of subsections (1) and (2) shall not be taken—

- (a) to prevent either party to a contract of employment from waiving his right to notice at the time of termination, or from accepting a payment in lieu of notice, or from giving or accepting notice of longer duration than that of the relevant notice specified in those subsections; or
- (b) to prevent the parties to a contract of employment from providing, by agreement, for the giving of notice which is of longer duration than that of the relevant notice specified in those subsections to terminate the contract; or
- (c) to affect the right of either party to a contract of employment to require notice—
 - (i) for which provision is made by agreement of the kind referred to in paragraph (b); or
 - (ii) which, by custom, is required to be of longer duration than that of the relevant notice specified in those subsections.

(4) Where the contract of employment of any employee specifies a period, commencing on the date of commencement of the employment, as a probationary period, either party to the contract may, notwithstanding the provisions of subsections (1) and (2), terminate the contract without notice during the probationary period or, where the probationary period is more than ninety days, during the first ninety days thereof.

(5) This section does not affect any right of either party to a contract of employment to treat the contract as terminable without notice by reason of such conduct by the other party as would have enabled him so to treat it before the passing of this Act, or to treat a contract of employment for a fixed term as terminated at the expiration of the term:

Provided that—

- (a) if an employer does not terminate a contract of employment without notice during the first four weeks after he becomes aware of conduct by the employee by reason of which the employer has a right to terminate the contract without notice, he shall not thereafter terminate the contract without notice by reason of that conduct;
- (b) if the employment of an employee whose contract of employment is for a fixed term continues for four weeks after the expiration of the term, subsections (1), (2) and (3) shall thereafter apply to the contract as if it were a contract for an indefinite period.

4.—(1) Every contract of employment in relation to which the requirements of subsection (2) are satisfied shall be deemed to include an agreement by the employer to provide the employee, on the termination of the contract—

Agreement deemed to be included in certain contracts of employment.

- (a) with suitable transportation, or a sum sufficient to enable him to pay for suitable transportation, from his place of employment to the place at which he was ordinarily resident when he was engaged under the contract; and
- (b) with such sum as may be necessary, by reason of the time required for travel by suitable transportation from his place of employment to the place at which he was ordinarily resident when he was engaged under the contract, to pay for his meals during the journey,

and the employee may recover damages for a breach of that agreement by an action for damages for a breach of contract.

[The inclusion of this page is authorized by L.N. 248/1975]

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(2) The requirements referred to in subsection (1) are that both the place at which the employee was ordinarily resident when he was engaged under the contract of employment and any other place at which he was present when the offer of employment was made to him by any means other than by advertisement or at which the contract of employment was made shall be in Jamaica and be more than ten miles from the place in Kingston or Saint Andrew, or more than five miles from the place in any other parish of Jamaica, where he is required to perform the work for which he is employed under the contract.

PART III. *Redundancy payments*

Right to
redundancy
payment.

5.—(1) Where on or after the appointed day an employee who has been continuously employed for the period of one hundred and four weeks ending on the relevant date is dismissed by his employer by reason of redundancy the employer and any other person to whom the ownership of his business is transferred during the period of twelve months after such dismissal shall, subject to the provisions of this Part, be liable to pay to the employee a sum (in this Act referred to as a “redundancy payment”) calculated in such manner as shall be prescribed.

(2) For the purposes of this Part an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or partly to—

- (a) the fact that his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed; or

- (b) the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he was so employed, have ceased or diminished or are expected to cease or diminish; or
- (c) the fact that he has suffered personal injury which was caused by an accident arising out of and in the course of his employment, or has developed any disease, prescribed under this Act, being a disease due to the nature of his employment.

(3) An employee who on or after the appointed day has been employed by the same employer in seasonal employment for two or more consecutive years shall, if his employment during each season is continuous, be taken to be dismissed by that employer by reason of redundancy—

- (a) where he is dismissed by his employer and the dismissal is attributable wholly or partly to any of the facts specified in subsection (2); or
- (b) where his employer informs him (in whatever terms) that he will not be provided with employment during any season; or
- (c) where he attends the place of employment and offers himself for employment at the beginning of any season or in accordance with any instructions given, or any procedure established, by the employer and the employer fails to provide him with employment,

and the employer shall, subject to the provisions of this Part, be liable to pay to him a redundancy payment notwithstanding that he has not been continuously employed throughout the period specified in subsection (1).

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(4) The manner of determining whether an employee has been continuously employed for the period specified in subsection (1) shall be such manner as shall be prescribed.

(5) For the purposes of this section an employee shall be taken to be dismissed by his employer—

- (a) if the contract under which he is employed by the employer is terminated by the employer, either by notice or without notice; or
- (b) if under that contract he is employed for a fixed term and that term expires without being renewed under the same contract; or
- (c) if he is compelled, by reason of the employer's conduct, to terminate that contract without notice.

(6) An employee shall not be taken for the purposes of this section to be dismissed by his employer if his contract of employment is renewed, or he is re-engaged by the same employer under a new contract of employment, and—

- (a) in a case where the provisions of the contract as renewed, or of the new contract, as the case may be, as to the capacity and place in which he is employed, and as to the other terms and conditions of his employment, do not differ from the corresponding provisions of the previous contract, the renewal or re-engagement takes effect immediately on the ending of his employment under the previous contract; or
- (b) in any other case, the renewal or re-engagement is in pursuance of an offer in writing made by his employer before the ending of his employment under the previous contract, and takes effect either immediately on the ending of that employment or after an interval of not more than two weeks thereafter.

(7) For the purposes of the application of subsection
(6)—

(a) to a contract under which the employment ends on a Friday, Saturday or Sunday, the renewal or re-engagement shall be treated as taking effect immediately on the ending of the employment under the previous contract if it takes effect on or before the next Monday after that Friday, Saturday or Sunday or, where that Monday is a public holiday, the next following day, not being a public holiday; and

(b) to a contract under which the employment ends on a public holiday, the renewal or re-engagement shall be treated as taking effect immediately on the ending of the employment under the previous contract if it takes effect on or before the next following day, not being a Friday, Saturday, Sunday or public holiday.

5A.—(1) For the purposes of section 5, an employee who has been laid off without pay for a period in excess of one hundred and twenty days may by notice in writing to the employer elect to be regarded as dismissed by reason of redundancy from such date (not being less than fourteen days nor more than sixty days after the date of the notice) as may be specified in the notice, which date shall, for the purposes of this Act, be regarded as the relevant date.

Option to
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off as dis-
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ground of
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[The inclusion of this page is authorized by L.N. 41/1987]

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(2) Where a notice is given pursuant to subsection (1) then, subject to section 6 (3) and (4), the notice shall for the purposes of this Act have effect, in accordance with its terms, as if it implemented a dismissal of the employee on the ground of redundancy on the relevant date.

(3) For the purposes of this section—

(a) an employee is laid off without pay if, other than on disciplinary grounds—

(i) he is laid off without pay in accordance with the terms of his employment; or

(ii) the circumstances of his employment are changed so that for some period he receives no pay pending a decision by his employer to reinstitute previous, or similar, circumstances of employment; and

(b) a person may, subject to regulations, be regarded, during any period, as laid off without pay notwithstanding that during that period he receives some pay or is engaged to work for limited times only.

(4) Regulations may make provision for—

(a) the form of notice to be given for the purposes of subsection (1);

- (b) determining the extent (if any) to which periods of lay-off during which an employee receives some pay, or is engaged to work for limited times only, may be regarded, for the purposes of this section, as a period of lay-off without pay;
- (c) resolving any doubt or dispute as to the date on which lay-off commences for the purposes of this Act.

6.—(1) An employee shall not be entitled to a redundancy payment—

General
exclusion
from right
to redun-
dancy pay-
ment.

- (a) if for any reason other than that specified in paragraph (c) of subsection (5) of section 5 he terminates the contract under which he is employed; or
- (b) if the contract under which he is employed is terminated by reason of his retirement in circumstances in which he is entitled to pension, superannuation or other retiring benefits (other than benefits under the National Insurance Act) under any scheme, agreement or provision.

(2) An employee shall not be entitled to a redundancy payment by reason of dismissal where his employer, being entitled to terminate his contract of employment without notice by reason of the employee's conduct, so terminates it.

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(3) An employee shall not be entitled to a redundancy payment by reason of dismissal if before the relevant date the employer has made to him an offer in writing to renew his contract of employment, or to re-engage him under a new contract, so that—

- (a) the provisions of the contract as renewed, or of the new contract, as the case may be, as to the capacity and place in which he would be employed, and as to the other terms and conditions of his employment, would not differ from the corresponding provisions of the contract as in force immediately before his dismissal; and
- (b) the renewal or re-engagement would take effect on or before the relevant date or within two weeks after that date,

and the employee has unreasonably refused that offer.

(4) An employee shall not be entitled to a redundancy payment by reason of dismissal if before the relevant date the employer has made to him an offer in writing to renew his contract of employment, or to re-engage him under a new contract, so that in accordance with the particulars specified in the offer the provisions of the contract as renewed, or of the new contract, as the case may be, as to the capacity and place in which he would be employed and as to the other terms and conditions of his employment, would differ (wholly or in part) from the corresponding provisions of the contract as in force immediately before his dismissal, but—

- (a) the offer constitutes an offer of suitable employment in relation to the employee; and

- (b) the place in which he would be employed would not be more than ten miles from the place at which he was employed under the contract as in force immediately before his dismissal; and
 - (c) the renewal or re-engagement would take effect on or before the relevant date or not later than two weeks after that date,
- and the employee has unreasonably refused that offer.

(5) Where the relevant date falls on—

- (a) a Friday, Saturday or Sunday, the references in subsections (3) and (4) to the relevant date shall be construed as references to the next Monday after that date or, where that Monday is a public holiday, the next following day, not being a public holiday; or
- (b) a public holiday, those references shall be construed as references to the following day, not being a Friday, Saturday, Sunday or public holiday.

7.—(1) Subject to the provisions of subsection (7), the provisions of this section shall have effect where—

Change of
ownership
of business.

- (a) a change occurs (whether by virtue of a sale or other disposition or by operation of law) in the ownership of a business for the purposes of which a person is employed, or a part of such a business; and
- (b) in connection with that change the person by whom the employee is employed immediately before the change occurs (in this section referred to as “the previous owner”) terminates the employee’s contract of employment, whether by notice or without notice.

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(2) If, by agreement with the employee, the person who immediately after the change occurs is the owner of the business or of the part of the business in question, as the case may be (in this section referred to as "the new owner") renews the employee's contract of employment (with the substitution of the new owner for the previous owner) or re-engages him under a new contract of employment, subsection (6) of section 5 shall have effect as if the renewal or re-engagement had been a renewal or re-engagement by the previous owner (without any substitution of the new owner for the previous owner).

(3) If the new owner offers to renew the employee's contract of employment (with the substitution of the new owner for the previous owner) or to re-engage him under a new contract of employment, but the employee refuses the offer, subsection (3) or subsection (4), as the case may be, of section 6 shall have effect, subject to the provisions of subsection (4) of this section, in relation to that offer and refusal as it would have had effect in relation to the like offer made by the previous owner and a refusal of that offer by the employee.

(4) For the purposes of the operation of subsection (3) or subsection (4) of section 6, in accordance with subsection (3) of this section, in relation to an offer made by the new owner—

- (a) the offer shall not be treated as one whereby the provisions of the contract as renewed, or of the new contract, as the case may be, would differ from the corresponding provisions of the contract as in force immediately before the dismissal by reason only that the new owner would be substituted for the previous owner as the employer; and

- (b) no account shall be taken of that substitution in determining whether the refusal of the offer was unreasonable.

(5) This section shall have effect, subject to such modifications as may be necessary in relation to a case where—

- (a) the person by whom a business, or part of a business, is owned immediately before a change is one of the persons by whom (whether as partners, trustees or otherwise) it is owned immediately after the change; or
- (b) the persons by whom a business, or part of a business, is owned immediately before a change (whether as partners, trustees or otherwise) include the person by whom, or include one of the persons by whom, it is owned immediately after the change,

as it has effect where the previous owner and the new owner are wholly different persons.

(6) Nothing in this section shall be construed as requiring any variation of a contract of employment by agreement between the parties to be treated as constituting a termination of the contract.

(7) Subject to the provisions of subsection (4) of section 11 this section shall not apply to a change whereby the ownership of a business for the purposes of which a person was employed by his deceased employer passes to a personal representative of the deceased employer.

8.—(1) Section 5 shall not apply to an employee who immediately before the relevant date is employed under a contract of employment for a fixed term of two years or more, if that contract was made before the appointed day (whether before or after the passing of this Act).

Contracts
of employ-
ment for
a fixed
term.

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(2) Without prejudice to subsection (1), an employee under a contract of employment for a fixed term of two years or more shall not be entitled to a redundancy payment in respect of the expiry of that term without its being renewed, if before the term so expires he has agreed in writing to exclude any right to a redundancy payment in that event.

(3) An agreement of the kind mentioned in subsection (2) may, in the case of a contract made after the passing of this Act, be contained either in the contract itself or in a separate agreement.

(4) Where an agreement of the kind mentioned in subsection (2) is made during the currency of a fixed term, and that term is renewed, that agreement shall not be construed as applying to the term as renewed, but without prejudice to the making of a further agreement of that kind in relation to the term as renewed.

9.—(1) An employer shall, on making any redundancy payment, give to the employee a written statement indicating how the amount of the payment has been calculated.

(2) Any employer who without reasonable excuse fails to comply with subsection (1) shall be guilty of an offence and be liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred and fifty thousand dollars and in default of payment to imprisonment for a term not exceeding three months.

(3) If an employer fails to comply with subsection (1), then (without prejudice to any proceedings for an offence under subsection (2)) the employee may by notice in writing to the employer require him to give to the employee the written statement mentioned in subsection (1) within such period, not being less than one week beginning with the day on which the notice is given, as may be specified in the

Written
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S. 2(a).

notice; and if the employer without reasonable excuse fails to comply with the notice he shall be guilty of an offence under this subsection and be liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred and fifty thousand dollars and in default of payment to imprisonment for a term not exceeding three months.

7/2008
S. 2 (b)(i).

10.—(1) Notwithstanding anything in the preceding provisions of this Part an employee shall not be entitled to a redundancy payment unless, before the end of the period of six months beginning with the relevant date—

Claims for
redundancy
payments.

- (a) the payment has been agreed; or
- (b) the employee has made a claim for the payment by notice in writing given to the employer; or
- (c) proceedings have been commenced under this Act for the determination of the right of the employee to the payment or for the determination of the amount of the payment.

(2) Where the employee dies before the end of the period of six months mentioned in subsection (1), and none of the events mentioned in paragraphs (a), (b) and (c) of that subsection occurs before his death, a claim by his personal representative for the payment shall, if it is made by notice in writing given to the employer before the end of the period of one year beginning with the relevant date, be of the same effect as if it were made by the employee in accordance with paragraph (b) of subsection (1).

11.—(1) Where—

- (a) any act on the part of an employer; or
- (b) any event affecting an employer (including, in the case of an individual, his death),

Termination of
contract by
death, etc., of
employer.

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operates so as to terminate a contract under which an employee is employed by him, that act or event shall for the purposes of this Part be treated as a termination of the contract by the employer, if apart from this subsection it would not constitute a termination of the contract by him.

(2) Where subsection (1) applies and the employee's contract of employment is not renewed and he is not re-engaged under a new contract, as mentioned in subsection (5) of this section or in subsection (6) of section 5, he shall for the purposes of this Part be taken to be dismissed by reason of redundancy if the circumstances in which the contract is not renewed and he is not re-engaged as mentioned in subsection (5) of this section or in subsection (6) of section 5 are wholly or partly attributable to one or other of the facts specified in paragraphs (a) and (b) of subsection (2) of section 5.

(3) For the purposes of subsection (2) of this section paragraph (a) of subsection (2) of section 5, in so far as it relates to the employer ceasing or intending to cease to carry on the business, shall be construed as if the reference to the employer included a reference to any person to whom, in consequence of the act or event referred to in subsection (1) of this section, power to dispose of the business has passed.

(4) In this section any reference to subsection (6) of section 5 includes a reference to subsection (6) of section 5 as applied by subsection (2) of section 7.

(5) Notwithstanding the provisions of subsection (1) an employee shall not be treated as having been dismissed by his deceased employer if—

- (a) his contract of employment is renewed by a personal representative of the deceased employer, or he is re-engaged under a new contract by such a personal representative; and

- (b) the renewal or re-engagement takes effect not later than six weeks after the death of the deceased employer.

(6) Where, by reason of the death of an employer, an employee is treated for the purposes of this Part as having been dismissed by the deceased employer, that employee shall not be entitled to a redundancy payment in respect of such dismissal if a personal representative of the deceased employer has made to him an offer in writing to renew his contract of employment, or to re-engage him under a new contract, so that in accordance with the particulars specified in the offer the renewal or re-engagement would take effect not later than six weeks after the death of the deceased employer and—

- (a) the provisions of the contract as renewed, or of the new contract, as the case may be, as to the capacity and place in which he would be employed, and as to the other terms and conditions of his employment, would not differ from the corresponding provisions of the contract as in force immediately before the death; or
- (b) if, in accordance with the particulars specified in the offer, those provisions would differ (wholly or in part) from the corresponding provisions of the contract as in force immediately before the death, the offer constitutes an offer of suitable employment in relation to the employee,

and (in either case) the employee has unreasonably refused that offer.

(7) For the purposes of subsection (6)—

- (a) an offer shall not be treated as one whereby the provisions of the contract as renewed, or of the new contract, as the case may be, would differ from the corresponding provisions of the contract

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as in force immediately before the death of the deceased employer by reason only that the personal representative would be substituted as the employer for the deceased employer; and

- (b) no account shall be taken of that substitution in determining whether the refusal of the offer was unreasonable.

(8) Subject to the preceding provisions of this section, in relation to an employer who has died—

- (a) any reference in this Part to the doing of anything by, or in relation to, an employer shall be construed as including a reference to the doing of that thing by, or in relation to, any personal representative of the deceased employer; and

- (b) any reference in this Part to a thing required or authorized to be done by, or in relation to, an employer shall be construed as including a reference to anything which, in accordance with any provision of this Part as modified by this section is required or authorized by, or in relation to, any personal representative of the deceased employer.

(9) Where, by virtue of any provision of this Part as modified by this section, a personal representative of the deceased employer is liable to pay a redundancy payment or part of a redundancy payment, and that liability had not accrued before the death of the deceased employer, it shall be treated for all purposes as if it were a liability of the deceased employer which had accrued immediately before his death.

Death of
employee.

12.—(1) Where an employer has given notice to an employee to terminate his contract of employment, and before that notice expires the employee dies, the provisions of this

Part shall apply as if the contract had been duly terminated by the employer by notice expiring on the date of the employee's death.

(2) Where an employer has given notice to an employee to terminate his contract of employment, and has offered to renew his contract of employment or to re-engage him under a new contract, then if—

(a) the employee dies without having either accepted or refused the offer; and

(b) the offer has not been withdrawn before his death, subsection (3) or subsection (4), as the case may be, of section 6 shall apply as if, for the words "the employee has unreasonably refused", there were substituted the words "it would have been unreasonable on the part of the employee to refuse".

(3) Subject to the provisions of subsection (2) of section 10 and subsections (1) and (2) of this section, in relation to an employee who has died—

(a) any reference in this Part to the doing of anything by, or in relation to, an employee shall be construed as including a reference to the doing of that thing by, or in relation to, any personal representative of the deceased employee; and

(b) any reference in this Part to a thing required or authorized to be done by, or in relation to, an employee shall be construed as including a reference to anything which, in accordance with any provision of this Part as modified by this section is required or authorized to be done by, or in relation to, any personal representative of the deceased employee.

(4) Any right of a personal representative of a deceased employee to a redundancy payment, where that

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right had not accrued before the employee's death, shall devolve as if it had accrued before his death.

Modifica-
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right to
redundancy
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where pre-
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ment has
been paid.

13.—(1) The provisions of this section shall have effect where—

- (a) a redundancy payment is paid to an employee; and
- (b) the contract of employment under which he was employed (in this section referred to as "the previous contract") is renewed, whether by the same or another employer, or he is re-engaged under a new contract of employment, whether by the same or another employer, and
- (c) the circumstances of the renewal or re-engagement are such that, in determining for the purposes of section 5 whether at any subsequent time he has been continuously employed for the period specified in subsection (1) of that section, or for what period he has been continuously employed, the continuity of his period of employment would, apart from this section, be treated as not having been broken by the termination of the previous contract and the renewal or re-engagement.

(2) Where the conditions mentioned in subsection (1) are fulfilled, then in determining, for the purposes of section 5, whether at any subsequent time the employee has been continuously employed for the period specified in subsection (1) of that section, or for what period he has been continuously employed, the continuity of the period of employment shall be treated as having been broken at the date which was the relevant date in relation to the redundancy payment mentioned in paragraph (a) of subsection (1), and accordingly no account shall be taken of any time before that date.

(3) For the purposes of this section a redundancy payment shall be treated as having been paid if the whole of the payment has been paid to the employee or, in a case where the court has determined that the employer is liable to pay part (but not the whole) of the redundancy payment, that part of the redundancy payment has been paid in full.

14. Where an employee is entitled—

- (a) to a redundancy payment; and
- (b) under an agreement between him, or a trade union representing him, and his employer or an organization representing his employer, to be paid compensation for the loss of his employment (not being compensation arising from a breach of contract),

Abatement of redundancy payment where compensation is payable under agreement.

nothing in this Part shall be taken to affect his right to be paid such compensation, but the amount of such compensation (or, where it is greater than the redundancy payment, such portion thereof as is equal to the redundancy payment) shall be deducted from the redundancy payment.

15.—(1) Where the employer is a company, any reference in this Part to re-engagement by the employer shall be construed as a reference to re-engagement by that company or by any associated company, and any reference to an offer made by the employer shall be construed as including an offer made by an associated company.

Associated companies.

(2) Subsection (1) shall not affect the operation of section 7 in a case where the previous owner and the new owner (as defined by that section) are associated companies; and where that section applies, subsection (1) shall not apply.

(3) Where an employee is dismissed by his employer, and the employer is a company (in this subsection referred to as “the employing company”) which has one or more associated companies, then if—

*EMPLOYMENT (TERMINATION AND REDUNDANCY
PAYMENTS)*

- (a) neither of the conditions specified in paragraphs (a) and (b) of subsection (2) of section 5 is fulfilled; but
- (b) one or other of those conditions would be fulfilled if the business of the employing company and the business of the associated company (or, if more than one, each of the associated companies) were treated as together constituting one business,

that condition shall for the purposes of this Part be taken to be fulfilled in relation to the dismissal of the employee.

(4) For the purposes of this section two companies shall be taken to be associated companies if one is a subsidiary of the other, or both are subsidiaries of a third company and “associated company” shall be construed accordingly.

(5) In this section “company” includes any body corporate, and “subsidiary” has the same meaning as, by virtue of section 151 of the Companies Act, it has for the purposes of that Act.

PART IV. Miscellaneous

Record to
be kept.

16.—(1) Every employer shall keep, in relation to each of his employees, a record in such form and containing such particulars as may be prescribed.

7/2008
S. 3.

(2) Any employer who fails to comply with the provisions of subsection (1) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred and fifty thousand dollars and in default of payment to imprisonment for a term not exceeding three months.

Jurisdiction
of Resident
Magistrates’
Courts.

17.—(1) Notwithstanding any provision in any enactment limiting the jurisdiction of Resident Magistrates’ Courts in relation to claims arising from contract, a Resident Magistrate’s Court shall have jurisdiction in any action arising from a

contract of employment to which this Act applies, or from any claim in respect of a redundancy payment, in which the amount of each claim does not exceed one million dollars.

7/2008
S. 4 (b).

(2) The Minister may, by order subject to affirmative resolution, increase the amount specified in subsection (1).

7/2008
S. 4 (c).

17A. The Minister may, by order subject to affirmative resolution, amend the monetary penalties specified in this Act.

Minister
may amend
monetary
penalties.
7/2008
S. 5.

18.—(1) The Minister may make such regulations as appear to him to be necessary for the better carrying out of the provisions of this Act and, in particular but without prejudice to the generality of the foregoing, may make regulations—

Regulations.

- (a) for determining the manner of computing an employee's period of employment and whether that period of employment has been continuous;
- (b) for determining, in relation to an employee engaged in seasonal employment, whether his employment during any season is continuous;
- (c) prescribing the manner of computing the remuneration of an employee during a period of notice;
- (d) prescribing any other matter or anything which may be, or is required by this Act to be, prescribed.

(2) Regulations made under this section shall be subject to affirmative resolution.

(3) Regulations made under this section may provide for the imposition of penalties on summary conviction before a Resident Magistrate, of a fine not exceeding one million dollars or imprisonment for a term not exceeding twelve months or of both such fine and imprisonment.

7/2008
S. 6.