

SCHEDULES

SCHEDULE 4

LEAVE FOR FAMILY REASONS, ETC.

PART II

TIME OFF FOR DEPENDANTS PROVISIONS TO BE INSERTED AFTER ARTICLE 85 OF THE EMPLOYMENT RIGHTS ORDER

“Dependants”

Time off for dependants

85A.—(1) An employee is entitled to be permitted by his employer to take a reasonable amount of time off during the employee’s working hours in order to take action which is necessary—

- (a) to provide assistance on an occasion when a dependant falls ill, gives birth or is injured or assaulted,
- (b) to make arrangements for the provision of care for a dependant who is ill or injured,
- (c) in consequence of the death of a dependant,
- (d) because of the unexpected disruption or termination of arrangements for the care of a dependant, or
- (e) to deal with an incident which involves a child of the employee and which occurs unexpectedly in a period during which an educational establishment which the child attends is responsible for him.

(2) Paragraph (1) does not apply unless the employee—

- (a) tells his employer the reason for his absence as soon as reasonably practicable, and
- (b) except where paragraph (a) cannot be complied with until after the employee has returned to work, tells his employer for how long he expects to be absent.

(3) Subject to paragraphs (4) and (5), for the purposes of this Article “dependant” means, in relation to an employee—

- (a) a spouse,
- (b) a child,
- (c) a parent,
- (d) a person who lives in the same household as the employee, otherwise than by reason of being his employee, tenant, lodger or boarder.

(4) For the purposes of paragraph (1)(a) or (b) “dependant” includes, in addition to the persons mentioned in paragraph (3), any person who reasonably relies on the employee—

- (a) for assistance on an occasion when the person falls ill or is injured or assaulted, or

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(b) to make arrangements for the provision of care in the event of illness or injury.

(5) For the purposes of paragraph (1)(d) “dependant” includes, in addition to the persons mentioned in paragraph (3), any person who reasonably relies on the employee to make arrangements for the provision of care.

(6) A reference in this Article to illness or injury includes a reference to mental illness or injury.

Complaint to industrial tribunal

85B.—(1) An employee may present a complaint to an industrial tribunal that his employer has unreasonably refused to permit him to take time off as required by Article 85A.

(2) An industrial tribunal shall not consider a complaint under this Article unless it is presented—

(a) before the end of the period of three months beginning with the date when the refusal occurred, or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.

(3) Where an industrial tribunal finds a complaint under paragraph (1) well-founded, it—

(a) shall make a declaration to that effect, and

(b) may make an award of compensation to be paid by the employer to the employee.

(4) The amount of compensation shall be such as the tribunal considers just and equitable in all the circumstances having regard to—

(a) the employer’s default in refusing to permit time off to be taken by the employee, and

(b) any loss sustained by the employee which is attributable to the matters complained of.”