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SCHEDULES

SCHEDULE 4

LEAVE FOR FAMILY REASONS ETC

PART III

CONSEQUENTIAL AMENDMENTS

Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)

1 The Trade Union and Labour Relations (Consolidation) Act 1992 shall be amended as follows.

2 In section 237(1A) (dismissal of those taking part in unofficial industrial action)—

(a) for the words from “section 99(1) to (3)” to the end substitute “or under—

(a) section 99, 100, 101A(d), 103 or 103A of the Employment Rights Act 1996 (dismissal in family, health and safety, working time, employee representative and protected disclosure cases),

(b) section 104 of that Act in its application in relation to time off under section 57A of that Act (dependants);” and

(b) at the end insert “ ; and a reference to a specified reason for dismissal includes a reference to specified circumstances of dismissal ”.

3 In section 238(2A) (dismissal in connection with other industrial action)—

(a) for the words from “section 99(1) to (3)” to the end substitute “or under—

(a) section 99, 100, 101A(d) or 103 of the Employment Rights Act 1996 (dismissal in family, health and safety, working time and employee representative cases),

(b) section 104 of that Act in its application in relation to time off under section 57A of that Act (dependants);” and

(b) at the end insert “ ; and a reference to a specified reason for dismissal includes a reference to specified circumstances of dismissal ”.

Employment Tribunals Act 1996 (c. 17)

4 In section 13(2) of the Employment Tribunals Act 1996 (costs and expenses) the following shall cease to have effect—

(a) the word “or” after paragraph (a),

(b) paragraph (b), and

(c) the words “, or which she held before her absence,”.

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Employment Rights Act 1996 (c. 18)

- 5 The Employment Rights Act 1996 shall be amended as follows.
- 6 In section 37 (contractual requirements for Sunday work: protected workers) omit the following—
- (a) subsection (4),
 - (b) the word “and” after subsection (5)(a), and
 - (c) subsection (5)(b).
- 7 In section 43 (contractual requirements relating to Sunday work: opting out) omit the following—
- (a) subsection (4),
 - (b) the word “and” after subsection (5)(a), and
 - (c) subsection (5)(b).
- 8 After section 47B (protection from detriment: disclosures) insert—

“47C Leave for family and domestic reasons.

- (1) An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done for a prescribed reason.
 - (2) A prescribed reason is one which is prescribed by regulations made by the Secretary of State and which relates to—
 - (a) pregnancy, childbirth or maternity,
 - (b) ordinary, compulsory or additional maternity leave,
 - (c) parental leave, or
 - (d) time off under section 57A.
 - (3) A reason prescribed under this section in relation to parental leave may relate to action which an employee takes, agrees to take or refuses to take under or in respect of a collective or workforce agreement.
 - (4) Regulations under this section may make different provision for different cases or circumstances.”
- 9 In section 48(1) (detriment: complaints to employment tribunals) for “or 47A” substitute “, 47A or 47C”.
- 10 In section 88(1)(c) (notice period: employment with normal working hours) after “childbirth” insert “ or on parental leave”.
- 11 In section 89(3)(b) (notice period: employment without normal working hours) after “childbirth” insert “ or on parental leave”.
- 12 In section 92(4)(b) (right to written statement of reasons for dismissal) for “maternity leave period” substitute “ ordinary or additional maternity leave period”.
- 13 Omit section 96 (failure to permit return after childbirth treated as dismissal).
- 14 Omit section 97(6) (effective date of termination: section 96).
- 15 In section 98 (fairness of dismissal)—
- (a) omit subsection (5), and
 - (b) in subsection (6) for “subsections (4) and (5)” substitute “ subsection (4)”.

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16 For section 99 (unfair dismissal: pregnancy and childbirth) substitute—

“99 Leave for family reasons.

(1) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if—

- (a) the reason or principal reason for the dismissal is of a prescribed kind, or
- (b) the dismissal takes place in prescribed circumstances.

(2) In this section “prescribed” means prescribed by regulations made by the Secretary of State.

(3) A reason or set of circumstances prescribed under this section must relate to—

- (a) pregnancy, childbirth or maternity,
- (b) ordinary, compulsory or additional maternity leave,
- (c) parental leave, or
- (d) time off under section 57A;

and it may also relate to redundancy or other factors.

(4) A reason or set of circumstances prescribed under subsection (1) satisfies subsection (3)(c) or (d) if it relates to action which an employee—

- (a) takes,
- (b) agrees to take, or
- (c) refuses to take,

under or in respect of a collective or workforce agreement which deals with parental leave.

(5) Regulations under this section may—

- (a) make different provision for different cases or circumstances;
- (b) apply any enactment, in such circumstances as may be specified and subject to any conditions specified, in relation to persons regarded as unfairly dismissed by reason of this section.”

17 In section 105 (unfair dismissal: redundancy) omit subsection (2).

18 In section 108 (qualifying period of employment) omit subsection (3)(a).

19 In section 109 (upper age limit) omit subsection (2)(a).

20 In section 114 (order for reinstatement) omit subsection (5).

21 In section 115 (order for re-engagement) omit subsection (4).

22 In section 118(1)(b) (compensation: general) omit “, 127”.

23 In section 119 (compensation: basic award) omit subsection (6).

24 Omit section 127 (dismissal at or after end of maternity leave period).

25 Omit section 137 (failure to permit return after childbirth treated as dismissal).

26 In section 145 (redundancy payments: relevant date) omit subsection (7).

27 In section 146 (supplemental provisions) omit subsection (3).

28 In section 156 (upper age limit) omit subsection (2).

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- 29 In section 157 (exemption orders) omit subsection (6).
- 30 In section 162 (amount of redundancy payment) omit subsection (7).
- 31 In section 192(2) (armed forces)—
- (a) after paragraph (aa) insert—
 - “(ab) section 47C,” and
 - (b) in paragraph (b) for “55 to 57” substitute “ 55 to 57B ”.
- 32 In section 194(2)(c) (House of Lords staff) for “and 47” substitute “ , 47 and 47C ”.
- 33 In section 195(2)(c) (House of Commons staff) for “and 47” substitute “ , 47 and 47C ”.
- 34 In section 199 (mariners)—
- (a) in subsection (2) for “50 to 57” substitute “ 47C, 50 to 57B ”.
 - (b) in subsection (2) omit the words “(subject to subsection (3))”, and
 - (c) omit subsection (3).
- 35 In section 200(1) (police officers)—
- (a) after “47B,” insert “ 47C, ”,
 - (b) for “to 57” substitute “ to 57B ”,
 - (c) after “93” insert “ and ”, and
 - (d) omit “and section 137”.
- 36 In section 202(2) (national security)—
- (a) in paragraph (b) for “and 47” substitute “ , 47 and 47C ”,
 - (b) in paragraph (c) for “55 to 57” substitute “ 55 to 57B ”, and
 - (c) in paragraph (g) for sub-paragraph (i) substitute—
 - “(i) by section 99, 100, 101A(d) or 103, or by section 104 in its application in relation to time off under section 57A,”.
- 37 In section 209 (power to amend Act) omit subsection (6).
- 38 (1) Section 212 (weeks counted in computing period of employment) is amended as follows.
- (2) Omit subsection (2).
- (3) In subsection (3)—
- (a) insert “or” after paragraph (b),
 - (b) omit “or” after paragraph (c), and
 - (c) omit paragraph (d).
- (4) In subsection (4) omit “or (subject to subsection (2)) subsection (3)(d)”.
- 39 In section 225(5)(b) (calculation date: rights during employment) for sub-paragraph (i) substitute—
- “(i) where the day before that on which the suspension begins falls during a period of ordinary or additional maternity leave, the day before the beginning of that period,”.
- 40 In section 226 (rights on termination) omit subsections (3)(a) and (5)(a).
- 41 In section 235(1) (interpretation: other definitions) omit the definitions of “maternity leave period” and “notified day of return”.

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- 42 (1) Section 236 (orders and regulations) shall be amended as follows.
- (2) In subsection (2)(a) after “order” insert “ or regulations ”.
- (3) In subsection (3)—
- (a) after “and no order” insert “ or regulations ”,
 - (b) for “72(3), 73(5), 79(3),” substitute “ 47C, 71, 72, 73, 76, 99, ”, and
 - (c) for “or order” substitute “ , order or regulations ”.

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