

*Status: Point in time view as at 22/07/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Employment Relations Act 1999, Part III. (See end of Document for details)*

## 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)*

<sup>F1</sup>4 .....

#### Textual Amendments

**F1** Sch. 4 para. 4 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 8](#)

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*Employment Rights Act 1996 (c. 18)*

5 The Employment Rights Act 1996 shall be amended as follows.

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**Textual Amendments**  
F2 Sch. 4 para. 6 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

F37 .....

**Textual Amendments**  
F3 Sch. 4 para. 7 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

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 ”.

F413 .....

**Textual Amendments**  
F4 Sch. 4 para. 13 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

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<sup>F5</sup>14 .....

**Textual Amendments**

**F5** Sch. 4 para. 14 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

15 In section 98 (fairness of dismissal)—

<sup>F6</sup>(a) .....

(b) in subsection (6) for “subsections (4) and (5)” substitute “subsection (4)”.

**Textual Amendments**

**F6** Sch. 4 para. 15(a) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

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.”

<sup>F7</sup>17 .....

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**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 8**

<sup>F7</sup>18 .....

**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 8**

<sup>F7</sup>19 .....

**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 8**

<sup>F7</sup>20 .....

**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 8**

<sup>F7</sup>21 .....

**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 8**

<sup>F7</sup>22 .....

**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 8**

<sup>F7</sup>23 .....

**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 8**

<sup>F7</sup>24 .....

**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 8**

<sup>F7</sup>25 .....

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**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

<sup>F7</sup>26 .....

**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

<sup>F7</sup>27 .....

**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

<sup>F7</sup>28 .....

**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

<sup>F7</sup>29 .....

**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

<sup>F7</sup>30 .....

**Textual Amendments**

**F7** Sch. 4 paras. 17-30 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

31 In section 192(2) (armed forces)—  
<sup>F8</sup>(a) .....  
(b) in paragraph (b) for “55 to 57” substitute “ 55 to 57B ”.

**Textual Amendments**

**F8** Sch. 4 para. 31(a) repealed (8.4.2003) by Tax Credits Act 2002 (c. 21), s. 61, Sch. 6; S.I. 2003/962, art. 2(4)(e), Sch. 2

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 ”.

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- (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,”.

F<sup>9</sup>37 .....

**Textual Amendments**  
**F9** Sch. 4 para. 37 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

- 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,”.

F<sup>10</sup>40 .....

**Textual Amendments**  
**F10** Sch. 4 para. 40 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

F<sup>11</sup>41 .....

**Textual Amendments**  
**F11** Sch. 4 para. 41 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8

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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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