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SCHEDULES

SCHEDULE 4

LEAVE FOR FAMILY REASONS ETC

PART III

CONSEQUENTIAL AMENDMENTS

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.”

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- 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) ”.
- 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.”

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- 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).
- 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.

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- (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”.
- 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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