

## SCHEDULES

### SCHEDULE 7

Section 53

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Finance Act 1989 (c. 26)*

- 1 (1) Section 182 of the Finance Act 1989 (disclosure of information) is amended as follows.
- (2) In each of the following provisions—
- (a) subsection (1)(c) (offence of disclosure of information relevant to statutory sick pay or maternity pay held in the exercise of social security functions),
  - (b) subsection (2A)(a) (meaning of social security functions),
  - (c) subsection (4)(c)(iii) (offence of disclosure of information relevant to statutory sick pay or maternity pay held in the exercise of certain other functions), and
  - (d) subsection (5)(b) (defence of disclosure with consent),
- for “or statutory maternity pay” there is substituted “, statutory maternity pay, statutory paternity pay or statutory adoption pay”.
- (3) After subsection (11) there is inserted—
- “(11A) In this section, references to statutory paternity pay or statutory adoption pay include statutory pay under Northern Ireland legislation corresponding to Part 12ZA or Part 12ZB of the Social Security Contributions and Benefits Act 1992 (c. 4).”

##### *Social Security Contributions and Benefits Act 1992 (c. 4)*

- 2 The Social Security Contributions and Benefits Act 1992 is amended as follows.
- 3 In section 4 (payments treated as remuneration and earnings), in subsection (1)(a) (payments in satisfaction of entitlement to statutory sick pay or maternity pay), after “maternity pay;” there is inserted—
- “(iii) statutory paternity pay; or
  - (iv) statutory adoption pay;”.
- 4 (1) Section 35 (maternity allowance) is amended as follows.
- (2) In subsection (1), for paragraph (c) there is substituted—
- “(c) her average weekly earnings (within the meaning of section 35A below) are not less than the maternity allowance threshold for the tax year in which the beginning of the period of 66 weeks mentioned in paragraph (b) above falls;”.
- (3) In subsection (3)(c), for “above or in section 35A(2) or (3) below” there is substituted “or (c) above”.

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- (4) After subsection (6) there is inserted—
- “(6A) In this section “the maternity allowance threshold”, in relation to a tax year, means (subject to subsection (6B) below) £30.
- (6B) The Secretary of State may, in relation to any tax year after 2001-2002, by order increase the amount for the time being specified in subsection (6A) above to such amount as is specified in the order.
- (6C) When deciding whether, and (if so) by how much, to increase the amount so specified the Secretary of State shall have regard to the movement, over such period as he thinks fit, in the general level of prices obtaining in Great Britain (estimated in such manner as he thinks fit).
- (6D) The Secretary of State shall in each tax year carry out such a review of the amount for the time being specified in subsection (6A) above as he thinks fit.”
- 5 In section 35A (appropriate weekly rate of maternity allowance), for subsections (6) to (8) there is substituted—
- “(6) In this section “the maternity allowance threshold” has the same meaning as in section 35 above and “specified” means prescribed by or determined in accordance with regulations.”
- 6 In section 164 (statutory maternity pay – entitlement and liability to pay), in subsection (10)(b), for “section 166(2)” there is substituted “section 166(1) and (2)”.
- 7 In section 176 (Parliamentary control), in subsection (1)(a) (affirmative procedure: regulations), at the end there is inserted “section 171ZE(1); section 171ZN(1).”

*Social Security Administration Act 1992 (c. 5)*

- 8 The Social Security Administration Act 1992 is amended as follows.
- 9 (1) Section 2B (supplementary provisions about work-focused interviews) is amended as follows.
- (2) In subsection (1), after “relevant decisions” there is inserted “made under regulations under section 2A or 2AA”.
- (3) In subsection (2), for the words from “is a” to “2A above” there is substituted “, in relation to regulations under section 2A above, is a decision”.
- (4) After subsection (2) there is inserted—
- “(2A) For the purposes of this section a “relevant decision”, in relation to regulations under section 2AA above, is a decision that—
- (a) the partner of a person entitled to a benefit has failed to comply with a requirement to take part in an interview which applied to the partner by virtue of the regulations, or
- (b) it has not been shown, within the prescribed period mentioned in section 2AA(4)(f)(ii) above, that the partner had good cause for such a failure.”
- (5) In subsections (3), (5)(a) and (9), after “section 2A” there is inserted “or 2AA”.
- 10 In section 2C (optional work-focused interviews), in subsection (2)—

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- (a) for the words from “persons” (in the first place it appears) to the end of paragraph (b) there is substituted “—
    - (a) persons making claims for or entitled to any of the benefits listed in section 2A(2) above or any prescribed benefit; and
    - (b) partners of persons entitled to any of the benefits listed in section 2AA(2) above or any prescribed benefit;”;
  - (b) after “section 2A” there is inserted “or 2AA”.
- 11 In section 5 (regulations about claims for and payments of benefit), in subsection (5) (application to statutory sick pay and statutory maternity pay), for “and statutory maternity pay” there is substituted “, statutory maternity pay, statutory paternity pay and statutory adoption pay”.
- 12 In section 7A (sharing of functions as regards claims and information)—
  - (a) in subsection (2), after “social security” (in each place) there is inserted “or work”;
  - (b) in subsection (6), for paragraph (e) there is substituted—
    - “(e) “social security or work matters” means matters relating to—
      - (i) social security, child support or war pensions, or
      - (ii) employment or training;”.
- 13 In section 122AA (disclosure of information by the Inland Revenue), in subsection (1) (which permits the disclosure of information relating to statutory sick pay and maternity pay by the Board to certain authorities, or in connection with certain agreements with countries outside the United Kingdom), for “or statutory maternity pay” there is substituted “, statutory maternity pay, statutory paternity pay or statutory adoption pay”.
- 14 In section 150 (annual uprating of benefits), in subsection (1)(j), for “section 166(3)” there is substituted “section 166(1)(b), 171ZE(1) or 171ZN(1)”.
- 15 In section 190 (Parliamentary control of orders and regulations), in subsection (1), after paragraph (aa) there is inserted—
  - “(ab) the first regulations to be made under section 2AA;”.
- 16 In section 191 (interpretation – general), for the definition of “the Northern Ireland Department” there is substituted—
  - ““the Northern Ireland Department” means the Department for Social Development but—
    - (a) in section 122 and sections 122B to 122E also includes the Department of Finance and Personnel; and
    - (b) in sections 121E, 121F, 122, 122ZA, 122C and 122D also includes the Department for Employment and Learning;”.

*Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

- 17 In section 167(1) of the Social Security Administration (Northern Ireland) Act 1992 (interpretation – general), for the definition of “the Department” there is substituted—
  - ““the Department” means the Department for Social Development but—

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- (a) in sections 109A, 116 and 116B to 116D also includes the Department of Finance and Personnel; and
- (b) in sections 115D, 115E, 116 and 116ZA also includes the Department for Employment and Learning;”.

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

- 18 The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.
- 19 In section 171 (time limit for proceedings under section 168, 169 or 170), after “168,” there is inserted “168A,”.
- 20 In section 172(1) (remedies for complaint under section 168 or 170), after “168” there is inserted “, 168A”.
- 21 In section 173 (provisions supplementary to sections 168 to 170)—
- (a) in subsection (1), after “168” there is inserted “, 168A”, and
  - (b) in subsection (2), after “168,” there is inserted “168A,”.
- 22 In section 212A(1) (claims and proceedings to which ACAS arbitration scheme applies)—
- (a) after “tribunal” insert “under, or”, and
  - (b) after “contravention of” insert—
    - “(za) section 80G(1) or 80H(1)(b) of the Employment Rights Act 1996 (flexible working),”, and
  - (c) in paragraph (a), for “the Employment Rights Act 1996” substitute “that Act”.

*Employment Tribunals Act 1996 (c. 17)*

- 23 (1) The Employment Tribunals Act 1996 is amended as follows.
- (2) In section 18(1) (claims and proceedings to which provisions as to conciliation apply)—
- (a) in paragraph (b), after “168,” there is inserted “168A,”,
  - (b) in paragraph (d)—
    - (i) at the beginning there is inserted “under or”, and
    - (ii) after “28,” there is inserted “80G(1), 80H(1)(b),”, and
  - (c) in paragraph (f), at the beginning there is inserted “under or”.
- (3) In section 19 (conciliation procedure), at the end of paragraph (a) there is inserted “and”.

*Employment Rights Act 1996 (c. 18)*

- 24 The Employment Rights Act 1996 is amended as follows.
- 25 In section 27(1) (meaning of “wages”), after paragraph (c) there is inserted—
- “(ca) statutory paternity pay under Part 12ZA of that Act,
  - (cb) statutory adoption pay under Part 12ZB of that Act,”.
- 26 (1) Section 47C (leave for family and domestic reasons) is amended as follows.

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- (2) After paragraph (b) of subsection (2) there is inserted—  
    “(ba) ordinary or additional adoption leave.”.
- (3) For “or” at the end of paragraph (c) of subsection (2) there is substituted—  
    “(ca) paternity leave, or”.
- 27 In section 48 (right to present complaint of detriment to employment tribunal), in subsection (1), for “or 47C” there is substituted “, 47C or 47D”.
- 28 In section 78 (parental leave: special cases), in subsection (6), for the words from “to maternity” to the end there is substituted—  
    “to parental leave and partly to—  
        (a) maternity leave, or  
        (b) adoption leave,  
    or to both.”
- 29 (1) Section 88 (pay during notice period: employments with normal working hours) is amended as follows.  
(2) In subsection (1)(c), for “parental leave” there is substituted “adoption leave, parental leave or paternity leave”.  
(3) In subsection (2), after “statutory maternity pay,” there is inserted “paternity pay, statutory paternity pay, adoption pay, statutory adoption pay,”.
- 30 (1) Section 89 (pay during notice period: employments without normal working hours) is amended as follows.  
(2) In subsection (3)(b), for “parental leave” there is substituted “adoption leave, parental leave or paternity leave”.  
(3) In subsection (4), after “statutory maternity pay,” there is inserted “paternity pay, statutory paternity pay, adoption pay, statutory adoption pay,”.
- 31 In section 92 (right to written statement of reasons for dismissal), in subsections (2) and (3), for “subsection (4)” there is substituted “subsections (4) and (4A)”, and after subsection (4) there is inserted—  
    “(4A) An employee who is dismissed while absent from work during an ordinary or additional adoption leave period is entitled to a written statement under this section without having to request it and irrespective of whether he has been continuously employed for any period if he is dismissed in circumstances in which that period ends by reason of the dismissal.”
- 32 In section 98 (fairness of dismissal: general), in subsection (6)—  
    (a) for “are” there is substituted “is”, and  
    (b) in paragraph (a), for “99” there is substituted “98A”.
- 33 (1) Section 99 (unfair dismissal: leave for family reasons) is amended as follows.  
(2) After paragraph (b) of subsection (3) there is inserted—  
    “(ba) ordinary or additional adoption leave.”.  
(3) For “or” at the end of paragraph (c) of subsection (3) there is substituted—  
    “(ca) paternity leave, or”.

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- 34 In section 104 (protection for those asserting certain statutory rights), in subsection (4)(c) (relevant statutory rights under the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) after “168,” there is inserted “168A.”
- 35 In section 106 (dismissal of replacement employees), in subsection (2)(a), after “childbirth,” there is inserted “or on adoption leave”.
- 36 In section 112(4) (which provides that an award of compensation for unfair dismissal where no order is made for reinstatement or re-engagement shall be calculated in accordance with certain provisions of that Act), for “127A” there is substituted “126”.
- 37 In section 117(3)(a) (which provides that an award of compensation for unfair dismissal where an order for reinstatement or re-engagement is not complied with shall be calculated in accordance with certain provisions of that Act), for “127A” there is substituted “126”.
- 38 In section 118(1)(b) (which provides that compensation for unfair dismissal shall include a compensatory award calculated in accordance with certain provisions of that Act), for “126 and 127A(1), (3) and (4)” there is substituted “124A and 126”.
- 39 In section 123(1) (which provides that calculation of the compensatory award is subject to the provisions of that section and certain other provisions of that Act), for “, 126, 127 and 127A(1), (3) and (4)” there is substituted “, 124A and 126”.
- 40 Section 127A (internal appeal procedures) shall cease to have effect.
- 41 In section 191(2) (provisions of the Act which have effect in relation to Crown employment), for paragraph (c) there is substituted—  
     “(c) Parts 6 to 8A.”
- 42 In section 192(2)(e) (provisions of Part 10 of the Act which have effect in relation to service as a member of the armed forces), after “103” there is inserted “, 104C”.
- 43 In sections 194(2) and 195(2) (provisions of the Act which have effect in relation to employment as a member of the House of Lords or House of Commons staff)—  
     (a) in paragraph (c), for “and 47C” there is substituted “, 47C and 47D”, and  
     (b) for paragraph (e) there is substituted—  
         “(e) Parts 7, 8 and 8A.”
- 44 (1) Section 199 (application of the Act to mariners) is amended as follows.  
 (2) In subsection (2) (provisions not applying to share fishermen)—  
     (a) after “47C,” there is inserted “47D,”, and  
     (b) for “Parts VII and VIII” there is substituted “Parts 7, 8 and 8A”.
- (3) In subsection (8) (provisions whose application is subject to the limitation in subsection (7)), for paragraph (d) there is substituted—  
     “(d) Parts 7, 8 and 8A.”
- 45 In section 225 (definition of calculation date for the purposes of the calculation of a week’s pay in relation to cases connected with rights during employment), at the end there is inserted—  
     “(6) Where the calculation is for the purposes of section 80I, the calculation date is the day on which the application under section 80F was made.”

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- 46 In section 226(3) (definition of calculation date for the purposes of the calculation of a week's pay in relation to cases connected with unfair dismissal), for "119, 121 or 127A" there is substituted "112, 119, 120 or 121".
- 47 (1) Section 227(1) (maximum amount of week's pay) is amended as follows.
- (2) Before paragraph (a) there is inserted—
- “(za) an award of compensation under section 80I(1)(b).”
- (3) For “or” at the end of paragraph (b) there is substituted—
- “(ba) an award under section 112(5), or”.
- 48 (1) Section 235 (other definitions) is amended as follows.
- (2) In subsection (1), there is inserted at the appropriate place—
- ““paternity leave” means leave under section 80A or 80B.”
- (3) In the definition of “week” in subsection (1), for “section 86” there is substituted “sections 80A, 80B and 86”.
- 49 (1) Section 236(3) (procedure for making orders and regulations) is amended as follows.
- (2) After “73,” there is inserted “75A, 75B,”.
- (3) After “76,” there is inserted “80A, 80B, 80G,”.

#### *Finance Act 1997 (c. 16)*

- 50 In section 110 of the Finance Act 1997 (which only permits the supply by social security authorities to the Board of information for certain specified uses), in subsection (5A) (which ensures that certain kinds of disclosure are nevertheless permitted), for the words from “or paragraph 3” to the end there is substituted “, paragraph 3 of Schedule 5 to the Tax Credits Act 1999 (supply to Inland Revenue for purposes of tax credit of information so held) or section 14 of the Employment Act 2002 (supply to Inland Revenue for purposes of statutory paternity pay or statutory adoption pay of information so held).”

#### *Social Security Act 1998 (c. 14)*

- 51 In paragraph 5A of Schedule 2 to the Social Security Act 1998 (no appeal against a decision made in consequence of a decision under regulations under section 2A of the Administration Act), after “section 2A” there is inserted “or 2AA”.

#### *Tax Credits Act 1999 (c. 10)*

- 52 In section 18 of the Tax Credits Act 1999 (interpretation), in the definition of “the Department”, at the end there is inserted “but in paragraphs 2 and 3 of Schedule 5 also includes the Department for Employment and Learning in Northern Ireland”.

#### *Finance Act 1999 (c. 16)*

- 53 Sections 132 and 133 of the Finance Act 1999 shall have effect as if statutory maternity pay, statutory paternity pay and statutory adoption pay were matters which are under the care and management of the Commissioners of Inland Revenue.

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*Employment Relations Act 1999 (c. 26)*

- 54 In section 23(1) of the Employment Relations Act 1999 (power to extend application of rights conferred under certain enactments), after paragraph (b) there is inserted—  
“(ba) the Employment Act 2002;”.

*Welfare Reform and Pensions Act 1999 (c. 30)*

- 55 In section 72 of the Welfare Reform and Pensions Act 1999, in subsection (3), after paragraph (a) there is inserted—  
“(aa) section 2AA of the Administration Act;”.