

## SCHEDULES

### SCHEDULE 7

#### EMERGENCY VOLUNTEERING LEAVE

#### PART 4

##### MODIFICATIONS OF EMPLOYMENT RIGHTS (NORTHERN IRELAND) ORDER 1996

- 19 The Employment Rights (Northern Ireland) Order 1996 ([S.I. 1996/1919 \(N.I. 16\)](#)) (“the 1996 Order”) has effect in accordance with this Part of this Schedule.
- 20 The 1996 Order has effect as if after Article 70F there were inserted—

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- “70Q(1) A worker has the right not to be subjected to a detriment by any act, or any deliberate failure to act, by their employer on the grounds that—
- (a) the worker took, sought to take, or made use of the benefits of, emergency volunteering leave under Schedule 7 to the Coronavirus Act 2020, or
  - (b) the employer believed that the worker was likely to take emergency volunteering leave under that Schedule.
- (2) A worker makes use of the benefits of emergency volunteering leave if, during a period of emergency volunteering leave, the worker benefits from any provision of Part 2 of Schedule 7 to the Coronavirus Act 2020.
- (3) Paragraph (1) does not apply where the worker is an employee and the detriment in question amounts to dismissal within the meaning of Part 11.”
- 21 The 1996 Order has effect as if in Article 71 (complaints to industrial tribunals)—
- (a) after paragraph (1B) there were inserted—

“(1C) A worker may present a complaint to an industrial tribunal that they have been subjected to a detriment in contravention of Article 70G.”;
  - (b) in paragraph (2), for “or (1B)” there were substituted “, (1B) or (1C)”.
- 22 The 1996 Order has effect as if in Article 72 (remedies)—
- (a) in paragraph (1), for “or (1B)” there were substituted “, (1B) or (1C)”;
  - (b) after paragraph (7) there were inserted—

“(8) Where—

    - (a) the complaint is made under Article 71(1C),
    - (b) the detriment to which the worker is subjected is the termination of their worker’s contract, and
    - (c) that contract is not a contract of employment,

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*Status: This is the original version (as it was originally enacted).*

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any compensation must not exceed the compensation that would be payable under Chapter 2 of Part 11 if the worker had been an employee and had been dismissed for the reason specified in Article 135G.”

23 The 1996 Order has effect as if in Article 120 (pay during period of notice: employments with normal working hours), in paragraph (1)(c), after “paternity leave” there were inserted “or emergency volunteering leave under Schedule 7 to the Coronavirus Act 2020”.

24 The 1996 Order has effect as if in Article 121 (pay during period of notice: employments without normal working hours), in paragraph (3)(b), after “paternity leave” there were inserted “or emergency volunteering leave under Schedule 7 to the Coronavirus Act 2020”.

25 The 1996 Order has effect as if after Article 135F there were inserted—

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“135G) An employee who is dismissed is to be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that—

- (a) the employee took, sought to take, or made use of the benefits of, emergency volunteering leave under Schedule 7 to the Coronavirus Act 2020, or
- (b) the employer believed that the employee was likely to take emergency volunteering leave under that Schedule.

(2) An employee makes use of the benefits of emergency volunteering leave if, during a period of emergency volunteering leave, the worker benefits from any provision of Part 2 of Schedule 7 to the Coronavirus Act 2020.”

26 The 1996 Order has effect as if in Article 137 (redundancy)—

- (a) in paragraph (1)(c), for “(7M)” there were substituted “(7N)”;
- (b) after paragraph (7M) there were inserted—

“(7N) This paragraph applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in Article 135G.”

27 The 1996 Order has effect as if in Article 140(3) (exceptions to qualifying period of employment for unfair dismissal), after sub-paragraph (fk) there were inserted—  
 “(fl) Article 135G applies.”

28 The 1996 Order has effect as if in Article 158(1A) (exceptions to limits on compensation), after “135F,” there were inserted “135G,”.

29 The 1996 Order has effect as if in Article 245(1)(a) (restrictions on contracting out), after “this Order” there were inserted “or Schedule 7 to the Coronavirus Act 2020”.