

SCHEDULE

Section 1

AMENDMENTS OF OTHER LEGISLATION

PART 1

EXISTING LEGISLATION

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

1 In section 212A of the Trade Union and Labour Relations (Consolidation) Act 1992 (arbitration scheme for unfair dismissal cases etc), in subsection (1), after paragraph (za) insert—

“(zb) section 80IC(1) or (3)(b), 80ID(1)(c), 80IH(1), 80II(2)(b) or 80IJ(1)(c) of that Act (predictable work pattern),”.

Employment Tribunals Act 1996 (c. 17)

2 In section 18 of the Employment Tribunals Act 1996 (conciliation: relevant proceedings etc), in subsection (1)(b), after “80H,” insert “80ID, 80IJ,”.

Employment Rights Act 1996 (c. 18)

3 The Employment Rights Act 1996 is amended as follows.

4 After section 47E insert—

“47EA Predictable work pattern

(1) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by the worker’s employer done on the ground that the worker—

- (a) made (or proposed to make) an application under section 80IA to the employer,
- (b) brought proceedings against the employer under section 80ID, or
- (c) alleged the existence of any circumstance which would constitute a ground for bringing such proceedings.

(2) This section does not apply where—

- (a) the worker is an employee, and
- (b) the detriment in question amounts to dismissal within the meaning of Part 10.”

5 After section 47EA (as inserted by paragraph 4) insert—

“47EB Predictable work pattern: agency workers

(1) An agency worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by a temporary work agency or a hirer done on the ground that the agency worker—

- (a) made (or proposed to make) an application under section 80IF to the temporary work agency or (as the case may be) the hirer,

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- (b) brought proceedings against the temporary work agency or (as the case may be) the hirer under section 80IJ, or
 - (c) alleged the existence of any circumstance which would constitute a ground for bringing such proceedings.
 - (2) This section does not apply where—
 - (a) the agency worker is an employee, and
 - (b) the detriment in question amounts to dismissal within the meaning of Part 10.
 - (3) In this section, “agency worker”, “hirer” and “temporary work agency” have the same meaning as in Chapter 3 of Part 8B (see section 80IL).”
- 6 (1) Section 48 (enforcement) is amended as follows.
- (2) After subsection (1B) insert—

“(1C) A worker may present a complaint to an employment tribunal that the worker has been subjected to a detriment in contravention of section 47EA.”
 - (3) After subsection (1C) (as inserted by sub-paragraph (2)) insert—

“(1D) An agency worker may present a complaint to an employment tribunal that the agency worker has been subjected to a detriment in contravention of section 47EB by a temporary work agency or a hirer.”
 - (4) In subsection (2), for “or (1B)” substitute “, (1B) or (1C)”.
 - (5) In subsection (2A), after “(1AA)” insert “or (1D)”.
- 7 (1) Section 49 (remedies) is amended as follows.
- (2) In subsection (1), for “or (1B)” substitute “, (1B) or (1C)”.
 - (3) In subsection (1A), after “section 48(1AA)” insert “or (1D)”.
 - (4) At the end insert—

“(8) Where—

 - (a) the complaint is made under section 48(1C),
 - (b) the detriment to which the worker is subjected is the termination of the worker’s contract, and
 - (c) that contract is not a contract of employment,

any compensation must not exceed the compensation that would be payable under Chapter 2 of Part 10 if the worker had been an employee and had been dismissed for the reason specified in section 104CA.”
- 8 (1) Section 80F (statutory right to request contract variation) is amended as follows.
- (2) In subsection (2)—
 - (a) at the end of paragraph (a) insert “and”;
 - (b) omit paragraph (c) and the “and” preceding it.
 - (3) For subsection (4) substitute—

“(4) This section is subject to section 80IM (which restricts the right to make multiple applications under this Part).”

- (4) For alternative provision about the amendment of section 80F, see paragraphs 21 and 22 of this Schedule.
- 9 After section 104C insert—
- “104CA Predictable work pattern**
- 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 the employee—
- (a) made (or proposed to make) an application under section 80IA or 80IF,
 - (b) brought proceedings against the employer under section 80ID or 80IJ, or
 - (c) alleged the existence of any circumstance which would constitute a ground for bringing such proceedings.”
- 10 In section 105 (redundancy), after subsection (7BA) insert—
- “(7BAA) This subsection 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 section 104CA.”
- 11 In section 108 (qualifying period of employment), in subsection (3), after paragraph (gi) insert—
- “(gia) section 104CA applies.”
- 12 In section 192 (armed forces), in subsection (2)(e), after “104C,” insert “104CA,”.
- 13 In section 194 (House of Lords staff), in subsection (2)(c), for “and 47E” substitute “, 47E and 47EA”.
- 14 In section 195 (House of Commons staff), in subsection (2)(c), for “and 47E” substitute “, 47E and 47EA”.
- 15 In section 199 (mariners), in subsection (2), after “47E,” insert “47EA,”.
- 16 (1) Section 205A (employee shareholders) is amended as follows.
- (2) In subsection (2), after paragraph (b) insert—
- “(ba) the right to make an application under section 80IA (request for predictable work pattern),”.
- (3) After subsection (8) insert—
- “(8A) The reference in subsection (2)(ba) to making an application under section 80IA does not include a reference to making an application within the period of 14 days beginning with the day on which the employee shareholder returns to work from a period of parental leave under regulations under section 76.”
- 17 In section 225 (calculation date for purposes of working out a week’s pay), at the end insert—
- “(7) Where the calculation is for the purposes of section 80IE, the calculation date is the day on which the application under section 80IA was made.

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- (8) Where the calculation date is for the purposes of section 80IK, the calculation date is the day on which the application under section 80IF was made.”
- 18 In section 227 (maximum amount of week’s pay), in subsection (1), after paragraph (za) insert—
- “(zb) an award of compensation under section 80IE(1)(b),
(zc) an award of compensation under section 80IK(1)(b),”.
- 19 In section 235 (other definitions), in subsection (1), in paragraph (b) of the definition of “week”, after “80EA” insert “, 80IG(2) and (3)”.
- 20 In section 236 (orders and regulations), in subsection (3) (instruments subject to affirmative procedure), after “80G,” insert “80IC, 80IH,”.

PART 2

LEGISLATION IN PARLIAMENT AT THE SAME TIME AS THIS ACT

Employment Relations (Flexible Working) Act 2023

- 21 (1) This paragraph makes provision to deal with the consequences of this Act coming into force before the Employment Relations (Flexible Working) Act 2023.
- (2) In section 1 of the Employment Relations (Flexible Working) Act 2023 (flexible working), omit subsections (2) and (3) (which are superseded by the provision made by paragraph 8 of this Schedule).
- (3) Omit paragraph 22 of this Schedule.
- 22 (1) This paragraph makes provision to deal with the consequences of the Employment Relations (Flexible Working) Act 2023 coming into force before this Act.
- (2) Omit paragraph 8 of this Schedule.
- (3) In section 80F (statutory right to request contract variation), for subsections (4) to (4B) (inserted by section 1(3) of the Employment Relations (Flexible Working) Act 2023) substitute—
- “(4) This section is subject to section 80IM (which restricts the right to make multiple applications under this Part).”
- (4) Omit paragraph 21 of this Schedule.