

SCHEDULE 1

Regulation 7(3)

PAY FOR TIME OFF

1. Subject to paragraph 3 below, where a person is permitted to take time off in accordance with regulation 7(1)(b) or 7(2), his employer shall pay him—

- (a) where the person's remuneration for the work he would ordinarily have been doing during that time does not vary with the amount of work done, as if he had worked at that work for the whole of that time;
- (b) where the person's remuneration for that work varies with the amount of work done, an amount calculated by reference to the average hourly earnings for that work (ascertained in accordance with paragraph 2).

2. The average hourly earnings referred to in paragraph 1(b) are the average hourly earnings of the person concerned or, if no fair estimate can be made of those earnings, the average hourly earnings for work of that description of persons in comparable employment with the same employer or, if there are no such persons, a figure of average hourly earnings which is reasonable in all the circumstances.

3. Any payment to a person by an employer in respect of a period of time off—

- (a) if it is a payment which discharges any liability which the employer may have under sections 168 or 169 of the Trade Union and Labour Relations (Consolidation) Act 1992(1), in respect of that period, shall also discharge his liability in respect of the same period under regulation 7(1)(b) or 7(2);
- (b) if it is a payment under any contractual obligation, shall go towards discharging the employer's liability in respect of the same period under regulation 7(1)(b) or 7(2);
- (c) if it is a payment under regulation 7(1)(b) or 7(2), shall go towards discharging any liability of the employer to pay contractual remuneration in respect of the same period.

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(1) 1992 c. 52.