

SCHEDULES

SCHEDULE 4

LEAVE FOR FAMILY REASONS, ETC.

PART III

CONSEQUENTIAL AMENDMENTS

The Employment Rights (Northern Ireland) Order 1996 (NI 16)

1. In Article 8(3) after sub-paragraph (b) insert “or”.
2. In Article 21(5)(b) for head (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,”.
3. After Article 70B insert—

“Leave for family and domestic reasons

70C.—(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 Department and which relates to—

 - (a) pregnancy, childbirth or maternity,
 - (b) ordinary, compulsory or additional maternity leave,
 - (c) parental leave, or
 - (d) time off under Article 85A.

(3) A reason prescribed under this Article 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. In Article 71(1) for “or 70A” substitute “, 70A or 70C”.
5. In Articles 120(1)(c) and 121(3)(b) after “childbirth” insert “or on parental leave”.
6. In Article 124(4)(b) for “maternity leave period” substitute “ordinary or additional maternity leave period”.
7. In Article 130(6) for “Paragraphs (4) and (5) are” substitute “Paragraph (4) is”.
8. For Article 131 substitute—

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“Leave for family reasons

131.—(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 Article “prescribed” means prescribed by regulations made by the Department.

(3) A reason or set of circumstances prescribed under this Article must relate to—

- (a) pregnancy, childbirth or maternity,
- (b) ordinary, compulsory or additional maternity leave,
- (c) parental leave, or
- (d) time off under Article 85A;

and it may also relate to redundancy or other factors.

(4) A reason or set of circumstances prescribed under paragraph (1) satisfies paragraph (3)(c) 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 Article may apply any statutory provision, 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 Article”.

9. In Articles 143(2) and 144(2) for sub-paragraph (a) substitute—

“(a) Article 131 applies;”.

10. In Article 143(2) after sub-paragraph (cc) insert—

“(ccc) Article 135 applies in relation to time off under Article 85A;”.

11. In Article 144(2) after sub-paragraph (c) insert—

“(cc) Article 135 applies in relation to time off under Article 85A;”.

12. In Article 152(1)(b) for “to 162” substitute “and 161”.

13. In Article 237(2)—

(a) after sub-paragraph (aa) insert—

“(ab) Article 70C;”;

(b) in sub-paragraph (b) for “83 to 85” substitute “83 to 85B”.

14. In Article 243(1) after “Article 70,” insert “Article 70C,”.

15. In Article 244(2)—

(a) in sub-paragraph (b) for “and 70” substitute “, 70 and 70C”;

(b) in sub-paragraph (c) for “83 to 85” substitute “83 to 85B”;

(c) in sub-paragraph (g) for head (i) substitute—

“(i) by Article 131, 132, 132A(d) or 134, or by Article 135 in its application in relation to time off under Article 85A;”.

16. In Article 251—

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- (a) at the beginning of paragraph (1) insert “Subject to paragraph (1A),”;
- (b) after paragraph (1) insert—
 - “(1A) Regulations under Article 70C, 103, 104, 105, 108 or 131 shall—
 - (a) be laid before the Assembly as soon as may be after they are made;
 - (b) come into operation on such date as may be specified therein; and
 - (c) cease to have effect on the expiration of a period of six months from the date on which they came into operation unless, before the expiration of that period, they are approved by a resolution of the Assembly.”.