

SCHEDULE

Employment rights and protections in connection with consultation

Right to time off and remuneration

3.—(1) An employee who is permitted to take time off under paragraph 2 is entitled to be paid remuneration by his employer for the time taken off at the appropriate hourly rate.

(2) Chapter IV of Part 1 of the 1996 Order (a week's pay) shall apply in relation to this paragraph as it applies in relation to Article 90 of that Order (right to remuneration for time off under Article 89).

(3) The appropriate hourly rate, in relation to an employee, is the amount of one week's pay divided by the number of normal working hours in a week for that employee when employed under the contract of employment in force on the day when the time is taken off.

(4) But where the number of normal working hours differs from week to week or over a longer period, the amount of one week's pay shall be divided instead by—

- (a) the average number of normal working hours calculated by dividing by twelve the total number of the employee's normal working hours during the period of twelve weeks ending with the last complete week before the day when the time is taken off, or
- (b) where the employee has not been employed for a sufficient period to enable the calculations to be made under head (a), a number which fairly represents the number of normal working hours in a week having regard to such of the considerations specified in sub-paragraph (5) as are appropriate in the circumstances.

(5) The considerations referred to in sub-paragraph (4)(b) are—

- (a) the average number of normal working hours in a week which the employee could expect in accordance with the terms of his contract, and
- (b) the average number of normal working hours of other employees engaged in relevant comparable employment with the same employer.

(6) A right to any amount under sub-paragraph (1) does not affect any right of an employee in relation to remuneration under his contract of employment ("contractual remuneration").

(7) Any contractual remuneration paid to an employee in respect of a period of time off under paragraph 2 goes towards discharging any liability of the employer to pay remuneration under sub-paragraph (1) in respect of that period and, conversely, any payment of remuneration under sub-paragraph (1) in respect of a period goes towards discharging any liability of the employer to pay contractual remuneration in respect of that period.