

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Coronavirus Act 2020, PART 3. (See end of Document for details)

SCHEDULES

PROSPECTIVE

SCHEDULE 7

EMERGENCY VOLUNTEERING LEAVE

PART 3

MODIFICATIONS OF EMPLOYMENT RIGHTS ACT 1996

8 The Employment Rights Act 1996 (“the 1996 Act”) has effect in accordance with this Part of this Schedule.

9 The 1996 Act has effect as if after section 47G there were inserted—

“47H Emergency volunteering leave

(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) Subsection (1) does not apply where the worker is an employee and the detriment in question amounts to dismissal within the meaning of Part 10.”

10 The 1996 Act has effect as if in section 48 (complaints to employment tribunals)—
(a) after subsection (1B) there were inserted—

“(1C) A worker may present a complaint to an employment tribunal that they have been subjected to a detriment in contravention of section 47H.”;

(b) in subsection (2), for “or (1B)” there were substituted “, (1B) or (1C)”.

11 The 1996 Act has effect as if in section 49 (remedies)—

- (a) in subsection (1), for “or (1B)” there were substituted “, (1B) or (1C)”;
- (b) after subsection (7) there were inserted—

“(8) Where—

- (a) the complaint is made under section 48(1C),

*Status: This version of this part contains provisions that are prospective.
 Changes to legislation: There are currently no known outstanding effects
 for the Coronavirus Act 2020, PART 3. (See end of Document for details)*

- (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,
- 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 104H.”
- 12 The 1996 Act has effect as if in section 88 (pay during period of notice: employments with normal working hours), in subsection (1)(c), after “paternity leave” there were inserted “ or emergency volunteering leave under Schedule 7 to the Coronavirus Act 2020 ”.
- 13 The 1996 Act has effect as if in section 89 (pay during period of notice: employments without normal working hours), in subsection (3)(b), after “paternity leave” there were inserted “ or emergency volunteering leave under Schedule 7 to the Coronavirus Act 2020 ”.
- 14 The 1996 Act has effect as if after section 104G there were inserted—
- “104H Emergency volunteering leave**
- (1) 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.”
- 15 The 1996 Act has effect as if in section 105 (redundancy), after subsection (7BB) there were inserted—
- “(7BC) 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 104H.”
- 16 The 1996 Act has effect as if in section 108(3) (exceptions to qualifying period of employment for unfair dismissal), after paragraph (gm) there were inserted—
- “(gn) section 104H applies,”.
- 17 The 1996 Act has effect as if in section 124(1A) (exceptions to limits on compensation), after “103A,” there were inserted “ 104H, ”.
- 18 The 1996 Act has effect as if in section 203(1)(a) (restrictions on contracting out), after “this Act” there were inserted “ or Schedule 7 to the Coronavirus Act 2020 ”.

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Coronavirus Act 2020, PART 3.