

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.

SCHEDULE 2

Regulation 7(3)

PROVISIONS AS TO INDUSTRIAL TRIBUNALS

1. An industrial tribunal shall have jurisdiction to determine complaints in accordance with the following provisions of this Schedule.

2. A person (referred to in this Schedule as the "complainant") may present a complaint to an industrial tribunal that—

- (a) his employer has failed to permit him to take time off in accordance with regulation 7(1)(b) or 7(2); or
- (b) his employer has failed to pay him in accordance with regulation 7(1)(b) or 7(2) and Schedule 1.

3. An industrial tribunal shall not consider a complaint under paragraph 2 unless it is presented within three months of the date when the failure occurred or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within the period of three months.

4. Where an industrial tribunal finds a complaint under paragraph 2(a) well-founded the tribunal shall make a declaration to that effect and may make an award of compensation to be paid by

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the employer to the complainant which shall be of such amount as the tribunal considers just and equitable in all the circumstances having regard to the employer's default in failing to permit time off to be taken by the complainant and to any loss sustained by the complainant which is attributable to the matters complained of.

5. Where on a complaint under paragraph 2(b) an industrial tribunal finds that the employer has failed to pay the complainant the whole or part of the amount required to be paid in accordance with regulation 7(1)(b) or 7(2) and Schedule 1, the tribunal shall order the employer to pay the complainant the amount which it finds due to him.