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SCHEDULES

SCHEDULE 1

RE-ENACTED PROVISIONS OF INDUSTRIAL RELATIONS ACT 1971

PART III

JURISDICTION AND PROCEDURE OF INDUSTRIAL TRIBUNALS

General principles as to assessment of compensation

[Section 116]

- 19 (1) Where in any proceedings on a complaint under paragraph 17 above an industrial tribunal makes an award of compensation to be paid by a party to the proceedings (in this paragraph referred to as the party in default) to another party (in this paragraph referred to as the aggrieved party), the amount of the compensation shall, subject to paragraph 20 below, be such amount as the tribunal considers just and equitable in all the circumstances, having regard to the loss sustained by the aggrieved party in consequence of the matters to which the complaint relates, in so far as that loss was attributable to action taken by or on behalf of the party in default.
- (2) The said loss shall be taken to include—
- (a) any expenses reasonably incurred by the aggrieved party in consequence of the matters to which the complaint relates, and
 - (b) loss of any benefit which he might reasonably be expected to have had but for those matters,
- subject, however, to the application of the same rule concerning the duty of a person to mitigate his loss as applies in relation to damages recoverable under the common law of England and Wales or of Scotland, as the case may be.
- (3) Where the industrial tribunal finds that the matters to which the complaint relates were to any extent caused or contributed to by any action of the aggrieved party in connection with those matters, the tribunal shall reduce its assessment of his loss to such extent as, having regard to that finding, the tribunal considers just and equitable.
- (4) Where, on a complaint under paragraph 17 above, the industrial tribunal has made a recommendation in accordance with sub-paragraph (2) of that paragraph, and that recommendation is not complied with, then—
- (a) if the tribunal finds that the reason for which it was not complied with was that the aggrieved party refused an offer of re-instatement, re-engagement or engagement on the terms stated in the recommendation, and the tribunal considers that he acted unreasonably in doing so, the tribunal (without prejudice to the generality of the rule mentioned in sub-paragraph (2) above) shall reduce the assessment of his loss, or

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- (b) if the tribunal finds that the reason for which the recommendation was not complied with was that the employer in question refused or failed to make such an offer, and the tribunal considers that he acted unreasonably in doing so, the tribunal shall increase that assessment, to such extent (in either case) as in the circumstances the tribunal considers just and equitable.
- (5) In determining, on a complaint under paragraph 17 above, how far any loss sustained by the aggrieved party was attributable to action taken by or on behalf of the employer, no account shall be taken of any pressure which was exercised on the employer as mentioned in paragraph 15(a) above, and that question shall be determined as if no such pressure had been exercised.