

SCHEDULES

SCHEDULE 6

Section 104.

CALCULATION OF REDUNDANCY REBATES

PART I

REBATES IN RESPECT OF REDUNDANCY PAYMENTS

- 1 Subject to sections 104(7) and 108 and to the following provisions of this Part, the amount of any redundancy rebate payable in respect of a redundancy payment shall be calculated by taking the number of years of employment by reference to which the redundancy payment falls to be calculated in accordance with Schedule 4 and allowing—
- (a) $123/200$ of one week's pay for each year of employment falling within subparagraph (a) of paragraph 2 of that Schedule ;
 - (b) $41/100$ of one week's pay for each year of employment falling within subparagraph (b) of that paragraph; and
 - (c) $41/200$ of one week's pay for each year of employment falling within subparagraph (c) of that paragraph.
- 2 Where the amount of the redundancy payment, calculated in accordance with paragraphs 1, 2 and 3 of Schedule 4, is reduced by virtue of paragraph 4 of that Schedule, the amount of the rebate shall be $41/100$ of the amount of the redundancy payment as so reduced.
- 3 (1) The provisions of this paragraph shall have effect in relation to any case where—
- (a) under section 85, 92 or 110 an industrial tribunal is empowered to determine that an employer shall be liable to pay to an employee either the whole or part of the redundancy payment to which the employee would have been entitled apart from another provision therein mentioned, and
 - (b) the tribunal determines that the employer shall be liable to pay part (but not the whole) of that redundancy payment.
- (2) There shall be ascertained what proportion that part of the redundancy payment bears to the whole of it (in this paragraph referred to as " the relevant proportion ").
- (3) There shall also be ascertained what, in accordance with the preceding provisions of this Part, would have been the amount of the redundancy rebate payable in respect of that redundancy payment if the employer had been liable to pay the whole of it.
- (4) Subject to paragraph 4, the amount of the rebate payable in that case shall then be an amount equal to the relevant proportion of the amount referred to in subparagraph (3).
- 4 Where the amount of a redundancy payment or part of a redundancy payment is reduced in accordance with regulations made under section 98.—
- (a) the proportion by which it is so reduced shall be ascertained, and

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- (b) the amount of any redundancy rebate calculated by reference to that payment shall be reduced by that proportion.

PART II

REBATES IN RESPECT OF OTHER PAYMENTS

Introductory

5 The provisions of this Part shall have effect for the purpose of calculating the amount of any redundancy rebate payable in respect of an employer's payment which is not a redundancy payment or part of a redundancy payment (in this Part referred to as "the agreed payment").

6 In this Part " the agreement ", in relation to the agreed payment, means the agreement referred to in paragraph (b) or paragraph (c) of section 104(1) by reference to which that payment is payable ; and " the relevant provisions of the agreement" means those provisions of the agreement which relate to either of the following matters, that is to say—

- (a) the circumstances in which the continuity of an employee's period of employment is to be treated as broken, and
- (b) the weeks which are to count in computing a period of employment.

7 In this Part any reference to the amount of the relevant redundancy payment, in relation to the agreed payment, shall be construed as a reference to the amount of the redundancy payment which the employer would have been liable to pay to the employee if—

- (a) the order referred to in paragraph (b) of subsection (1) of section 104, or (as the case may be) the order and the award referred to in paragraph (c) of that subsection, had not been made;
- (b) the circumstances in which the agreed payment is payable had been such that the employer was liable to pay a redundancy payment to the employee in those circumstances ;
- (c) in relation to that redundancy payment, the relevant date had been the date on which the termination of the employee's contract of employment is treated for the purposes of the agreement as having taken effect; and
- (d) in so far as the relevant provisions of the agreement are inconsistent with the provisions of Schedule 13 as to the matters referred to in subparagraphs (a) and (b) of paragraph 6, those provisions of the agreement were substituted for those provisions of that Schedule ;

and "the assumed conditions" means the conditions specified in sub-paragraphs (a) to (d) of this paragraph.

Method of calculation

8 Subject to sections 104(7) and 108, and to the following provisions of this Part, the amount of any redundancy rebate payable in respect of the agreed payment shall be an amount calculated as follows, that is to say, by taking the number of years of employment by reference to which the amount of the relevant redundancy payment would fall to be calculated in accordance with Schedule 4 (as that Schedule would have applied if the assumed conditions were fulfilled), and allowing—

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- (a) $123/200$ of one week's pay for each such year of employment falling within sub-paragraph (a) of paragraph 2 of that Schedule;
 - (b) $41/100$ of one week's pay for each such year of employment falling within sub-paragraph (b) of that paragraph; and
 - (c) $41/200$ of one week's pay for each such year of employment falling within sub-paragraph (c) of that paragraph.
- 9 For the purposes of paragraph 8, Schedule 13 shall have effect as if paragraphs 11(2), 12 and 14 were omitted.
- 10 Where the amount of the agreed payment is less than the amount of the relevant redundancy payment—
- (a) the proportion which it bears to the amount of the relevant redundancy payment shall be ascertained, and
 - (b) the amount of the rebate shall (except as provided by the next following paragraph) be that proportion of the amount calculated in accordance with the preceding provisions of this Part of this Schedule.
- 11 Where the amount of the relevant redundancy payment calculated in accordance with paragraphs 1, 2 and 3 of Schedule 4 would (if the assumed conditions were fulfilled) have been reduced by virtue of paragraph 4 of that Schedule, the amount of the rebate shall be $41/100$ of the amount of the relevant redundancy payment as so reduced.

Savings

- 12 (1) This Schedule shall have effect in relation to redundancy rebates of a kind specified in sub-paragraph (2), as if—
- (a) in paragraphs 1 and 8, for the reference to $123/200$, $41/100$ and $41/200$ there were substituted a reference to $3/4$, $1/2$ and $1/4$ respectively, and
 - (b) in paragraphs 2 and 11 for each reference to $41/100$ there were substituted a reference to $1/2$.
- (2) The redundancy rebates referred to in sub-paragraph (1) are—
- (a) any rebate payable in respect of the whole or part of a redundancy payment in relation to which the relevant date is or would but for the operation of section 90(3) be earlier than 14th August 1977 ;
 - (b) any rebate payable in respect of a payment to an employee on the termination of his contract of employment which is paid—
 - (i) in pursuance of an agreement in respect of which an order under section 96 is in operation; or
 - (ii) in pursuance of an award made under Schedule 11 to the Employment Protection Act 1975 in connection with such an agreement,where, under the agreement in question, the employee's contract is treated for the purposes of the agreement as having been terminated on a date earlier than 14th August 1977.

Power to modify paragraphs 1,2,8 and 11

- 13 (1) The Secretary of State may from time to time by order modify this Schedule—

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- (a) by substituting for the three fractions of a week's pay for the time being specified in sub-paragraphs (a), (b) and (c) of paragraphs 1 and 8 one of the other sets of three fractions specified in the following Table ; and
- (b) by substituting for the fraction for the time being specified in paragraphs 2 and 11 for the purpose of calculating the amount of the rebates in respect of reduced payments the like fraction as, by virtue of paragraph (a) is substituted for the fraction in paragraphs 1(b) and 8(6).

TABLE

	<i>Fraction in paragraphs 1(a) and 8(a)</i>	<i>Fraction in paragraphs 1(b 2,8(b)and 11</i>	<i>Fraction in paragraphs 1(c) and 8(c)</i>
1	21/40	7/20	7/40
2	123/200	41/100	41/200
3	27/40	9/20	9/40
4	3/4	1/2	1/4
5	33/40	11/20	11/40
6	9/10	3/5	3/10
7	39/40	13/20	13/40
8	21/20	7/10	7/20
9	9/8	3/4	3/8
10	6/5	4/5	2/5

In this Table—

- (a) the three fractions specified in paragraph 2 are those which, at the passing of this Act, are specified in sub-paragraphs (a), (b) and (c) of paragraphs 1 and 8 ;
- (b) the second of the fractions specified in paragraph 2 is the fraction which, at the passing of this Act, is specified in paragraphs 2 and 11.
- (2) No order shall be made under sub-paragraph (1) unless a draft thereof has been laid before and approved by a resolution of each House of Parliament.