

SCHEDULES

SCHEDULE 9

WORK: EXCEPTIONS

PART 3

OTHER EXCEPTIONS

Non-contractual payments to women on maternity leave

- 17 (1) A person does not contravene section 39(1)(b) or (2), so far as relating to pregnancy and maternity, by depriving a woman who is on maternity leave of any benefit from the terms of her employment relating to pay.
- (2) The reference in sub-paragraph (1) to benefit from the terms of a woman's employment relating to pay does not include a reference to—
- (a) maternity-related pay (including maternity-related pay that is increase-related),
 - (b) pay (including increase-related pay) in respect of times when she is not on maternity leave, or
 - (c) pay by way of bonus in respect of times when she is on compulsory maternity leave.
- (3) For the purposes of sub-paragraph (2), pay is increase-related in so far as it is to be calculated by reference to increases in pay that the woman would have received had she not been on maternity leave.
- (4) A reference to terms of her employment is a reference to terms of her employment that are not in her contract of employment, her contract of apprenticeship or her contract to do work personally.
- (5) "Pay" means benefits—
- (a) that consist of the payment of money to an employee by way of wages or salary, and
 - (b) that are not benefits whose provision is regulated by the contract referred to in sub-paragraph (4).
- (6) "Maternity-related pay" means pay to which a woman is entitled—
- (a) as a result of being pregnant, or
 - (b) in respect of times when she is on maternity leave.