

EMERGENCY VOLUNTEERING LEAVE

S 7 of the Coronavirus Bill gives effect to Schedule 6 - provisions about a new right of emergency volunteering leave ("EVL").

By s 8, the Secretary of State has to make arrangements for making payments to volunteers, if they suffer loss by volunteering.

The provisions of Schedule 6 are principally as follows.

Under Schedule 6, a worker is entitled to be absent from work for the period specified in an emergency volunteering certificate ("EVC") if, no later than 3 days before the first day of the period specified in the EVC, s/he gives notice to the employer of intention to be absent for the period in the EVC, and gives the employer a copy. The EVC is a document issued by "an appropriate authority" certifying that the worker has been approved by it as an emergency volunteer in health or social care and will be acting as such in the period specified in the EVC. The EVC may specify two, three or four consecutive weeks within a single volunteering period. A volunteering period is a period of 16 weeks after the right under the Bill comes into force and each period of 16 weeks thereafter, unless shortened by the Secretary of State in regulations. A worker may take EVL only once in the same volunteering period.

"Appropriate authorities" in England include the Secretary of State for Health and Social Care, the NHS Commissioning Board, and local authorities.

There are exceptions to the right in the case of certain workers: those working in businesses with fewer than 10 staff, Crown employees and legislative bodies, as well as those which the Secretary of State may specify.

If a worker takes EVL, s/he has the right to return to the same post on the terms they would have enjoyed if not absent. Pensions rights are to be treated as if EVL was a period of work.

The ERA 1996 is varied as if it contained a new s 47H, which gives a worker the right not be subject to a detriment by reason that s/he took or sought to take EVL, or made use of the benefits of doing so (right to return, pension rights) or was believed by the employer to be likely to do so. A worker can complain to the ET about a breach of this right. Compensation is under s 48 i.e. just and equitable.

The ERA 1996 is also varied as if it contained a new s 104H, providing that dismissal for any of these reasons is automatically unfair. A complaint to the ET may be made and compensation is not subject to the limits in s 124(1) for "normal" unfair dismissal.