

2020 No. 15

EMPLOYMENT

**The Transfer of Undertakings and Service Provision Change
(Protection of Employment) (Amendment) Regulations
(Northern Ireland) 2020**

Made - - - - 21st January 2020

Coming into operation - 27th January 2020

The Department for the Economy(a) makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(b) and Article 37(2) of the Employment Relations (Northern Ireland) Order 1999(c), and now vested in it(d).

The Department is designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to rights and obligations relating to employers and employees on the transfer or merger of undertakings, businesses or parts of businesses(e).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Transfer of Undertakings and Service Provision Change (Protection of Employment) (Amendment) Regulations (Northern Ireland) 2020 and shall come into operation on 27th January 2020.

(2) The Interpretation Act (Northern Ireland) 1954(f) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the Transfer of Undertakings (Protection of Employment) Regulations 2006

2. Schedule 1 to the Transfer of Undertakings (Protection of Employment) Regulations 2006(g) is amended as follows.

3. In paragraph 10(3)(a) for “Article 20” substitute “Articles 20A to 20C”.

4. In paragraph 10(4)(a) for “Article 20” substitute “Articles 20A to 20C”.

(a) 2016 c. 5 (N.I.).

(b) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) (the 2006 Act) and by Part 1 of Schedule 1 to the European Union (Amendment) Act 2008 (c.7) (the 2008 Act). Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act and by Part 1 of Schedule 1 to the 2008 Act. It is prospectively repealed by the European Union (Withdrawal) Act 2018 (c. 16), section 1 from exit day (*see* section 20 of that Act).

(c) S.I. 1999/2790 (N.I. 9).

(d) S.R. 2016 No. 76, Article 6(1)(c).

(e) *See* the European Communities (Designation) (No. 2) Order 1977 (S.I. 1977/1718).

(f) 1954 c. 33 (N.I.).

(g) S.I. 2006/246. Schedule 1, paragraphs 10(3), (4) and (4A) modify regulations 12, 16 and 16A for Northern Ireland in respect of conciliation. Paragraphs 10(3) and (4) were amended by S.I. 2014/386. Regulation 12 was amended by S.I. 2014/386 and S.I. 2014/853. Regulation 16 was amended by S.I. 2014/386. Regulation 16A was inserted by S.I. 2014/853.

5. After paragraph 10(4) insert—

“(4A) In regulation 16A—

- (a) in paragraph (2)(a) for the words “subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings)” substitute “paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact the Labour Relations Agency before instituting proceedings)”;
- (b) in paragraph (2)(b) for the words “(by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section” substitute “(by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article”.

Amendment of the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006

6. The Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006(a) are amended as follows.

7. In regulation 12—

(a) after paragraph (2) insert—

“(2A) Regulation 16A (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2).”

(b) in paragraph (7) for “Article 20” substitute “Articles 20A to 20C”.

8. In regulation 15 after paragraph (12) insert—

“(13) Regulation 16A (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (12).”.

9. In regulation 16, in paragraph (1), for “Article 20” substitute “Articles 20A to 20C”.

10. After regulation 16 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

16A.—(1) This regulation applies where these Regulations provide for it to apply for the purposes of a provision in these Regulations (“a relevant provision”).

(2) In this regulation—

- (a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(3) In working out when the time limit set by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(4) If the time limit set by a relevant provision would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(a) S.R. 2006 No. 177.

(5) Where an industrial tribunal has power under these Regulations to extend the time limit set by a relevant provision, the power is exercisable in relation to that time limit as extended by this regulation.”.

Sealed with the Official Seal of the Department for the Economy on 21st January 2020.



Colin Jack
A senior officer of the
Department for the Economy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Transfer of Undertakings (Protection of Employment) Regulations 2006, insofar as those Regulations apply to Northern Ireland, to take account of the introduction of Early Conciliation by the Employment Act (Northern Ireland) 2016^(a). These Regulations also make corresponding amendments to the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006.

The amendments provide for extension of time limits in respect of prospective claims to an industrial tribunal so as to facilitate Early Conciliation by the Labour Relations Agency. Consequential amendments are also made to cross references to new conciliation provisions set out in Articles 20A to 20C of the Industrial Tribunals (Northern Ireland) Order 1996^(b).

A Regulatory Impact Assessment has been produced and is available from the website of the Department for the Economy at <https://www.economy-ni.gov.uk/consultations/employment-law-review> or alongside this Statutory Rule at <http://www.legislation.gov.uk/nisr>.

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^(a) 2016 c. 15 (N.I.).

^(b) S.I. 1996/1921 (N.I. 18); Articles 20A to 20C were inserted by 2016 c. 15 (N.I.), section 1(1).

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