

SCHEDULE 2

CONSEQUENTIAL AMENDMENTS

PART 1

PRIMARY LEGISLATION

The Employment Rights Act 1996

14. After section 70 insert—

“70A Complaints to employment tribunals: agency workers

(1) An agency worker may present a complaint to an employment tribunal that the temporary work agency has failed to pay the whole or any part of remuneration to which the agency worker is entitled under section 68C.

(2) An employment tribunal shall not consider a complaint under subsection (1) relating to remuneration in respect of any day unless it is presented—

- (a) before the end of the period of three months beginning with the day on which the supply of the agency worker to a hirer was ended on maternity grounds, or
- (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within that period of three months.

(3) Where an employment tribunal finds a complaint under subsection (1) well-founded, the tribunal shall order the temporary work agency to pay the agency worker the amount of remuneration which it finds is due to her.

(4) An agency worker may present a complaint to an employment tribunal that in contravention of section 68B the temporary work agency has failed to offer to propose the agency worker to a hirer that has suitable alternative work available.

(5) An employment tribunal shall not consider a complaint under subsection (4) unless it is presented—

- (a) before the end of the period of three months beginning with the day on which the supply of the agency worker to a hirer was ended on maternity grounds, or
- (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within that period of three months.

(6) Where an employment tribunal finds a complaint under subsection (4) well-founded, the tribunal shall order the temporary work agency to pay the agency worker the amount of compensation which it finds is due to her.

(7) The amount of the compensation shall be such as the tribunal considers just and equitable in all the circumstances having regard to—

- (a) the infringement of the agency worker’s right under section 68B by the failure on the part of the temporary work agency to which the complaint relates, and
- (b) any loss sustained by the agency worker which is attributable to that failure.

(8) Expressions used in this section and sections 68A to 68C have the same meaning as in those sections (see section 68D).”.