

2011 No. 1133

MEDIATION

The Cross-Border Mediation (EU Directive) Regulations 2011

Made - - - - *18th April 2011*

Laid before Parliament *27th April 2011*

Coming into force - - *20th May 2011*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to mediation^(a).

Accordingly, the Secretary of State makes the following Regulations in exercise of the powers conferred by that section.

PART 1

General

Citation, commencement, application and extent

1. These Regulations may be cited as the Cross-Border Mediation (EU Directive) Regulations 2011.
2. Subject to regulations 3 and 4, these Regulations come into force on 20 May 2011.
3. These Regulations apply only where a mediation in relation to a relevant dispute starts on or after 20 May 2011.
4. For the purposes of regulation 3, a mediation starts—
 - (a) except in relation to regulations 16 to 18, on the date of the agreement to mediate that is entered into by the parties and the mediator; and
 - (b) in relation to regulations 16 to 18, on the date mentioned in article 1(3) of the Cross-Border Mediation (Scotland) Regulations 2011^(b).
5. Part 1 of these Regulations, including this regulation, extends to the whole of the United Kingdom.
6. Part 2 of these Regulations (Mediation Evidence) extends to England and Wales.

^(a) 1972 c.68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1)(a) and the European Union (Amendment) Act 2008 (c.7) section 3(3), Schedule, Part 1. The Secretary of State is designated in relation to mediation by S.I. 2010/2690, article 2(1)(a).

^(b) S.S.I. 2011/234.

7. The remaining Parts of these Regulations have the same extent as the provisions that they amend.

Interpretation

8. In these Regulations—

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters^(a);
- (b) “cross-border dispute” has the meaning given by article 2 of the Mediation Directive;
- (c) “mediation” has the meaning given by article 3(a) of the Mediation Directive;
- (d) “mediation administrator” means a person involved in the administration of the mediation process;
- (e) “mediation evidence” means evidence arising out of or in connection with a mediation process;
- (f) “mediation settlement” means the content of a mediation settlement agreement;
- (g) “mediation settlement agreement” means a written agreement resulting from mediation of a relevant dispute;
- (h) “mediator” has the meaning given by article 3(b) of the Mediation Directive; and
- (i) “relevant dispute” means a cross-border dispute that is subject to the Mediation Directive.

PART 2

Mediation Evidence

Mediation Evidence

9. Subject to regulation 10, a mediator or a mediation administrator has the right to withhold mediation evidence in civil and commercial judicial proceedings and arbitration.

10. A court may order that a mediator or a mediation administrator must give or disclose mediation evidence where—

- (a) all parties to the mediation agree to the giving or disclosure of the mediation evidence;
- (b) the giving or disclosure of the mediation evidence is necessary for overriding considerations of public policy, in accordance with article 7(1)(a) of the Mediation Directive; or
- (c) the mediation evidence relates to the mediation settlement, and the giving or disclosure of the mediation settlement is necessary to implement or enforce the mediation settlement agreement.

PART 3

Extension of Time Limits in View of Mediation in Certain Cross-border Disputes - Amendments to Primary Legislation

Amendments to the Prescription Act 1832

11. The Prescription Act 1832^(b) is amended as follows.

(a) O.J. L 136, 24.05.2008, p.3.
(b) 1832 c.71.

12. After section 8, insert—

“Exclusion of time because of mediation in certain cross-border disputes

8A.—(1) In this section—

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters;
- (b) “mediation” has the meaning given by article 3(a) of the Mediation Directive;
- (c) “mediator” has the meaning given by article 3(b) of the Mediation Directive;
- (d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).

(2) Where a period is prescribed by this Act in relation to the subject of the whole or part of a relevant dispute, any time after the start of a mediation in relation to the relevant dispute is to be excluded in the computation of that period, but only if—

- (a) the time when the period must end by virtue of section 4 falls before the mediation ends or less than eight weeks after it ends, or
- (b) a further mediation in relation to the relevant dispute starts less than eight weeks after the previous mediation ends, and the time when the period must end by virtue of section 4 falls before the further mediation ends or less than eight weeks after it ends.

(3) Any time excluded under subsection (2) is also to be excluded in the computation of the second period of three years mentioned in section 8 (period within which claim is resisted).

(4) For the purposes of this section, a mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.

(5) For the purposes of this section, a mediation ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute;
- (b) a party completes the notification of the other parties that it has withdrawn from the mediation;
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
- (d) the parties, after being notified that the mediator’s appointment has ended (by death, resignation or otherwise), fail to agree within 14 days to seek to appoint a replacement mediator;
- (e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.

(6) For the purpose of subsection (5), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.

(7) In the case of any relevant dispute, references in this section to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.”

Amendments to the Equal Pay Act 1970

13.—(1) The Equal Pay Act 1970(a) is amended as follows.

(a) 1970 c.41.

(2) The amendments have effect until section 2ZA(a) of that Act (which is repealed by the Equality Act 2010(b)) ceases to have effect for all purposes.

14. In section 2ZA(qualifying date under section 2(4)) after subsection (7) insert—

“(8) Subsections (3) to (7) are subject to section 2ZAA.”.

15. After section 2ZA, insert—

“Extension of time limits because of mediation in certain cross-border disputes

2ZAA.—(1) In this section—

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters,
- (b) “mediation” has the meaning given by article 3(a) of the Mediation Directive,
- (c) “mediator” has the meaning given by article 3(b) of the Mediation Directive, and
- (d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).

(2) Subsection (3) applies where—

- (a) in relation to the whole or part of a relevant dispute, the qualifying date for instituting proceedings is determined in accordance with section 2ZA,
- (b) a mediation in relation to the relevant dispute starts on or before the qualifying date, and
- (c) if not extended by this section, the qualifying date would fall before the mediation ends or before the last day of the period of eight weeks after it ends.

(3) The qualifying date is instead the last day of that period (subject to paragraph (4)).

(4) If a qualifying date has been extended by this section, subsections (2) and (3) apply to the extended qualifying date as they apply to a qualifying date mentioned in subsection (2)(a).

(5) For the purposes of this section, a mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.

(6) For the purposes of this section, a mediation ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute,
- (b) a party completes the notification of the other parties that it has withdrawn from the mediation,
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request,
- (d) the parties, after being notified that the mediator’s appointment has ended (by death, resignation or otherwise), fail to agree within 14 days to seek to appoint a replacement mediator,
- (e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.

(7) For the purpose of subsection (6), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.

(a) Section 2ZA was inserted by S.I. 2003/1656, regulation 4. The section was modified, in relation to an equal treatment rule, by the Occupational Pension Schemes (Equal Treatment) Regulations 1995, S.I. 1995/3138, reg 2(1)(a), (2) (as amended by S.I. 2005/1923, regulations 2, 4 and 5).

(b) 2010 c.15. The whole of the Equal Pay Act 1970 was repealed by the Equality Act 2010, s.211(2), Schedule 27, Part 1 (as amended by S.I. 2010/2279, articles 2, 13 and Schedule 2). This was subject to savings (see S.I. 2010/2317, articles 11(1), 15 and 16 and Schedule 3).

(8) In the case of any relevant dispute, references in this section to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.”.

Amendments to the Prescription and Limitation (Scotland) Act 1973 Act

16. The Prescription and Limitation (Scotland) Act 1973(a) is amended in accordance with regulations 19 and 20.

17. In section 22A(b), after subsection (4) insert—

“(5) The prescriptive period calculated in relation to a relevant cross-border dispute for the purposes of this section is extended where the last day of the period would, apart from this subsection, fall—

- (a) in the eight weeks after the date that a mediation in relation to the dispute ends;
- (b) on the date that a mediation in relation to the dispute ends, or
- (c) after the date when all of the parties to the dispute agree to participate in a mediation in relation to the dispute but before the date that such mediation ends.

(6) Where subsection (5) applies, the prescriptive period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.

(7) For the purposes of subsections (5) and (6), a mediation ends on the date that any of the following occurs—

- (a) all of the parties reach an agreement in resolution of the dispute;
- (b) all of the parties agree to end the mediation;
- (c) a party withdraws from the mediation, which is the date on which—
 - (i) a party informs all of the other parties of that party’s withdrawal,
 - (ii) in the case of a mediation involving 2 parties, 14 days expire after a request made by one party to the other party seeking confirmation of whether the other party has withdrawn, if the other party does not respond in that period, or
 - (iii) in the case of a mediation involving more than 2 parties, a party informs all of the remaining parties that the party received no response in the 14 days after that party’s request to another party seeking confirmation of whether the other party had withdrawn; or
- (d) a period of 14 days expires after the date on which the mediator’s tenure ends (whether by reason of death, resignation or otherwise), if a replacement mediator has not been appointed.

(8) In this section—

“the Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive; and

“relevant cross-border dispute” means a cross-border dispute within the meaning given by Article 2 of the Directive—

- (a) which is about an obligation to which a prescriptive period applies by virtue of this section, and
- (b) to which the Directive applies.”.

(a) 1973 c.52.

(b) Section 22A was inserted by the Consumer Protection Act 1987 (c.43) section 6(6) and Schedule 1, paragraph 10 and amended by the Arbitration (Scotland) Act 2010 (asp 1), section 23(5).

18. After section 22CA(a) insert—

“22CB. Extension of limitation periods for 1987 Act actions: mediation

(1) The limitation period calculated in relation to a relevant cross-border dispute for the purposes of section 22B(2) or 22C(2) is extended where the last day of the period would, apart from this subsection, fall—

- (a) in the 8 weeks after the date that a mediation in relation to the dispute ends;
- (b) on the date that a mediation in relation to the dispute ends; or
- (c) after the date when all of the parties to the dispute agree to participate in a mediation in relation to the dispute but before the date that such mediation ends.

(2) Where subsection (1) applies, the limitation period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.

(3) For the purposes of this section, a mediation ends on the date that any of the following occurs—

- (a) all of the parties reach an agreement in resolution of the dispute;
- (b) all of the parties agree to end the mediation;
- (c) a party withdraws from the mediation, which is the date on which—
 - (i) a party informs all of the other parties of that party’s withdrawal,
 - (ii) in the case of a mediation involving 2 parties, 14 days expire after a request made by one party to the other party seeking confirmation of whether the other party has withdrawn, if the other party does not respond in that period, or
 - (iii) in the case of a mediation involving more than 2 parties, a party informs all of the remaining parties that the party received no response in the 14 days after that party’s request to another party seeking confirmation of whether the other party had withdrawn; or
- (d) a period of 14 days expires after the date on which the mediator’s tenure ends (whether by reason of death, resignation or otherwise), if a replacement mediator has not been appointed.

(4) In this section—

“the Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;

“mediation” and “mediator” have the meanings given by Article 3 of the Directive; and
“relevant cross-border dispute” means a cross-border dispute within the meaning given by Article 2 of the Directive—

- (a) which is about a matter to which a limitation period applies by virtue of section 22B or 22C, and
- (b) to which the Directive applies.”.

Amendments to the Sex Discrimination Act 1975

19.—(1) Part 7 of the Sex Discrimination Act 1975(b) is amended as follows.

(2) The amendments have effect until section 76 of that Act (which is repealed by the Equality Act 2010(c)) ceases to have effect for all purposes.

(a) Section 22CA was inserted by the Arbitration (Scotland) Act 2010 (asp 1), section 23(6)

(b) 1975 c.65.

(c) 2010 c.15. The Sex Discrimination Act 1975 was repealed by the Equality Act 2010, s.211(2), Schedule 27, Part 1 (as amended by S.I. 2010/2279, articles 2, 13 and Schedule 2). This was subject to savings (see S.I. 2010/2317, articles 11(1), 15 and 16, 18(1), 18(2) and Schedules 1, 3 and 5).

20. In section 76 (period within which proceedings to be brought), before subsection (5) insert—
“(4A) The time limits set by subsection (1) are subject to section 76ZA.”

21. After section 76, insert—

“Extension of time limits because of mediation in certain cross-border disputes

76ZA.—(1) In this section—

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters,
- (b) “mediation” has the meaning given by article 3(a) of the Mediation Directive,
- (c) “mediator” has the meaning given by article 3(b) of the Mediation Directive, and
- (d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).

(2) Subsection (3) applies where—

- (a) a period is allowed by section 76(1)(a)(a) for a complaint in relation to the whole or part of a relevant dispute,
- (b) a mediation in relation to the relevant dispute starts before the period expires, and
- (c) if not extended by this section the period would expire before the mediation ends or less than four weeks after it ends.

(3) The period expires instead at the end of four weeks after the mediation ends (subject to subsection (4)).

(4) If a period mentioned in subsection (2)(a) has been extended by this section, subsections (2) and (3) apply to the extended period as they apply to a period mentioned in subsection (2)(a).

(5) Subsection (6) applies where—

- (a) a period is allowed by section 76(2)(b) for a complaint or claim in relation to the whole or part of a relevant dispute,
- (b) a mediation in relation to the relevant dispute starts before the period expires, and
- (c) if not extended by this section, the period would expire before the mediation ends or less than eight weeks after it ends.

(6) The period expires instead at the end of eight weeks after the mediation ends (subject to subsection (7)).

(7) If a period mentioned in subsection (5)(a) has been extended by this section, subsections (5) and (6) apply to the extended period as they apply to a period mentioned in subsection (5)(a).

(8) For the purposes of this section, a mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.

(9) For the purposes of this section, a mediation ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute,
- (b) a party completes the notification of the other parties that it has withdrawn from the mediation,
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request,

(a) Section 76(1) was amended by the Employment Rights (Dispute Resolution) Act 1998 (c.8), section 1(2)(a) and the Armed Forces Act 1996 (c.46), section 21(6).

(b) Section 76(2) was amended by the Race Relations Act 1976 (c.74), section 79(4), Schedule 4, paragraph 8.

- (d) the parties, after being notified that the mediator’s appointment has ended (by death, resignation or otherwise), fail to agree within 14 days to seek to appoint a replacement mediator,
- (e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.

(10) For the purpose of subsection (9), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.

(11) In the case of any relevant dispute, references in this section to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.”.

Amendments to the Limitation Act 1980

22. The Limitation Act 1980(a) is amended as follows.

23. In section 10(5) (special time limit for claiming contribution), after “32”, insert “, 33A”.

24. In section 12(3) (special time limit for actions under Fatal Accidents legislation), after “33”, insert “, 33A”.

25. In section 33(8)(b) (discretionary exclusion of time limit for actions in respect of personal injuries or death), for “preceding provisions of this Part of this Act”, substitute “provisions of this Part of this Act other than this section”.

26. After section 33, insert—

“Mediation in certain cross-border disputes

Extension of time limits because of mediation in certain cross-border disputes

33A.—(1) In this section—

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters,
- (b) “mediation” has the meaning given by article 3(a) of the Mediation Directive,
- (c) “mediator” has the meaning given by article 3(b) of the Mediation Directive, and
- (d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).

(2) Subsection (3) applies where—

- (a) a time limit under this Act relates to the subject of the whole or part of a relevant dispute,
- (b) a mediation in relation to the relevant dispute starts before the time limit expires, and
- (c) if not extended by this section, the time limit would expire before the mediation ends or less than eight weeks after it ends.

(3) For the purposes of initiating judicial proceedings or arbitration, the time limit expires instead at the end of eight weeks after the mediation ends (subject to subsection (4)).

(4) If a time limit has been extended by this section, subsections (2) and (3) apply to the extended time limit as they apply to a time limit mentioned in subsection (2)(a).

(5) Where more than one time limit applies in relation to a relevant dispute, the extension by subsection (3) of one of those time limits does not affect the others.

(a) 1980, c.58.

(b) Section 33(8) was amended by the Consumer Protection Act 1987, section 6, Schedule 1, Part I, paragraph 6.

(6) For the purposes of this section, a mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.

(7) For the purposes of this section, a mediation ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute,
- (b) a party completes the notification of the other parties that it has withdrawn from the mediation,
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request,
- (d) after the parties are notified that the mediator’s appointment has ended (by death, resignation or otherwise), they fail to agree within 14 days to seek to appoint a replacement mediator,
- (e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.

(8) For the purpose of subsection (7), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.

(9) In the case of any relevant dispute, references in this section to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.”.

Amendments to the Foreign Limitation Periods Act 1984

27.—(1) The Foreign Limitation Periods Act 1984(a) is amended as follows.

28. In section 1(1)(a), after “proceedings” insert “, subject to section 1A”.

29. After section 1, insert—

“Extension of limitation periods because of mediation of certain cross-border disputes

1A.—(1) In this section—

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters,
- (b) “mediation” has the meaning given by article 3(a) of the Mediation Directive,
- (c) “mediator” has the meaning given by article 3(b) of the Mediation Directive, and
- (d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).

(2) Subsection (3) applies where—

- (a) a limitation period prescribed by any law applicable by virtue of section 1(1)(a) relates to the subject of the whole or part of a relevant dispute,
- (b) a mediation in relation to the relevant dispute starts before the period expires, and
- (c) if not extended by this section, the period would expire before the mediation ends or less than eight weeks after it ends.

(3) For the purposes of initiating judicial proceedings or arbitration, the limitation period expires instead at the end of eight weeks after the mediation ends (subject to subsection (4)).

(a) 1984 c.16.

(4) If a limitation period has been extended by this section, subsections (2) and (3) apply to the extended limitation period as they apply to a limitation period mentioned in subsection (2)(a).

(5) For the purposes of this section, mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.

(6) For the purposes of this section, a mediation ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute,
- (b) a party completes the notification of the other parties that it has withdrawn from the mediation,
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request,
- (d) after the parties are notified that the mediator's appointment has ended (by death, resignation or otherwise), they fail to agree within 14 days to seek to appoint a replacement mediator,
- (e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.

(7) For the purpose of subsection (6), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.

(8) In the case of any relevant dispute, references in this section to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.

(9) This section is without prejudice to any enactment which has effect for the purposes of provisions—

- (a) relating to limitation or prescription periods and
- (b) contained in an international agreement to which the United Kingdom is a party.”.

Amendments to the Employment Rights Act 1996

30. The Employment Rights Act 1996(a) is amended as follows.

31. In section 11 after subsection (4) insert—

“(5) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (4)(a).”.

32. In section 23 after subsection (3) insert—

“(3A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (2).”.

33. In section 34 after subsection (2) insert—

“(2A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (2)(a).”.

34. In section 48 after subsection (4) insert—

“(4A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (3)(a).”.

(a) 1996 c.18. The following sections were amended by the Employment Rights (Dispute Resolution) Act 1998 (c.8): Section 11(4); Section 34(2); Section 48(3); Section 51(2); Section 54(2); Section 57(2); Section 60(2); Section 70(2) and (5). Section 57B(2) was inserted by the Employment Relations Act 1999 (c.26), section 8, Schedule 4, Part II. Section 63C was inserted by the Teaching and Higher Education Act 1998 (c.30), section 33. Section 63I was inserted by the Apprenticeships, Skills, Children and Learning Act 2009 (c.22), section 40(1) and (2). Section 80 was substituted by the Employment Relations Act 1999, section 7, Schedule 4, Part I. Section 80H was inserted by the Employment Act 2002, section 47(1) and (2).

- 35.** In section 51 after subsection (2) insert—
“(2A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (2)(a).”.
- 36.** In section 54 after subsection (2) insert—
“(2A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (2)(a).”.
- 37.** In section 57 after subsection (2) insert—
“(2A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (3)(a).”.
- 38.** In section 57B after subsection (2) insert—
“(2A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (2)(a).”.
- 39.** In section 60 after subsection (2), insert—
“(2A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (2)(a).”.
- 40.** In section 63 after subsection (2), insert—
“(2A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (2)(a).”.
- 41.** In section 63C after subsection (2) insert—
“(2A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (2)(a).”.
- 42.** In section 63I after subsection (6) insert—
“(7) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies to subsection (5)(a).”.
- 43.** In section 70 after subsection (7) insert—
“(8) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsections (2)(a) and (5)(a).”.
- 44.** In section 80 after subsection (2) insert—
“(2A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (2)(a).”.
- 45.** In section 80H after subsection (6) insert—
“(7) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (5)(a).”.
- 46.** In section 111 after subsection (2) insert—
“(2A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) applies for the purposes of subsection (2)(a).”.
- 47.** In section 164 after subsection (3), insert—
“(4) Subsections (1)(c) and (2)(a) are subject to section 207A (extension because of mediation in certain European cross-border disputes).”.
- 48.** After section 207, insert—

(a) Section 164(1)(c) and (2) are subject to Employment Rights (Dispute Resolution) Act 1998, section 1(2)(a).

Extension of time limits because of mediation in certain cross-border disputes

207A.—(1) In this section—

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters,
- (b) “mediation” has the meaning given by article 3(a) of the Mediation Directive,
- (c) “mediator” has the meaning given by article 3(b) of the Mediation Directive, and
- (d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).

(2) Subsection (3) applies where—

- (a) this Act provides for that subsection to apply for the purposes of a provision of this Act,
- (b) a time limit is set by that provision in relation to the whole or part of a relevant dispute,
- (c) a mediation in relation to the relevant dispute starts before the time limit expires, and
- (d) if not extended by this section, the time limit would expire before the mediation ends or less than four weeks after it ends.

(3) The time limit expires instead at the end of four weeks after the mediation ends (subject to subsection (4)).

(4) If a time limit mentioned in subsection (2)(b) has been extended by this section, subsections (2) and (3) apply to the extended time limit as they apply to a time limit mentioned in subsection (2)(b).

(5) Subsection (6) applies where—

- (a) a time limit is set by section 164(1)(c) or (2) in relation to the whole or part of a relevant dispute,
- (b) a mediation in relation to the relevant dispute starts before the time limit expires, and
- (c) if not extended by this section, the time limit would expire before the mediation ends or less than eight weeks after it ends.

(6) The time limit expires instead at the end of eight weeks after the mediation ends (subject to subsection (7)).

(7) If a time limit mentioned in subsection (5)(a) has been extended by this section, subsections (5) and (6) apply to the extended time limit as they apply to a time limit mentioned in subsection (5)(a).

(8) Where more than one time limit applies in relation to a relevant dispute, the extension by subsection (3) or (6) of one of those time limits does not affect the others.

(9) For the purposes of this section, a mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.

(10) For the purposes of this section, a mediation ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute,
- (b) a party completes the notification of the other parties that it has withdrawn from the mediation,
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request,

- (d) the parties, after being notified that the mediator's appointment has ended (by death, resignation or otherwise), fail to agree within 14 days to seek to appoint a replacement mediator,
- (e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.

(11) For the purpose of subsection (10), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.

(12) In the case of any relevant dispute, references in this section to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.

(13) Where an employment tribunal has power under this Act to extend a time limit to which subsection (3) applies, the power is exercisable in relation to the time limit as extended by this section.”.

Amendments to the Land Registration Act 2002

49. Schedule 6 to the Land Registration Act 2002(a) is amended as follows.

50. In paragraph 1(1), at the beginning insert “Subject to paragraph 16,”.

51. In paragraph 1(2), at the beginning insert “Subject to paragraph 16,”.

52. After paragraph 6(1), insert—

“(1A) Sub-paragraph (1) is subject to paragraph 16,”.

53. After paragraph 15, insert—

“Extension of time limits because of mediation in certain cross-border disputes

16.—(1) In this paragraph—

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters,
- (b) “mediation” has the meaning given by article 3(a) of the Mediation Directive,
- (c) “mediator” has the meaning given by article 3(b) of the Mediation Directive, and
- (d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).

(2) Sub-paragraph (3) applies where—

- (a) a period of time is prescribed by paragraph 1(1), 1(2)(a) or 6(1) in relation to the whole or part of a relevant dispute,
- (b) a mediation in relation to the relevant dispute starts before the period expires, and
- (c) if not extended by this paragraph, the period would expire before the mediation ends or less than eight weeks after it ends.

(3) The period expires instead at the end of eight weeks after the mediation ends (subject to sub-paragraph (4)).

(4) If a period has been extended by this paragraph, sub-paragraphs (2) and (3) apply to the extended period as they apply to a period mentioned in sub-paragraph (2)(a).

(5) Where more than one period applies in relation to a relevant dispute, the extension by sub-paragraph (3) of one of those periods does not affect the others.

(a) 2002 c.9.

(6) For the purposes of this paragraph, a mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.

(7) For the purposes of this paragraph, a mediation ends on date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute,
- (b) a party completes the notification of the other parties that it has withdrawn from the mediation,
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request,
- (d) the parties, after being notified that the mediator’s appointment has ended (by death, resignation or otherwise), fail to agree within 14 days to seek to appoint a replacement mediator,
- (e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.

(8) For the purpose of sub-paragraph (7), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.

(9) In the case of any relevant dispute, references in this paragraph to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.”.

Amendments to the Equality Act 2010

54. Part 9 of the Equality Act 2010(a) is amended as follows.

55. In section 118(1), at the beginning insert “Subject to section 140A”.

56. In section 123(1), at the beginning insert “Subject to section 140A”.

57. In section 129(3), after “second column”, insert “, subject to section 140A”.

58. After section 140, insert—

“Extension of time limits because of mediation in certain cross-border disputes

140A.—(1) In this section—

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters,
- (b) “mediation” has the meaning given by article 3(a) of the Mediation Directive,
- (c) “mediator” has the meaning given by article 3(b) of the Mediation Directive, and
- (d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).

(2) Subsection (3) applies where—

- (a) a time limit is set by section 118(1)(a), 118(2) or 129(3) in relation to the whole or part of a relevant dispute,
- (b) a mediation in relation to the relevant dispute starts before the time limit expires, and
- (c) if not extended by this section, the time limit would expire before the mediation ends or less than eight weeks after it ends.

(a) 2010, c.15.

(3) The time limit expires instead at the end of eight weeks after the mediation ends (subject to subsection (4)).

(4) If a time limit mentioned in subsection (2)(a) has been extended by this section, subsections (2) and (3) apply to the extended time limit as they apply to a time limit mentioned in subsection (2)(a).

(5) Subsection (6) applies where—

- (a) a time limit is set by section 123(1)(a) in relation to the whole or part of a relevant dispute,
- (b) a mediation in relation to the relevant dispute starts before the time limit expires, and
- (c) if not extended by this section the time limit would expire before the mediation ends or less than four weeks after it ends.

(6) The time limit expires instead at the end of four weeks after the mediation ends (subject to subsection (7)).

(7) If a time limit mentioned in subsection (5)(a) has been extended by this section, subsections (5) and (6) apply to the extended time limit as they apply to a time limit mentioned in subsection (5)(a).

(8) Where more than one time limit applies in relation to a relevant dispute, the extension by subsection (3) or (6) of one of those time limits does not affect the others.

(9) For the purposes of this section, a mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.

(10) For the purposes of this section, a mediation ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute,
- (b) a party completes the notification of the other parties that it has withdrawn from the mediation,
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request,
- (d) the parties, after being notified that the mediator's appointment has ended (by death, resignation or otherwise), fail to agree within 14 days to seek to appoint a replacement mediator,
- (e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.

(11) For the purpose of subsection (10), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.

(12) In the case of any relevant dispute, references in this section to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.

(13) Where a court or tribunal has power under section 118(1)(b) or 123(1)(b) to extend a period of limitation, the power is exercisable in relation to the period of limitation as extended by this section.”.

PART 4

Extension of Time Limits in View of Mediation in Certain Cross-border Disputes - Amendments to Secondary Legislation

Amendments to the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994

59. The Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994(a) is amended as follows.

60. In article 7(b), for “An employment tribunal”, substitute “Subject to article 8A, an employment tribunal”.

61. In article 8(c), for “An employment tribunal”, substitute “Subject to article 8A, an employment tribunal”.

62. After article 8, insert—

“Extension of time limits because of mediation in certain cross-border disputes

8A.—(1) In this article—

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters;
- (b) “mediation” has the meaning given by article 3(a) of the Mediation Directive;
- (c) “mediator” has the meaning given by article 3(b) of the Mediation Directive; and
- (d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).

(2) Paragraph (3) applies where—

- (a) a time limit is set by article 7(a) or (b) in relation to the whole or part of a relevant dispute;
- (b) a mediation in relation to the relevant dispute starts before the time limit expires; and
- (c) if not extended by this article, the time limit would expire before the mediation ends or less than four weeks after it ends.

(3) The time limit expires instead at the end of four weeks after the mediation ends (subject to paragraph (4)).

(4) If a time limit mentioned in paragraph (2)(a) has been extended by this article, paragraphs (2) and (3) apply to the extended time limit as they apply to a time limit mentioned in paragraph (2)(a).

(5) Paragraph (6) applies where—

- (a) a time limit is set by article 8(c)(i) in relation to the whole or part of a relevant dispute;
- (b) a mediation in relation to the relevant dispute starts before the time limit expires; and
- (c) if not extended by this article the time limit would expire before the mediation ends or less than two weeks after it ends.

(a) S.I. 1994/1623. The title to the instrument was amended by the Employment Rights (Dispute Resolution) Act 1998, section 1(2)(b).

(b) Article 7 was amended by the Employment Rights (Dispute Resolution) Act 1998, section 1(2)(a).

(c) Article 8 was amended by the Employment Rights (Dispute Resolution) Act 1998, section 1(2)(a).

(6) The time limit expires instead at the end of two weeks after the mediation ends (subject to paragraph (7)).

(7) If a time limit mentioned in paragraph (5)(a) has been extended by this article, paragraphs (5) and (6) apply to the extended time limit as they apply to a time limit mentioned in paragraph (5)(a).

(8) Where more than one time limit applies in relation to a relevant dispute, the extension by paragraph (3) or (6) of one of those time limits does not affect the others.

(9) For the purposes of this article, a mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.

(10) For the purposes of this article, a mediation ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute;
- (b) a party completes the notification of the other parties that it has withdrawn from the mediation;
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
- (d) the parties, after being notified that the mediator’s appointment has ended (by death, resignation or otherwise), fail to agree within 14 days to seek to appoint a replacement mediator; or
- (e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.

(11) For the purpose of paragraph (10), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.

(12) In the case of any relevant dispute, references in this article to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.

(13) Where the tribunal has the power under article 7(c) or 8(c)(ii) to extend a period of limitation, the power is exercisable in relation to the period of limitation as extended by this article.”.

Amendments to the Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994

63.—(1) The Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994(a) is amended as follows.

64. In article 7(b), for “An employment tribunal”, substitute “Subject to article 8A, an employment tribunal”.

65. In article 8(c), for “An employment tribunal”, substitute “Subject to article 8A, an employment tribunal”.

66. After article 8, insert—

“Extension of time limits because of mediation in certain cross-border disputes

8A.—(1) In this article—

(a) S.S.I. 1994/1624. The title to the instrument was amended by the Employment Rights (Dispute Resolution) Act 1998, section 1(2)(b).
(b) Article 7 was amended by the Employment Rights (Dispute Resolution) Act 1998, section 1(2)(a) and by the Employment Act 2002 (Dispute Resolution) Regulations 2004 (S.I. 2004/752).
(c) Article 8 was amended by the Employment Rights (Dispute Resolution) Act 1998, section 1(2)(a).

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters;
 - (b) “mediation” has the meaning given by article 3(a) of the Mediation Directive; and
 - (c) “mediator” has the meaning given by article 3(b) of the Mediation Directive; and
 - (d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).
- (2) Paragraph (3) applies where—
- (a) a time limit is set by article 7(a) or (b) in relation to the whole or part of a relevant dispute;
 - (b) a mediation in relation to the relevant dispute starts before the time limit expires; and
 - (c) if not extended by this article, the time limit would expire before the mediation ends or less than four weeks after it ends.
- (3) The time limit expires instead at the end of four weeks after the mediation ends (subject to paragraph (4)).
- (4) If a time limit mentioned in paragraph (2)(a) has been extended by this article, paragraphs (2) and (3) apply to the extended time limit as they apply to a time limit mentioned in paragraph (2)(a).
- (5) Paragraph (6) applies where—
- (a) a time limit is set by article 8(c)(i) in relation to the whole or part of a relevant dispute;
 - (b) a mediation in relation to the relevant dispute starts before the time limit expires; and
 - (c) if not extended by this article, the time limit would expire before the mediation ends or less than two weeks after it ends.
- (6) The time limit expires instead at the end of two weeks after the mediation ends (subject to paragraph (7)).
- (7) If a time limit mentioned in paragraph (5)(a) has been extended by this article, paragraphs (5) and (6) apply to the extended time limit as they apply to a time limit mentioned in paragraph (5)(a).
- (8) Where more than one time limit applies in relation to a relevant dispute, the extension by paragraph (3) or (6) of one of those time limits does not affect the others.
- (9) For the purposes of this article, a mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.
- (10) For the purposes of this article, a mediation ends on the date of the first of these to occur—
- (a) the parties reach an agreement in resolution of the relevant dispute;
 - (b) a party completes the notification of the other parties that it has withdrawn from the mediation;
 - (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
 - (d) the parties, after being notified that the mediator’s appointment has ended (by death, resignation or otherwise), fail to agree within 14 days to seek to appoint a replacement mediator; or
 - (e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.
- (11) For the purpose of paragraph (10), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.

(12) In the case of any relevant dispute, references in this article to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.

(13) Where the tribunal has the power under article 7(c) or 8(c)(ii) to extend a period of limitation, the power is exercisable in relation to the period of limitation period as extended by this article.”.

Amendments to the Working Time Regulations 1998

67. (1) The Working Time Regulations 1998^(a) are amended as follows.

68. In regulation 30(2) (Remedies), for “An employment tribunal”, substitute “Subject to article 30A, an employment tribunal”.

69. After regulation 30, insert—

“Extension of time limits because of mediation in certain cross-border disputes

30A.—(1) In this regulation—

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters;
- (b) “mediation” has the meaning given by article 3(a) of the Mediation Directive;
- (c) “mediator” has the meaning given by article 3(b) of the Mediation Directive; and
- (d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).

(2) Paragraph (3) applies where—

- (a) a three month time limit is set by regulation 30(2) in relation to the whole or part of a relevant dispute;
- (b) a mediation in relation to the relevant dispute starts before the period expires; and
- (c) if not extended by this regulation, the time limit would expire before the mediation ends or less than four weeks after it ends.

(3) The time limit expires instead at the end of four weeks after the mediation ends (subject to paragraph (4)).

(4) If a time limit mentioned in paragraph (2)(a) has been extended by this article, paragraphs (2) and (3) apply to the extended time limit as they apply to a time limit mentioned in paragraph (2)(a).

(5) Where more than one time limit applies in relation to a relevant dispute, the extension by paragraph (3) of one of those time limits does not affect the others.

(6) For the purposes of this regulation, a mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.

(7) For the purposes of this regulation, a mediation ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute;
- (b) a party completes the notification of the other parties that it has withdrawn from the mediation;
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;

(a) S.I. 1998/1833.

(d) the parties, after being notified that the mediator's appointment has ended (by death, resignation or otherwise), fail to agree within 14 days to seek to appoint a replacement mediator; or

(e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.

(8) For the purpose of paragraph (7), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.

(9) In the case of any relevant dispute, references in this regulation to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.

(10) Where the tribunal has the power under regulation 30(2)(b) to extend a period of limitation, the power is exercisable in relation to the period of limitation as extended by this regulation.”.

Amendments to the Land Registration Rules 2003

70. Schedule 8 to the Land Registration Rules 2003(a) is amended as follows.

71. In paragraph 1(1), for “A person”, substitute “Subject to paragraph 13, a person”.

72. After paragraph 6(1), insert—

“(1A) Sub-paragraph (1) is subject to paragraph 13,”.

73. After paragraph 12, insert—

“Extension of time limits because of mediation in certain cross-border disputes

13.—(1) In this paragraph—

(a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters;

(b) “mediation” has the meaning given by article 3(a) of the Mediation Directive;

(c) “mediator” has the meaning given by article 3(b) of the Mediation Directive; and

(d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).

(2) Sub-paragraph (3) applies where—

(a) a period of time is prescribed by paragraphs 1(1) or 6(1) in relation to the whole or part of a relevant dispute;

(b) a mediation in relation to the relevant dispute starts before the period expires; and

(c) if not extended by this paragraph, the period would expire before the mediation ends or less than eight weeks after the mediation ends.

(3) The period expires instead at the end of eight weeks after the mediation ends (subject to sub-paragraph (4)).

(4) If a period mentioned in sub-paragraph (2)(a) has been extended by this paragraph, sub-paragraphs (2) and (3) apply to the extended period as they apply to a period mentioned in sub-paragraph (2)(a).

(5) Where more than one period applies in relation to a relevant dispute, the extension by sub-paragraph (3) of one of those periods does not affect the others.

(6) For the purposes of this paragraph, a mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.

(a) S.I. 2003/1417.

(7) For the purposes of this paragraph, a mediation ends on date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute;
- (b) a party completes the notification of the other parties that it has withdrawn from the mediation;
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
- (d) the parties, after being notified that the mediator's appointment has ended (by death, resignation or otherwise), fail to agree within 14 days to seek to appoint a replacement mediator; or
- (e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.

(8) For the purpose of sub-paragraph (7), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.

(9) In the case of any relevant dispute, references in this paragraph to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.”.

Signed by authority of the Secretary of State

18th April 2011

J Djanogly
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made as part of the implementation of Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (the Mediation Directive).

Part 1 of these Regulations (regulations 1 to 8) contain general provisions about citation, commencement, application and extent of these Regulations, as well as provisions on interpretation.

Part 2 of these Regulations (regulations 9 and 10) contains regulations about the provision by mediators and those involved in the administration of the mediation process of evidence arising out of mediation of cross-border disputes that are within the scope of the Mediation Directive. This Part has been included in relation to the implementation of article 7 of the Mediation Directive (Confidentiality of mediation).

Part 3 (regulations 11 to 58) and Part 4 (regulations 59 to 73) contain amendments to primary and secondary legislation respectively, in relation to time limits that expire while mediation is ongoing of cross-border disputes that are within the scope of the Mediation Directive. These Parts have been included in relation to the implementation of article 8 of the Mediation Directive (Effect of mediation on limitation and prescription periods).

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MEDIATION

The Cross-Border Mediation (EU Directive) Regulations 2011

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