
STATUTORY INSTRUMENTS

2018 No. 1378

The Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018

PART 2

EMPLOYMENT PARTICULARS

Amendment to the Employment Rights Act 1996

2. The Employment Rights Act 1996 is amended as follows.

Amendment of section 1

3. In section 1 (statement of initial employment particulars)—

(a) for subsection (2) substitute—

“(2) Subject to sections 2(2) to (4)—

(a) the particulars required by subsections (3) and (4) must be included in a single document; and

(b) the statement must be given not later than the beginning of the employment.”;

(b) in subsection (4)—

(i) in the words immediately before paragraph (a) for “(or the instalment containing them)” substitute “(or the instalment of a statement given under section 2(4) containing them)”;

(ii) for paragraph (c), substitute—

“(c) any terms and conditions relating to hours of work including any terms and conditions relating to—

(i) normal working hours,

(ii) the days of the week the worker is required to work, and

(iii) whether or not such hours or days may be variable, and if they may be how they vary or how that variation is to be determined.”;

(iii) at the end of paragraph (d)(ii), omit “and” and insert—

“(iia) any other paid leave, and”;

(iv) after paragraph (d) insert—

“(da) any other benefits provided by the employer that do not fall within another paragraph of this subsection.”;

(v) after paragraph (g) insert—

“(ga) any probationary period, including any conditions and its duration.”;

(vi) in paragraph (j), omit the final “and”;

(vii) after paragraph (k) insert—

- “(l) any training entitlement provided by the employer,
- (m) any part of that training entitlement which the employer requires the worker to complete, and
- (n) any other training which the employer requires the worker to complete and which the employer will not bear the cost of.”.

(viii) after subsection (5) insert—

- “(6) In this section “probationary period” means a temporary period specified in the contract of employment or other worker’s contract between a worker and an employer that—
- (a) commences at the beginning of the employment, and
 - (b) is intended to enable the employer to assess the worker’s suitability for the employment.”.

Amendment of section 2

4. In section 2 (statement of initial particulars: supplementary)—

- (a) in subsection (2) for “subsection (4)(d)(ii) and (iii)” substitute “subsection (4)(d)(ii) to (iii) and (l)”;
- (b) for subsection (4) substitute—
 - “(4) A statement, insofar as it relates to the particulars required by section 1(4)(d)(iii), (j) and (l) and the note required by section 3—
 - (a) may be given in instalments; and
 - (b) must be given not later than two months after the beginning of the employment, even where the employment ends before that date.”;
- (c) in subsection (5) for “the statement under section 1” substitute “any instalment of a statement given under subsection (4)”;
- (d) omit subsection (6).

Amendment of section 4

5. In section 4 (statement of changes)—

- (a) in subsection 2(a) omit the words “otherwise than in instalments”;
- (b) in subsection (2)(b)(i) for “section 1 or” substitute “section 2(4)”;
- (c) omit subsection (2)(b)(ii);
- (d) in subsection (4), for “sections 1(4)(d)(ii) and (iii)” substitute “sections 1(4)(d)(ii) to (iii)”.

Amendment of section 7A

6. In section 7A(1) (use of alternative documents to give particulars)(1)—

- (a) in paragraph (b) for “in subsections (3) and (4) (a) to (c), (d)(i), (f) and (h) of that section” substitute “in that section save for the particulars specified in section 2(4) and”;
- (b) for paragraph (c) substitute—
 - “(c) the document is given not later than the beginning of the employment.”

Repeal of section 198

7. Section 198 (short-term employment) is repealed.

Application

8. Subject to regulation 9, the amendments made by regulations 2 to 6 only apply in relation to a written statement required by section 1 or 4 of the Employment Rights Act 1996 where the worker to whom the statement must be given begins employment with the employer on or after 6 April 2020.

Transitional

9.—(1) Schedule 2 to the Employment Rights Act 1996 (transitional provisions and savings) is amended as follows.

(2) In paragraph 7—

- (a) in the heading, after “Employment particulars” insert “for pre-TURERA employees”;
- (b) in sub-paragraph (2), after “this paragraph” insert “and paragraph 7B”;
- (c) in sub-paragraph (3), in the words before paragraph (a), after “time” insert “before 6 April 2020”.

(3) After paragraph 7 insert—

“Employment particulars for pre-6 April 2020 employees

(1) In this paragraph an “existing employee” means an employee whose employment with his employer began on or after 30th November 1993 and before 6th April 2020.

(2) Subject to paragraph 7B, sections 1 to 7 of this Act apply to an existing employee without the amendments made by regulations 2 to 6 of the Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018.

Request for employment particulars by pre-6 April 2020 employee or pre- TURERA employee

(1) Where an existing employee (as defined in paragraph 7A(1)) or a pre-TURERA employee (as defined in paragraph 7(1)) at any time—

- (a) on or after 6 April 2020, and
- (b) either before the end of the employee’s employment or within the period of three months beginning with the day on which the employee’s employment ends,

requests from the employer a statement under section 1 of this Act, the employer shall (subject to section 5 and any other provisions disapplying or having the effect of disapplying sections 1 to 4) be treated as being required by section 1 to give him a written statement under that section not later than 1 month after the request is made and section 4 of this Act shall (subject to that) apply in relation to the employee after he makes the request.

(4) An employer is not required to give an existing employee or a pre-TURERA employee a statement under section 1 pursuant to sub-paragraph (1) on more than one occasion.

(5) Where—

- (a) on or after 6 April 2020 there is in the case of an existing employee or a pre-TURERA employee a change in any of the matters particulars of which would, had they have been given a statement of particulars on or after 6 April 2020 under section 1 of this Act (as amended), have been included or referred to in the statement, and
- (b) he has not previously requested a statement under sub-paragraph (1),

subsection (1) of section 4 of this Act shall be treated (subject to section 5 and any other provision disapplying or having the effect of disapplying section 4) as requiring his employer to give him

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a written statement containing particulars of the change at the time specified in subsection (3) of section 4; and the other provisions of section 4 apply accordingly.

(6) A reference in this paragraph to section 1 or section 4 is a reference to that section as amended by the Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018.”.