

*Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2018 No. XXX**

**EXITING THE EUROPEAN  
UNION, NORTHERN IRELAND  
TERMS AND CONDITIONS OF  
EMPLOYMENT, NORTHERN IRELAND**

The Employment Rights (Amendment) (Northern  
Ireland) (EU Exit) (No. 2) Regulations 2018

*Made* - - - - *\*\*\**

*Coming into force in accordance with regulation 1(1)*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(1).

In accordance with paragraph 1 of Schedule 7 to the European Union (Withdrawal) Act 2018 a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Employment Rights (Amendment) (Northern Ireland) (EU Exit) (No. 2) Regulations 2018 and come into force on exit day.

(2) These Regulations extend to Northern Ireland only.

**Amendments to employment rights legislation**

2. The Schedule (which amends employment rights legislation extending to Northern Ireland, and contains a saving provision) has effect.

Date

*Name*  
Minister for Small Business, Consumers and  
Corporate Responsibility  
Department for Business, Energy and Industrial  
Strategy

SCHEDULE

Regulation 2

AMENDMENTS TO EMPLOYMENT RIGHTS  
LEGISLATION EXTENDING TO NORTHERN IRELAND

PART 1

AMENDMENTS

**The Employment Relations (Northern Ireland) Order 1999**

1. In Article 37 of the Employment Relations (Northern Ireland) Order 1999<sup>(2)</sup> (transfer of undertakings) for paragraphs (1) and (2) substitute—

“(1) The Department may by regulations make TUPE-like provision in relation to the treatment of employees in circumstances other than those to which the main part of the TUPE regulations applies.

(2) In this Article—

(a) the “main part of the TUPE regulations” means so much of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) as relates to the treatment of employees on the transfer of an undertaking, business or part of an undertaking or business;

(b) “TUPE-like provision” means provision which is the same or similar to that made by the main part of the TUPE regulations.

(2A) The circumstances mentioned in paragraph (1) include circumstances in which there is no transfer, or no transfer to which the main part of the TUPE regulations applies.”.

**The Work and Families (Northern Ireland) Order 2006**

2. In Article 15 of the Work and Families (Northern Ireland) Order 2006<sup>(3)</sup> (annual leave)—

(a) omit paragraph (2)(g), and

(b) omit paragraph (4)(b).

PART 2

SAVING PROVISION

3. The amendments made by Part 1 of this Schedule do not affect the validity of any regulations that came into force before exit day and were made under either of the Orders amended by that Part.

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(2) S.I. 1999/2790 (N.I. 9).  
(3) S.I. 2006/1947 (N.I. 16).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 8(1) of, and Schedule 7 to, the European Union (Withdrawal Act) 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under paragraphs (a) and (g) of section 8(2) of that Act) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of employment rights, removing (or amending) references that are no longer appropriate once the UK has exited the EU.

Part 1 makes relevant amendments. Firstly, to Article 37 of the Employment Relations (Northern Ireland) Order 1999 which currently provides a power to make regulations in certain circumstances where EU obligations relating to the treatment of employees on the transfer of all or part of an undertaking or business do not apply. The amendments do not change the scope of the power but ensure the wording used is appropriate once the UK has exited the EU. Secondly, Part 1 amends the Work and Families (Northern Ireland) Order 2006, removing powers to make regulations (relating to annual leave), which are no longer appropriate once the UK has exited the EU.

Part 2 provides for saving provisions.

A full impact assessment has not been produced for this instrument as no, or no significant impact on the private, voluntary or public sector is foreseen.