

SCHEDULE

Regulation 2

AMENDMENTS TO EMPLOYMENT RIGHTS LEGISLATION EXTENDING TO NORTHERN IRELAND

PART 1

PRIMARY LEGISLATION

The Employment Rights (Northern Ireland) Order 1996

1. In Article 111(1) (entitlement to parental leave – supplemental) of the Employment Rights (Northern Ireland) Order 1996(2), omit paragraph (3).

The Employment Relations (Northern Ireland) Order 1999

2. In Article 21 (part-time work: discrimination) of the Employment Relations (Northern Ireland) Order 1999(3), omit paragraph (4).

Employment Act 2002

3. In section 46 (fixed-term work: Northern Ireland) of the Employment Act 2002(4), omit subsection (4).

Employment Relations Act 2004

4.—(1) Section 43 (information and consultation: Northern Ireland) of the Employment Relations Act 2004(5) is amended as follows.

(2) Omit subsection (5).

(3) In subsection (6), for “(2) to (5)” substitute “(2) to (4)”.

PART 2

SECONDARY LEGISLATION

Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 2002

5.—(1) The Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 2002(6) are amended as follows.

(2) In regulation 3 (treatment of persons in other EEA States as employees)—

(a) in the heading omit “other”;

(b) in sub-paragraph (a) omit the words “other than the United Kingdom”;

(1) Article 111 was substituted by Article 9 of, and Part 1 of Schedule 4 to, the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9)).

(2) S.I. 1996/1919 (N.I. 16).

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

(4) 2002 c. 22.

(5) 2004 c. 24.

(6) S.R.(N.I.) 2002 No. 382; relevant amendments are S.R.(N.I.) 2010 No. 306 and S.R.(N.I.) 2015 No. 146.

- (c) in sub-paragraph (b) after “1408/71” insert “as amended from time to time or Regulation (EC) No 883/2004(7) of the European Parliament and of the Council of 29 April 2004 as amended from time to time on the coordination of social security systems”.
- (3) In regulation 5 (entitlement to statutory paternity pay where person has worked in an EEA State)—
 - (a) in paragraph (1)—
 - (i) in sub-paragraph (b) for “another” substitute “an”;
 - (ii) after sub-paragraph (b) for “the other EEA” substitute “the EEA”;
 - (b) in paragraph (2)—
 - (i) in sub-paragraph (b) for “another” substitute “an”;
 - (ii) after sub-paragraph (b) for “the other EEA” substitute “the EEA”.
- (4) In regulation 6 (entitlement to statutory adoption pay where person has worked in an EEA State)—
 - (a) in sub-paragraph (b) for “another” substitute “an”;
 - (b) after sub-paragraph (b) for “the other EEA” substitute “the EEA”.

The Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005

6. In Schedule 1 (Industrial Tribunal Rules of Procedure) to the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005(8) omit paragraph 57 (references to the European Court of Justice).

The Fair Employment Tribunal (Rules of Procedure) Regulations (Northern Ireland) 2005

7. In Schedule 1 (Fair Employment Tribunal Rules of Procedure) to the Fair Employment Tribunal (Rules of Procedure) Regulations (Northern Ireland) 2005(9) omit paragraph 44 (references to the European Court of Justice).

The Statutory Shared Parental Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 2015

8.—(1) The Statutory Shared Parental Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 2015(10) are amended as follows.

- (2) In regulation 5 (treatment of persons in other EEA States as employees)—
 - (a) in the heading omit “other”;
 - (b) in sub-paragraph (a) omit “other than the United Kingdom”;
 - (c) in sub-paragraph (b) after “1408/71” insert “as amended from time to time or Regulation (EC) 883/2004 of the European Parliament and of the Council of 29 April 2004 as amended from time to time on the coordination of social security systems”.
- (3) In regulation 7 (entitlement to statutory shared parental pay where person has worked in an EEA State)—
 - (a) in paragraph (1)—

(7) Regulation (EC) 883/2004, of 29 April 2004, of the European Parliament and of the Council on the coordination of social security systems O.J. No. L166, 30.4.04, p.1-123.

(8) S.R.(N.I.) 2005 No. 150; to which there are amendments not relevant to these Regulations.

(9) S.R.(N.I.) 2005 No. 151; to which there are amendments not relevant to these Regulations.

(10) S.R.(N.I.) 2015 No. 103.

- (i) in sub-paragraph (c) for “another” substitute “an”;
- (ii) after sub-paragraph (c) for “the other EEA” substitute “the EEA”;
- (b) in paragraph (2)—
 - (i) in sub-paragraph (c) for “another” substitute “an”;
 - (ii) after sub-paragraph (c) for “the other EEA” substitute “the EEA”.
- (4) In Schedule 2 (adoptions from overseas) in paragraph 6(1), in the modified version of regulation 7(2)—
 - (a) in sub-paragraph (c) for “another” substitute “an”;
 - (b) after sub-paragraph (c) for “the other EEA” substitute “the EEA”.

The Working Time Regulations (Northern Ireland) 2016

- 9.—(1) The Working Time Regulations (Northern Ireland) 2016(11) are amended as follows.
- (2) Regulation 22 (excluded sectors) is amended as follows—
- (a) in paragraph (2) for sub-paragraph (b) substitute—
 - “(b) to workers to whom the Civil Aviation (Working Time) Regulations 2004(12) apply.”;
 - (b) in paragraph (3) for the words from “[Directive 2002/15/EC](#)” to the end substitute “the Road Transport (Working Time) Regulations (Northern Ireland) 2005(13) apply”.

The Posted Workers (Enforcement of Employment Rights) Regulations (Northern Ireland) 2016

- 10.—(1) The Posted Workers (Enforcement of Employment Rights) Regulations (Northern Ireland) 2016(14) are amended as follows.
- (2) In regulation 3 (scope of application of Part 2)—
- (a) in paragraph (2)—
 - (i) for the definition of “employer” substitute—

““employer” means a service provider established in the United Kingdom or a Member State which posts or hires out workers in a manner described by paragraph 3 of Article 1 of [Directive 96/71/EC](#)(15);”;
 - (ii) in the definition of “posted worker in the construction sector”, in sub-paragraph (a), omit “other than the United Kingdom”.
 - (b) after paragraph (2) insert—

“(3) For the purposes of the definition of “employer” in paragraph (2), paragraph 3 of Article 1 of [Directive 96/71/EC](#) is to be read as if—

 - (a) in point (a)—
 - (i) after “post workers to” there were inserted “the United Kingdom or”;
 - (ii) after “operating in” there were inserted “the United Kingdom or”;
 - (b) in point (b), after “by the group in” there were inserted “the United Kingdom or”;

(11) S.R.(N.I.) 2016 No. 49.

(12) S.I. 2004/756.

(13) S.R.(N.I.) 2005 No. 241; amended by S.R.(N.I.) 2007 No. 323 and S.R.(N.I.) 2012 No. 169.

(14) S.R.(N.I.) 2016 No. 242.

(15) O.J. No. L18, 21.1.1997, p.1.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Employment Rights (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 No. 537*

(c) in point (c), after “operating in” there were inserted “the United Kingdom or”.”

(3) In regulation 8 (cross-border enforcement of financial administrative penalties and fines) omit “other than the United Kingdom” in each place it occurs.

PART 3

SAVING PROVISION

11. 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 any of the Acts or Orders amended by that Part.