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STATUTORY INSTRUMENTS

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**2018 No. 1378**

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

**PART 3**

**PAID ANNUAL LEAVE**

**Amendments to regulation 16 of the Working Time Regulations 1998**

- 10.**—(1) Regulation 16 of the Working Time Regulations 1998(1) is amended as follows.
- (2) At the end of paragraph (2) insert “and the exception in paragraph (3A)”.
- (3) In paragraph (3)—
- (a) in sub-paragraph (c) omit “and”;
  - (b) after sub-paragraph (d) insert—
    - “(e) subject to the exception in sub-paragraph (f)(ii), as if in sections 221(3), 222(3) and (4), 223(2) and 224(2) and (3) references to twelve were references to—
      - (i) in the case of a worker who on the calculation date has been employed by their employer for less than 52 complete weeks, the number of complete weeks for which the worker has been employed, or
      - (ii) in any other case, 52; and
    - (f) in any case where section 223(2) or 224(3) applies as if—
      - (i) account were not to be taken of remuneration in weeks preceding the period of 104 weeks ending—
        - (aa) where the calculation date is the last day of a week, with that week, and
        - (bb) otherwise, with the last complete week before the calculation date; and
      - (ii) the period of weeks required for the purposes of sections 221(3), 222(3) and (4) and 224(2) was the number of weeks of which account is taken.”.
- (4) After paragraph (3) insert—
- “(3A) In any case where applying sections 221 to 224 of the 1996 Act subject to the modifications set out in paragraph (3) gives no weeks of which account is taken, the amount of a week’s pay is not to be determined by applying those sections, but is the amount which fairly represents a week’s pay having regard to the considerations specified in section 228(3) as if references in that section to the employee were references to the worker.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(3B) For the purposes of paragraphs (3) and (3A) “week” means, in relation to a worker whose remuneration is calculated weekly by a week ending with a day other than Saturday, a week ending with that other day and, in relation to any other worker, a week ending with Saturday.”.