

SCHEDULE 1

Regulation 2(1)

AMENDMENTS TO EMPLOYMENT RIGHTS LEGISLATION
EXTENDING TO ENGLAND AND WALES, AND SCOTLAND

PART 1

PRIMARY LEGISLATION

The Employment Rights Act 1996

1. The Employment Rights Act 1996(1) is amended as follows.
2. In section 79(2) (entitlement to parental leave - supplemental) omit subsection (3).
3. In Schedule 2, in paragraph 10 (validity of provisions deriving from certain regulations) at the end insert “before the repeal of that subsection by section 1 of the European Union (Withdrawal) Act 2018”(3).

The Employment Relations Act 1999

4. In section 19 of the Employment Relations Act 1999(4) (part-time work) omit subsection (4).

The Employment Act 2002

5. In section 45 of the Employment Act 2002(5) (fixed-term work) omit subsection (4).

The Employment Relations Act 2004

6. In section 42 of the Employment Relations Act 2004(6) (information and consultation)—
 - (a) omit subsection (5);
 - (b) in subsection (6) for “(2) to (5)” substitute “(2) to (4)”.

PART 2

SECONDARY LEGISLATION

The Working Time Regulations 1998

7. The Working Time Regulations 1998(7) are amended as follows.
8. In regulation 18(8) (excluded sectors)—
 - (a) in paragraph (2)—
 - (i) after sub-paragraph (a) insert—

(1) 1996 c. 18.

(2) 1996 c. 18, section 79 was substituted by the Employment Relations Act 1999, section 7 and Schedule 4, Part 1.

(3) 2018 c. 16.

(4) 1999 c. 26.

(5) 2002 c. 22.

(6) 2004 c. 24.

(7) S.I. 1998/1833.

(8) S.I. 1998/1833, Regulation 18, amended by S.I. 2007/2079; there are other amending instruments but none is relevant.

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“(aa) to workers to whom the Civil Aviation (Working Time) Regulations 2004(9) apply;”;

(ii) omit sub-paragraph (b);

(b) in paragraph (4) for the words from “[Directive 2002/15/EC](#)” to the end substitute “the Road Transport (Working Time) Regulations 2005(10) apply”.

9. In regulation 28(1)(11) (enforcement) in the definition of “relevant road transport worker” for “Council Regulation ([EEC](#) 3820/85)” substitute “Council Regulation ([EC](#) No 561/2006(12))”.

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

10. The Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations 2002(13) are amended as follows.

11. 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”;

(c) in sub-paragraph (b) after “1408/71” insert “as amended from time to time or Regulation ([EC](#)) No 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”.

12. 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) for “the other EEA” substitute “the EEA”;

(b) in paragraph (2)—

(i) in sub-paragraph (b) for “another” substitute “an”;

(ii) for “the other EEA” substitute “the EEA”.

13. In regulation 6 (entitlement to statutory adoption pay where person has worked in an EEA State)—

(a) in paragraph (b) for “another” substitute “an”;

(b) for “the other EEA” substitute “the EEA”.

Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013

14. In Schedule 1 (employment tribunals rules of procedure) to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013(14)—

(a) omit paragraph 33 (evidence from other EU Member States);

(b) omit paragraph 100 (references to the Court of Justice of the European Union).

(9) [S.I. 2004/756](#).

(10) [S.I. 2005/639](#).

(11) [S.I. 1998/1833](#), Regulation 28 to which there are amendments not relevant to these Regulations.

(12) Regulation ([EC](#)) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport and amending Council Regulations ([EEC](#)) No 3821/85 and ([EC](#)) No 2135/98 and repealing Council Regulation ([EEC](#)) No 3820/85. OJ No L 102, 11.4.2006, p.1.

(13) [S.I. 2002/2821](#).

(14) [S.I. 2013/1237](#).

The Statutory Shared Parental Pay (Persons Abroad and Mariners) Regulations 2014

15. The Statutory Shared Parental Pay (Persons Abroad and Mariners) Regulations 2014(15) are amended as follows.

16. 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”.

17. In regulation 7 (entitlement to statutory shared parental pay where person has worked in an EEA State)—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (c), for “another” substitute “an”;
 - (ii) for “the other EEA” substitute “the EEA”;
- (b) in paragraph (2)—
 - (i) in sub-paragraph (c), for “another” substitute “an”;
 - (ii) for “the other EEA” substitute “the EEA”.

18. In Schedule 2 (modifications for adoptions from overseas) in paragraph 6(1), in the modified version of regulation 7(1)(2)—

- (a) in sub-paragraph (c), for “another” substitute “an”;
- (b) for “the other EEA” substitute “the EEA”.

The Posted Workers (Enforcement of Employment Rights) Regulations 2016

19. The Posted Workers (Enforcement of Employment Rights) Regulations 2016(16) are amended as follows.

20.—(1) Regulation 4 (scope of application of Part 2) is amended as follows.

(2) In paragraph (2)—

(a) 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](#)(17);”;

(b) in the definition of “posted worker in the construction sector”, in paragraph (a), omit “other than the United Kingdom”.

(3) 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”;

(15) [S.I. 2014/3134](#).

(16) [S.I. 2016/539](#).

(17) OJ No L 18, 21.1.1997, p. 1.

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- (b) in point (b), after “by the group in” there were inserted “the United Kingdom or”;
- (c) in point (c), after “operating in” there were inserted “the United Kingdom or”.

21. In regulation 11 (cross-border enforcement of financial penalties) omit “other than the United Kingdom” in each place it occurs.

PART 3

SAVING PROVISION

22. 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 amended by that Part.