

SCHEDULE 2

CONSEQUENTIAL AMENDMENTS

PART 1

PRIMARY LEGISLATION

The Employment Rights Act 1996

12. After section 68 insert—

“Ending the supply of an agency worker on maternity grounds

68A Meaning of ending the supply of an agency worker on maternity grounds

(1) For the purposes of this Part the supply of an agency worker to a hirer is ended on maternity grounds if, in consequence of action taken pursuant to a provision listed in subsection (2), the supply of the agency worker to the hirer is ended on the ground that she is pregnant, has recently given birth or is breastfeeding a child.

(2) The provisions are—

- (a) regulations 8(3) or 9(2) of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997;
- (b) regulation 16A(2) or 17A of the Management of Health and Safety at Work Regulations 1999; or
- (c) regulation 20 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

68B Right to offer of alternative work

68B (1) Where the supply of an agency worker to a hirer is ended on maternity grounds and the temporary work agency has available suitable alternative work, the agency worker has a right to be offered to be proposed for such alternative work.

(2) For alternative work to be suitable for an agency worker for the purposes of this section—

- (a) the work must be of a kind which is both suitable in relation to her and appropriate for her to do in the circumstances, and
- (b) the terms and conditions applicable to her whilst performing the work, if they differ from the corresponding terms and conditions which would have applied to her but for the fact that the supply of the agency worker to the hirer was ended on maternity grounds, must not be substantially less favourable to her than those corresponding terms and conditions.

(3) Subsection (1) does not apply—

- (a) where the agency worker has confirmed in writing that she no longer requires the work-finding services of the temporary work agency, or
- (b) beyond the original intended duration, or likely duration, whichever is the longer, of the assignment which ended when the supply of the agency worker to the hirer was ended on maternity grounds.

Status: This is the original version (as it was originally made).

68C Right to remuneration

68C (1) Where the supply of an agency worker to a hirer is ended on maternity grounds, that agency worker is entitled to be paid remuneration by the temporary work agency.

(2) An agency worker is not entitled to remuneration under this section in respect of any period if—

- (a) the temporary work agency has—
 - (i) offered to propose the agency worker to a hirer that has alternative work available which is suitable alternative work for her for the purposes of section 68B, or
 - (ii) proposed the agency worker to a hirer that has such suitable alternative work available, and that hirer has agreed to the supply of that agency worker, and
- (b) the agency worker has unreasonably refused that offer or to perform that work.

(3) Nothing in this section imposes a duty on the temporary work agency to pay remuneration beyond the original intended duration, or likely duration, whichever is the longer, of the assignment which ended when the supply of the agency worker to the hirer was ended on maternity grounds.

68D Agency workers: supplementary

68D (1) Without prejudice to any other duties of the hirer or temporary work agency under any enactment or rule of law sections 68A, 68B and 68C do not apply where the agency worker—

- (a) has not completed the qualifying period, or
- (b) is no longer entitled to the rights conferred by regulation 5 of the Agency Workers Regulations 2010 pursuant to regulation 8(a) or (b) of those Regulations.

(2) Nothing in those sections imposes a duty on the hirer or temporary work agency beyond the original intended duration, or likely duration of the assignment, whichever is the longer.

(3) Those sections do not apply where sections 66 to 68 apply.

(4) In this section and sections 68A to 68C the following have the same meaning as in the Agency Workers Regulations 2010—

- “agency worker”
- “assignment”;
- “hirer”;
- “qualifying period”;
- “temporary work agency”.