

2018 No. XXXX

EXITING THE EUROPEAN UNION

TERMS AND CONDITIONS OF EMPLOYMENT

**The Employment Rights (Amendment) (EU Exit) Regulations
2018**

Made - - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1(1)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 7 of, and paragraphs [] of Schedule 7 to, the European Union (Withdrawal) Act 2018.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Employment Rights (Amendment) (EU Exit) Regulations 2018 and come into force on [TBC].

(2) Any amendment by these Regulations of an enactment has the same extent as the enactment amended.

Amendments to employment rights legislation

2.—(1) Schedule 1 (which amends employment rights legislation extending to England and Wales and Scotland) has effect.

(2) Schedule 2 (which amends the Transnational Information and Consultation of Employees Regulations 1999 which extend to the whole of the United Kingdom) has effect.

Date *Name*
Minister of State for Business, Energy and Industrial Strategy
Department for Business, Energy and Industrial Strategy

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(a) is amended as follows.
2. In section 79(b) (entitlement to parental leave - supplemental) omit subsection (3).
3. In Schedule 2, 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”(c).

The Employment Relations Act 1999

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

The Employment Act 2002

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

The Employment Relations Act 2004

6. In section 42 of the Employment Relations Act 2004(f) (information and consultation)—
 - (a) omit subsection (5); and
 - (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(g) are amended as follows.
8. In regulation 18 (excluded sectors) after paragraph (5) insert—

“(6) For the purposes of this regulation any reference to a Directive is to be read as a reference to the EU-derived domestic legislation that was made for the purposes of implementing that Directive.”.

(a) 1996 c. 18.

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

(c) 2018 c. xx.

(d) 1999 c.26.

(e) 2002 c. 22.

(f) 2004 c. 24.

(g) S.I. 1998/1833.

The Posted Workers (Enforcement of Employment Rights) Regulations 2016

9.—(1) Regulation 4 (scope of application) 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 the manner described by paragraph 3 of Article 1 of Directive 96/71/EC(a).”;

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

(3) After paragraph (2) insert—

“(2A) 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 subparagraph (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 subparagraph (b), after “by the group in” there were inserted “the United Kingdom or”;

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

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

PART 3

TRANSITIONAL, TRANSITORY AND 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 [TBC] and were made under any of the Acts amended by that Part.

SCHEDULE 2

Regulation 2(2)

AMENDMENTS TO THE TRANSNATIONAL INFORMATION AND CONSULTATION OF EMPLOYEES REGULATIONS 1999

Amendments to the Regulations

1. The Transnational Information and Consultation of Employees Regulations 1999(b) are amended as follows.

[details to be confirmed]

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

(b) S.I. 1999/3323.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, are made in exercise of the powers in section 7 of, and Schedule 7 to the European Union (Withdrawal) Act 2018 (c. [**]) in order to address failures of retained EU law, to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of employment legislation.

Schedule 1 contains amendments to primary and secondary legislation extending to England and Wales, and Scotland.

Schedule 2 contains amendments to the Transnational Information and Consultation of Employees Regulations 1999 which extend to the whole of the United Kingdom.