

## SCHEDULE 2

### CONSEQUENTIAL AMENDMENTS

#### PART 2

#### OTHER LEGISLATION

##### **Management of Health and Safety at Work Regulations (Northern Ireland) 2000**

19. The Management of Health and Safety at Work Regulations (Northern Ireland) 2000(1) are amended as follows.

20. After regulation 16 insert—

**“Alteration of working conditions in respect of new or expectant mothers (agency workers)**

16A.—(1) Where, in the case of an individual agency worker, the taking of any other action the hirer is required to take under the relevant statutory provisions would not avoid the risk referred to in regulation 16(1) the hirer shall, if it is reasonable to do so, and would avoid such risks, alter her working conditions or hours of work.

(2) If it is not reasonable to alter the working conditions or hours of work, or if it would not avoid such risk, the hirer shall without delay inform the temporary work agency, who shall then end the supply of that agency worker to the hirer.

(3) In paragraphs (1) and (2) references to risk, in relation to risk from any infectious or contagious disease, are references to a level of risk at work which is in addition to the level to which a new or expectant mother may be expected to be exposed outside the workplace.

21. After regulation 17 insert—

**“Certificate from registered medical practitioner in respect of new or expectant mothers (agency workers)**

17A. Where—

- (a) a new or expectant mother works at night; and
- (b) a certificate from a registered medical practitioner or a registered midwife shows that it is necessary for her health or safety that she should not be at work for any period of such work identified in the certificate,

the hirer shall without delay inform the temporary work agency, who shall then end the supply of that agency worker to the hirer.”.

22. After regulation 18 insert—

**“Notification by new or expectant mothers (agency workers)**

18A.—(1) Nothing in regulation 16A(1) or (2) shall require the hirer to take any action in relation to an agency worker until she has notified the hirer in writing that she is pregnant, has given birth within the previous six months, or is breastfeeding.

*Status: This is the original version (as it was originally made).*

(2) Nothing in regulation 16A(2) shall require the temporary work agency to end the supply of the agency worker until she has notified the temporary work agency in writing that she is pregnant, has given birth within the previous six months, or is breastfeeding.

(3) Nothing in regulation 16A(1) shall require the hirer to maintain action taken in relation to an agency worker—

(a) in a case—

(i) to which regulation 16A(1) relates; and

(ii) where the agency worker has notified the hirer, that she is pregnant, where she has failed, within a reasonable time of being requested to do so in writing by the hirer, to produce for the hirer’s inspection a certificate from a registered medical practitioner or a registered midwife showing that she is pregnant; or

(b) once the hirer knows that she is no longer a new or expectant mother; or

(c) if the hirer cannot establish whether she remains a new or expectant mother.

#### **Agency workers: general provisions**

18B.—(1) Without prejudice to any other duties of the hirer or temporary work agency under any enactment or rule of law in relation to health and safety at work, regulation 16A, 17A and 18A shall 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 (Northern Ireland) 2011 pursuant to regulation 8(a) or (b) of those Regulations.

(2) Nothing in regulation 16A or 17A 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) This regulation, and regulations 16A, 17A and 18A do not apply in circumstances where regulations 16, 17 and 18 apply.

(4) For the purposes of this regulation and regulation 16A, 17A or 18A the following have the same meaning as in the Agency Workers Regulations (Northern Ireland) 2011—

“agency worker”;

“assignment”;

“hirer”;

“qualifying period”;

“temporary work agency”.

23. In regulation 20(1)(a) for “regulations 16 to 18”, substitute, “regulations 16 to 18B”.

#### **The Information and Consultation of Employees Regulations (Northern Ireland) 2005**

24. The Information and Consultation of Employees Regulations (Northern Ireland) 2005(2) are amended as follows.

25. In regulation 2(2) (interpretation) after the definition of—

(a) “the 1996 Order” insert—

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(2) [S.R. 2005 No. 47](#)

““agency worker” has the same meaning as in regulation 3 of the Agency Workers Regulations (Northern Ireland) 2011;” and

(b) “standard information and consultation provisions” insert—

““suitable information relating to the use of agency workers” means information as to—

- (a) the number of agency workers working temporarily for and under the supervision and direction of the employer,
- (b) the parts of the employer’s undertaking in which those agency workers are working, and
- (c) the type of work those agency workers are carrying out.”.

26. After regulation 3 insert—

**“Agency Workers**

3A.—(1) Paragraphs (2) and (3) apply to an agency worker whose contract within regulation 3(1)(b) of the Agency Workers Regulations (Northern Ireland) 2011 (contract with the temporary work agency) is not a contract of employment.

(2) For the purposes of regulations 3, 4 and Schedule 1, any agency worker who has a contract with a temporary work agency shall be treated as being employed by that temporary work agency for the duration of that agency worker’s assignment with the employer.

(3) In these Regulations “assignment” has the same meaning as in regulation 2 and “temporary work agency” has the same meaning as in regulation 4, of the Agency Workers Regulations (Northern Ireland) 2011.”.

27. After regulation 8 insert—

**“Pre-existing agreements: agency workers**

8A. Where information about the employment situation is to be provided under a pre-existing agreement by an employer, such information must include suitable information relating to the use of agency workers (if any) in that undertaking.”.

28. In regulation 16(1), omit the “and” at the end of sub-paragraph (e) and after sub-paragraph (f) add—

“and

- (g) provide that where an employer is to provide information about the employment situation, under that agreement or under any part, such information shall include suitable information relating to the use of agency workers (if any) in that undertaking.”.

29. In regulation 20(1)(b), after “the situation, structure and probable development of employment within the undertaking” and before “and on any anticipatory measures envisaged” insert “(and such information must include suitable information relating to the use of agency workers (if any) in that undertaking)”.

### **The Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006**

30. The Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006(3) are amended as follows.

31. In regulation 13, after paragraph (2) insert—

“(2A) Where information is to be supplied under paragraph (2) by an employer—

- (a) this must include suitable information relating to the use of agency workers (if any) by that employer; and
- (b) “suitable information relating to the use of agency workers” means—
  - (i) the number of agency workers working temporarily for and under the supervision and direction of the employer;
  - (ii) the parts of the employer’s undertaking in which those agency workers are working; and
  - (iii) the type of work those agency workers are carrying out.”.

### **The European Public Limited-Liability Company (Employee Involvement) (Northern Ireland) Regulations 2009**

32. The European Public Limited-Liability Company (Employee Involvement) (Northern Ireland) Regulations 2009(4) are amended as follows.

33. In regulation 3 (interpretation) after the definition in paragraph (1) of—

(a) “the Agency” insert—

““agency worker” has the same meaning as in regulation 3 of the Agency Workers Regulations (Northern Ireland) 2011;” and

(b) “standard rules on employee involvement” insert—

““suitable information relating to the use of agency workers” means—

- (a) the number of agency workers working temporarily for and under the supervision and direction of the undertaking;
- (b) the parts of the undertaking in which those agency workers are working; and
- (c) the type of work those agency workers are carrying out.”.

34. In regulation 5(2)—

(a) omit the “and” at the end of sub-paragraph (b); and

(b) after sub-paragraph (c) insert—

“(d) the number of agency workers working temporarily for and under the supervision and direction of the undertaking,

- (e) the parts of the undertaking in which those agency workers are working, and
- (f) the type of work those agency workers are carrying out.”.

35. After regulation 15(3) insert—

“(3A) Where under the employee involvement agreement the competent organ of the SE is to provide information on the employment situation in that company, such information

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(3) S.R. 2006 No. 177

(4) S.I. 2009/2402

must include suitable information relating to the use of agency workers (if any) in that company.”.

36. After regulation 19(3) insert—

“(3A) This paragraph applies to an agency worker whose contract within regulation 3(1) (b) of the Agency Workers Regulations (Northern Ireland) 2011 (contract with the temporary work agency) is not a contract of employment—

- (a) for the purposes of paragraph (3)(a) and (b), any agency worker who has a contract with a temporary work agency, which was at the relevant time a participating company, is to be treated as having been employed by that temporary work agency for the duration of their assignment with a hirer, and
- (b) in this paragraph “assignment” and “hirer” have the same meaning as in regulation 2, and “temporary work agency” has the same meaning as in regulation 4, of the Agency Workers Regulations (Northern Ireland) 2011.”.

37. In the Schedule, Part 2, after paragraph 8 insert—

“8A. Where under the provisions of this Part, the competent organ of the SE is to provide information on the employment situation in that company, such information must include suitable information relating to the use of agency workers (if any) in that company.”.