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STATUTORY RULES OF NORTHERN IRELAND

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**2000 No. 219**

**Part-time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000**

**Part I**

**General and Interpretation**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Part-time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000 and shall come into operation on 1st July 2000.

(2) In these Regulations—

“the 1996 Order” means the Employment Rights (Northern Ireland) Order 1996<sup>(1)</sup>;

“contract of employment” means a contract of service or of apprenticeship, whether express or implied, and (if it is express) whether oral or in writing;

“employee” means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment;

“employer”, in relation to any employee or worker, means the person for whom the employee or worker is (or, except where a provision of these Regulations otherwise requires, where the employment has ceased was) employed;

“employment” means—

- (a) in relation to an employee, employment under a contract of employment; and
- (b) in relation to a worker, employment under his contract,

and “employed” shall be construed accordingly;

“pro rata principle” means that where a comparable full-time worker receives or is entitled to receive pay or any other benefit, a part-time worker is to receive or be entitled to receive not less than the proportion of that pay or other benefit that the number of his weekly hours bears to the number of weekly hours of the comparable full-time worker;

“worker” means an individual who has entered into or works under (or, where the employment has ceased, worked under)—

- (a) a contract of employment; or
- (b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual.

(3) In the definition of the pro rata principle and in regulations 3 and 4 “weekly hours” means the number of hours a worker is required to work under his contract in a week in which he has no absences from work and does not work any overtime or, where the number of such hours varies according to a cycle, the average number of such hours.

### **Meaning of full-time worker, part-time worker and comparable full-time worker**

2.—(1) A worker is a full-time worker for the purpose of these Regulations if he is paid wholly or in part by reference to the time he works and, having regard to the custom and practice of the employer in relation to workers employed by the worker’s employer under the same type of contract, is identifiable as a full-time worker.

(2) A worker is a part-time worker for the purpose of these Regulations if he is paid wholly or in part by reference to the time he works and, having regard to the custom and practice of the employer in relation to workers employed by the worker’s employer under the same type of contract, is not identifiable as a full-time worker.

(3) For the purposes of paragraphs (1), (2) and (4), the following shall be regarded as working under different types of contract—

- (a) employees employed under a contract that is neither for a fixed term nor a contract of apprenticeship;
- (b) employees employed under a contract for a fixed term that is not a contract of apprenticeship;
- (c) employees employed under a contract of apprenticeship;
- (d) workers who are neither employees nor employed under a contract for a fixed term;
- (e) workers who are not employees but are employed under a contract for a fixed term;
- (f) any other description of worker that it is reasonable for the employer to treat differently from other workers on the ground that workers of that description have a different type of contract.

(4) A full-time worker is a comparable full-time worker in relation to a part-time worker if, at the time when the treatment that is alleged to be less favourable to the part-time worker takes place—

- (a) both workers are—
  - (i) employed by the same employer under the same type of contract, and
  - (ii) engaged in the same or broadly similar work having regard, where relevant, to whether they have a similar level of qualification, skills and experience; and
- (b) the full-time worker works or is based at the same establishment as the part-time worker or, where there is no full-time worker working or based at that establishment who satisfies the requirements of sub-paragraph (a), works or is based at a different establishment and satisfies those requirements.

### **Workers becoming part-time**

3.—(1) This regulation applies to a worker who—

- (a) was identifiable as a full-time worker in accordance with regulation 2(1); and
- (b) following a termination or variation of his contract, continues to work under a new or varied contract, whether of the same type or not, that requires him to work for a number of weekly hours that is lower than the number he was required to work immediately before the termination or variation.

(2) Notwithstanding regulation 2(4), regulation 5 shall apply to a worker to whom this regulation applies as if he were a part-time worker and as if there were a comparable full-time worker employed under the terms that applied to him immediately before the variation or termination.

(3) The fact that this regulation applies to a worker does not affect any right he may have under these Regulations by virtue of regulation 2(4).

**Workers returning part-time after absence**

4.—(1) This regulation applies to a worker who—

- (a) was identifiable as a full-time worker in accordance with regulation 2(1) immediately before a period of absence (whether the absence followed a termination of the worker’s contract or not);
- (b) returns to work for the same employer within a period of less than twelve months beginning with the day on which the period of absence started;
- (c) returns to the same job or to a job at the same level under a contract, whether it is a different contract or a varied contract and regardless of whether it is of the same type, under which he is required to work for a number of weekly hours that is lower than the number he was required to work immediately before the period of absence.

(2) Notwithstanding regulation 2(4), regulation 5 shall apply to a worker to whom this regulation applies (“the returning worker”) as if he were a part-time worker and as if there were a comparable full-time worker employed under—

- (a) the contract under which the returning worker was employed immediately before the period of absence; or
- (b) where it is shown that, had the returning worker continued to work under the contract mentioned in sub-paragraph (a) a variation would have been made to its terms during the period of absence, the contract mentioned in that sub-paragraph including that variation.

(3) The fact that this regulation applies to a worker does not affect any right he may have under these Regulations by virtue of regulation 2(4).