

SCHEDULE 2

CONSEQUENTIAL AMENDMENTS

PART 1

PRIMARY LEGISLATION

The Employment Rights (Northern Ireland) Order 1996

11. After Article 100 insert—

“Ending the supply of an agency worker on maternity grounds

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

100A.—(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 paragraph (2), the supply of the agency worker to the hirer is ended on the grounds that she is pregnant, has recently given birth or is breastfeeding a child.

(2) The provisions are—

- (a) regulation 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 (Northern Ireland) 2000, or
- (c) regulation 20 of the Conduct of Employment Agencies and Employment Businesses Regulations (Northern Ireland) 2005.

Right to offer of alternative work

100B.—(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 Article—

- (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) Paragraph (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.

Right to remuneration

100C.—(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 Article 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 Article 100B, 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 Article 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.

Agency workers: supplementary

100D.—(1) Without prejudice to any other duties of the hirer or temporary work agency under any statutory provision or rule of law Articles 100A, 100B and 100C 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 (Northern Ireland) 2011 pursuant to regulation 8(a) or (b) of those Regulations.

(2) Nothing in those Articles 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 Articles do not apply where Articles 98 to 100 apply.

(4) In this Article and Articles 100A to 100C the following have the same meaning as in the Agency Workers Regulations (Northern Ireland) 2011—

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

Commencement Information

II Sch. 2 para. 11 in operation at 5.12.2011, see [reg. 1](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to THE AGENCY WORKERS REGULATIONS (NORTHERN IRELAND) 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations. [View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulation Modified by [S.R. 2020/251 art. 2](#)

Changes and effects yet to be applied to the whole Rule associated Parts and Chapters:

Whole provisions yet to be inserted into this Rule (including any effects on those provisions):

- Sch.06 Pt.01 words inserted by [S.R. 2022/236 reg. 17\(2\)](#)
- reg. 6(3)(c) words inserted by [S.R. 2022/168 reg. 18\(2\)](#)
- reg. 6(3)(c) words inserted by [S.R. 2022/236 reg. 18\(2\)](#)
- reg. 6(3)(c) words inserted by [S.R. 2023/157 reg. 18\(2\)](#)
- reg. 6(3)(c) words inserted by [S.R. 2023/56 reg. 18\(2\)](#)
- reg. 18(4A) inserted by [S.R. 2020/4 Sch. para. 51](#)
- reg. 18A inserted by [S.R. 2020/4 Sch. para. 52](#)