

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under a power contained in section 13 of the Work and Families Act 2006, amend the Working Time Regulations 1998. These Regulations apply to Great Britain only. The subject matter of the Agricultural Wages (Scotland) Act 1949 is devolved to the Scottish Parliament and no provision is made in these Regulations in respect of workers to whom that Act applies.

The Regulations add a new regulation 13A to the Working Time Regulations to increase the annual leave entitlement from 4 weeks to 5.6 weeks. Regulation 13A(2) provides that workers become eligible for the first additional 0.8 weeks from 1 October 2007; for the second 0.8 weeks from 1st April 2009.

Regulation 13A(3) caps the aggregate entitlement provided for by regulations 13 and 13A at 28 days. Regulation 13A(6) provides that leave may not be replaced by a payment in lieu except where the employment is terminated or for an initial transitional phase. Regulation 13A(7) provides for the possibility of limited carry over of the additional annual leave in that a relevant agreement may provide for leave to be carried forward into the leave year immediately following the leave year in respect of which the entitlement is due.

A new regulation 26A is added to the Working Time Regulations to provide that regulation 13A shall not apply to a worker whose employer already provides each worker employed by him with an entitlement to additional annual leave of 1.6 weeks or 8 days (whichever is the lesser), as at 1 October 2007, by virtue of a relevant agreement that satisfies the conditions in paragraph (1). This regulation does not apply to any additional leave the employer provides his workers above 1.6 weeks.

Regulation 2(4) revokes regulation 13(6). Regulation 2(5) to (11) contains consequential amendments to other provisions in the Working Time Regulations, to add additional leave provided for under regulation 13A to the existing regime of the Working Time Regulations in respect of compensation payable on termination of employment, leave during the first year of employment, notice requirements in respect of when leave may be taken, entitlement to pay for leave, sectors partially or wholly excluded, remedies for breach of the provision and provision for those workers employed in agriculture.

A Regulatory Impact Assessment has been produced and is available at <http://www.dti.gov.uk/employment>.