



# Work and Families Act 2006

## 2006 CHAPTER 18

### *Miscellaneous provisions about employment rights*

#### **12 Flexible working**

- (1) Section 80F of ERA 1996 (statutory right to request contract variation) is amended as follows.
- (2) In subsection (1), for paragraph (b) substitute—
  - “(b) his purpose in applying for the change is to enable him to care for someone who, at the time of application, is—
    - (i) a child who has not reached the prescribed age or falls within a prescribed description and in respect of whom (in either case) the employee satisfies prescribed conditions as to relationship, or
    - (ii) a person aged 18 or over who falls within a prescribed description and in respect of whom the employee satisfies prescribed conditions as to relationship.”
- (3) In subsection (2)(d), for the words from “child” to the end substitute “child or other person to be cared for, the conditions as to relationship mentioned in subsection (1)(b)(i) or (ii)”.
- (4) Omit subsections (3), (6) and (7).
- (5) After subsection (8) insert—
  - “(9) Regulations under this section may make different provision for different cases.
- (10) In this section—
  - “child” means a person aged under 18;
  - “prescribed” means prescribed by regulations made by the Secretary of State.”

### 13 Annual leave

- (1) The Secretary of State may by regulations make provision conferring on workers the right, except in prescribed cases, to a prescribed amount of annual leave in each leave year, as defined for the purposes of the regulations.
- (2) The regulations may in particular—
  - (a) make provision for determining the amount of annual leave to which workers are to be entitled;
  - (b) make provision for determining the amount of pay in respect of any period of leave which is required by the regulations to be paid leave;
  - (c) make provision enabling a worker to elect when to take leave to which he is entitled by virtue of the regulations, subject to any provision of the regulations enabling his employer to require him to take, or not to take, that leave at a particular time;
  - (d) make provision for the payment of compensation in prescribed cases to a worker who has not taken leave to which he is entitled;
  - (e) make provision as to the relationship between the rights conferred by the regulations and a worker's rights to leave, pay or compensation under any contract or under any Act or subordinate legislation;
  - (f) enable a worker to present a complaint to an employment tribunal that his employer has refused to permit him to exercise any right he has under the regulations, or has failed to pay him any amount due to him under the regulations;
  - (g) make, in connection with any right conferred by the regulations (including any right to payment), any other provision which is the same as or similar to any provision made, in connection with any right relating to annual leave conferred in pursuance of any Community obligation, by any regulations under section 2(2) of the 1972 Act made at any time before the day on which the first regulations under this section are made.
- (3) Regulations under this section may make provision as to—
  - (a) who is to be treated as a worker for the purposes of the regulations, and
  - (b) who is to be treated as the worker's employer.
- (4) Regulations under this section may in particular—
  - (a) make provision applying to—
    - (i) Crown employment and persons in Crown employment;
    - (ii) service as a member of the armed forces;
  - (b) make provision conferring rights to and in connection with annual leave on persons falling within any other categories of persons on whom any Community obligation of the United Kingdom requires a right to annual leave to be conferred.
- (5) Regulations under this section may not make provision in relation to the subject-matter of the Agricultural Wages (Scotland) Act 1949 (c. 30) (as that Act had effect on 1st July 1999).
- (6) Regulations under this section—
  - (a) are to be made by statutory instrument;
  - (b) may make different provision for different cases;

- (c) may contain incidental, supplemental, consequential, transitional or saving provision, including provision amending any Act or subordinate legislation.
- (7) No statutory instrument containing regulations under this section may be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (8) In this section—
  - “the 1972 Act” means the European Communities Act 1972 (c. 68);
  - “the armed forces” means any of the naval, military or air forces of the Crown;
  - “Crown employment” has the meaning given by section 191(3) of ERA 1996;
  - “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

#### **14 Increase of maximum amount of a week’s pay for certain purposes**

- (1) This section applies to the sums specified in the following provisions—
  - (a) section 186(1)(a) and (b) of ERA 1996 (employee’s rights on insolvency of employer: maximum amount payable);
  - (b) section 227(1) of ERA 1996 (maximum amount of a week’s pay for the purposes of certain provisions of the Act relating to awards of compensation and redundancy payments).
- (2) The Secretary of State may, on one occasion only, by order substitute for each of the sums mentioned in subsection (1) such higher sum as may be specified in the order.
- (3) An order under this section—
  - (a) is to be made by statutory instrument;
  - (b) may include transitional provision;
  - (c) may exclude, on a single occasion specified in the order under this section, any duty to make an order under section 34 of the 1999 Act (indexation of certain amounts, &c), so far as relating to the sums mentioned in subsection (1).
- (4) Subject to any provision made under subsection (3)(c), this section does not affect the operation of section 34 of the 1999 Act in relation to the sums substituted by the order under this section in the provisions mentioned in subsection (1).
- (5) No statutory instrument containing an order under this section may be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) In this section “the 1999 Act” means the Employment Relations Act 1999 (c. 26).