
STATUTORY INSTRUMENTS

2002 No. 2034

**The Fixed-term Employees (Prevention of
Less Favourable Treatment) Regulations 2002**

PART 1

GENERAL AND INTERPRETATION

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and shall come into force on 1st October 2002.

(2) In these Regulations—

“the 1996 Act” means the Employment Rights Act 1996⁽¹⁾;

“collective agreement” means a collective agreement within the meaning of section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992⁽²⁾; the trade union parties to which are independent trade unions within the meaning of section 5 of that Act;

“employer”, in relation to any employee, means the person by whom the employee is (or, where the employment has ceased, was) employed;

“fixed-term contract” means a contract of employment that, under its provisions determining how it will terminate in the normal course, will terminate—

- (a) on the expiry of a specific term,
- (b) on the completion of a particular task, or
- (c) on the occurrence or non-occurrence of any other specific event other than the attainment by the employee of any normal and bona fide retiring age in the establishment for an employee holding the position held by him,

and any reference to “fixed-term” shall be construed accordingly;

“fixed-term employee” means an employee who is employed under a fixed-term contract;

“permanent employee” means an employee who is not employed under a fixed-term contract, and any reference to “permanent employment” shall be construed accordingly;

“pro rata principle” means that where a comparable permanent employee receives or is entitled to pay or any other benefit, a fixed-term employee is to receive or be entitled to such proportion of that pay or other benefit as is reasonable in the circumstances having regard to the length of his contract of employment and to the terms on which the pay or other benefit is offered;

“renewal” includes extension and references to renewing a contract shall be construed accordingly;

⁽¹⁾ 1996 c. 18.

⁽²⁾ 1992 c. 92.

“workforce agreement” means an agreement between an employer and his employees or their representatives in respect of which the conditions set out in Schedule 1 to these Regulations are satisfied.

Comparable employees

2.—(1) For the purposes of these Regulations, an employee is a comparable permanent employee in relation to a fixed-term employee if, at the time when the treatment that is alleged to be less favourable to the fixed-term employee takes place,

- (a) both employees are—
 - (i) employed by the same employer, and
 - (ii) engaged in the same or broadly similar work having regard, where relevant, to whether they have a similar level of qualification and skills; and
- (b) the permanent employee works or is based at the same establishment as the fixed-term employee or, where there is no comparable permanent employee 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.

(2) For the purposes of paragraph (1), an employee is not a comparable permanent employee if his employment has ceased.