

## SCHEDULE 8

Regulation 49(1)

### Amendments to legislation and related transitional provisions

## Part 1

### Primary legislation

#### The Mines and Quarries Act 1954

1. The Mines and Quarries Act 1954 <sup>M1</sup> is amended as follows.

#### Marginal Citations

**M1** 1954 c. 70; relevant amendments to sections 42, 43 and 44 are made by the [Employment Act 1989 \(c. 38\)](#), [sections 9](#) and 29(4) and by Schedule 7.

2.—(1) In section 42(1) (charge of winding and rope haulage apparatus when persons are carried) omit the words “who has attained the age of twenty-two years”.

(2) In section 43(2) (charge of winding and rope haulage apparatus when persons are not carried) omit the words “who has attained the age of eighteen years”.

(3) In section 44 (charge of conveyors at working faces) omit the words “who has attained the age of eighteen years”.

#### The Parliamentary Commissioner Act 1967

3. The Parliamentary Commissioner Act 1967 <sup>M2</sup> is amended as follows—

#### Marginal Citations

**M2** 1967 c. 13; [section 1\(3A\)](#) was inserted by the [Parliamentary and Health Services Commissioners Act 1987 \(c. 13\)](#), [section 2\(1\)](#).

4.—(1) Section 1 (appointment and tenure of office) is amended in accordance with this paragraph.

(2) In subsection (2) omit the words from “, and any person” to “during good behaviour”.

(3) After subsection (2) insert—

“(2A) A person appointed to be the Commissioner shall hold office until the end of the period for which he is appointed.

(2B) That period must be not more than seven years.

(2C) Subsection (2A) is subject to subsections (3) and (3A).”.

(4) For subsection (3) substitute—

“(3) A person appointed to be the Commissioner may be—

(a) relieved of office by Her Majesty at his own request, or

(b) removed from office by Her Majesty, on the ground of misbehaviour, in consequence of Addresses from both Houses of Parliament.”.

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(5) After subsection (3A) insert—

“(3B) A person appointed to be the Commissioner is not eligible for re-appointment.”.

**5.—**(1) Section 3A <sup>M3</sup> (appointment of acting Commissioner) is amended in accordance with this paragraph.

(2) After subsection (1) insert—

“(1A) A person appointed to act as the Commissioner (“an acting Commissioner”) may have held office as the Commissioner.

(1B) A person appointed as an acting Commissioner is eligible for appointment as the Commissioner unless he has already held office as the Commissioner.”.

(3) In subsection (2) for the words “under this section” substitute “as an acting Commissioner”.

(4) For subsection (3) substitute—

“(3) A person appointed as an acting Commissioner shall, while he holds office, be treated for all purposes, except for the purposes of section 1 and 2, and this section of this Act, as the Commissioner.”.

**Marginal Citations**

**M3** Section 3A was inserted by the [Parliamentary and Health Service Commissioners Act 1987 \(c. 13\)](#), [section 6\(1\)](#).

**6.** The amendments made to the Parliamentary Commissioner Act 1967 apply in relation to appointments made on or after the commencement date.

**The Pilotage Act 1987**

**7.—**(1) The Pilotage Act 1987 <sup>M4</sup> is amended in accordance with this paragraph.

(2) In section 3(2) (authorisation of pilots) omit the word “age”.

**Marginal Citations**

**M4** 1987 c. 21.

**The Social Security Contributions and Benefits Act 1992**

**8.** The Social Security Contributions and Benefits Act 1992 <sup>M5</sup> is amended as follows.

**Marginal Citations**

**M5** 1992 c. 4; the definition of “employee” has been amended but in a way not relevant for the purposes of these Regulations. The definition of “employer” has been amended by the Social Security Act 1998, (c.14), section 86(1), and Schedule 7, paragraph 74.

**9.—**(1) Section 163(1) (interpretation of Part 11 and supplementary provisions) is amended in accordance with this paragraph.

(2) In the definition of “employee” omit paragraph (b) and the word “and” preceding it.

(3) For the definition of “employer” substitute—

““employer”, in relation to an employee and a contract of service of his, means a person who—

- (a) under section 6 above is liable to pay secondary Class 1 contributions in relation to any earnings of the employee under the contract, or
- (b) would be liable to pay such contributions but for—
  - (i) the condition in section 6(1)(b), or
  - (ii) the employee being under the age of 16:”.

**10.**—(1) Section 171(1) <sup>M6</sup> (interpretation of Part 12 and supplementary provisions) is amended in accordance with this paragraph.

(2) In the definition of “employee” omit paragraph (b) and the word “and” preceding it.

(3) For the definition of “employer” substitute—

““employer”, in relation to a woman who is an employee, means a person who—

- (a) under section 6 above is liable to pay secondary Class 1 contributions in relation to any of her earnings; or
- (b) would be liable to pay such contributions but for—
  - (i) the condition in section 6(1)(b), or
  - (ii) the employee being under the age of 16;”.

(4) This paragraph applies in relation to any case where the expected week of confinement begins on or after 14th January 2007.

#### **Marginal Citations**

**M6** The definition of “employee” has been amended but in a way not relevant for the purposes of these Regulations. The definition of “employer” has been amended by the Social Security Act 1998, section 86(1), and Schedule 7, paragraph 75.

**11.**—(1) Section 171ZJ <sup>M7</sup> (Part 12ZA: supplementary) is amended in accordance with this paragraph.

(2) In subsection (1) for the definition of “employer” substitute—

““employer”, in relation to a person who is an employee, means a person who—

- (a) under section 6 above is, liable to pay secondary Class 1 contributions in relation to any of the earnings of the person who is an employee; or
- (b) would be liable to pay such contributions but for—
  - (i) the condition in section 6(1)(b), or
  - (ii) the employee being under the age of 16;”.

(3) In subsection (2) omit paragraph (b) and the word “and” preceding it.

(4) This paragraph applies in relation to an entitlement to—

- (a) statutory paternity pay (birth) in respect of children whose expected week of birth begins on or after 14th January 2007;
- (b) statutory paternity pay (adoption) in respect of children—
  - (i) matched with a person who is notified of having been matched on or after the commencement date; or
  - (ii) placed for adoption on or after the commencement date.

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**Marginal Citations**

**M7** Section 171ZJ was inserted by the Employment Act 2002 (c. 22), section 2.

**12.**—(1) Section 171ZS <sup>M8</sup> (Part 12ZB: supplementary) is amended in accordance with this paragraph.

- (2) In subsection (1) for the definition of “employer” substitute—  
““employer”, in relation to a person who is an employee, means a person who—
- (a) under section 6 above is liable to pay secondary Class 1 contributions in relation to any of the earnings of the person who is an employee; or
  - (b) would be liable to pay such contributions but for—
    - (i) the condition in section 6(1)(b), or
    - (ii) the employee being under the age of 16;”.
- (3) In subsection (2) omit paragraph (b) and the word “and” preceding it.
- (4) This paragraph applies in relation to an entitlement to statutory adoption pay in respect of children—
- (a) matched with a person who is notified of having been matched on or after the commencement date; or
  - (b) placed for adoption on or after that commencement.

**Marginal Citations**

**M8** Section 171ZS was inserted by the Employment Act 2002, section 4.

**13.**—(1) In Schedule 11 omit paragraph 2(a) (period of entitlement not to arise if at the relevant date the employee is over 65).

- (2) Sub-paragraph (1) applies in relation to a period of incapacity for work which—
- (a) begins on or after the commencement date, or
  - (b) begins before and continues on or after the commencement date.
- (3) But in a case falling within sub-paragraph (2)(b), sub-paragraph (1) does not affect the application of paragraph 1 of Schedule 11 to the 1992 Act in relation to the part of the period of incapacity for work that falls before the commencement date.

**The Health Service Commissioners Act 1993**

**14.** The Health Service Commissioners Act 1993 <sup>M9</sup> is amended as follows.

**Marginal Citations**

**M9** 1993 c. 46.

**15.**—(1) Schedule 1 (the English Commissioner) <sup>M10</sup> is amended in accordance with this paragraph.

- (2) For paragraph 1 (appointment of Commissioners) substitute the following new paragraphs—

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“1. Her Majesty may by Letters Patent appoint a person to be the Commissioner.

1A. Subject to paragraphs 1C and 1D a person appointed to be the Commissioner shall hold office until the end of the period for which he is appointed.

1B. That period must be not more than seven years.

1C. A person appointed to be the Commissioner may be relieved of office by Her Majesty at his own request.

1D. A person appointed to be the Commissioner may be removed from office by Her Majesty, on the ground of misbehaviour, in consequence of Addresses from both Houses of Parliament.

1E. A person appointed to be the Commissioner is not eligible for re-appointment.”.

(3) In paragraph 2 (appointment of acting Commissioners)—

(a) after sub-paragraph (1) insert—

“(1A) A person appointed to act as the Commissioner (“an acting Commissioner”) may have held office as the Commissioner.

(1B) A person appointed as an acting Commissioner is eligible for appointment as the Commissioner unless he has already held office as the Commissioner.”;

(b) in sub-paragraph (2) for the words “under this paragraph” substitute “ as acting Commissioner,”; and

(c) for sub-paragraph (3), substitute—

“(3) A person appointed as an acting Commissioner shall, while he holds office, be treated for all purposes, except for the purposes of paragraphs 1, 4 to 10 and this paragraph, as the Commissioner.”.

#### Marginal Citations

**M10** The schedule heading was amended by the [Government of Wales Act 1998 \(c. 38\)](#), [section 112](#), and Schedule 10, paragraph 16(2).

16. The amendments made to the Health Service Commissioners Act 1993 apply in relation to appointments made on or after the commencement date.

#### The Statutory Sick Pay Act 1994

17.—(1) The Statutory Sick Pay Act 1994<sup>M11</sup> is amended in accordance with this paragraph.

(2) In section 1(2) omit the words after paragraph (b).

#### Marginal Citations

**M11** [1994 c. 2](#).

#### The Employment Tribunals Act 1996

18. The Employment Tribunals Act 1996<sup>M12</sup> is amended as follows.

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**Marginal Citations**

**M12** 1996 c. 17.

**19.**—(1) Section 18(1)<sup>M13</sup> (conciliation) is amended in accordance with this paragraph.

(2) At the end of paragraph (p), omit “or”.

(3) After paragraph (q), insert “or

(r) under regulation 36 of the Employment Equality (Age) Regulations 2006.”.

**Marginal Citations**

**M13** Section 18(1)(p) was amended by S.I. 2004/3426, **regulation 34(c)**. Section 18(1)(q) was inserted by S.I. 2006/349, **Schedule 1**, paragraph 9.

**20.**—(1) Section 21(1)<sup>M14</sup> (jurisdiction of Appeal Tribunal) is amended in accordance with this paragraph.

(2) At the end of paragraph (q), omit “or”.

(3) After paragraph (r) insert—

“or

(s) the Employment Equality (Age) Regulations 2006.”.

**Marginal Citations**

**M14** Section 21(1)(q) was amended by S.I.2004/3426, **regulation 37(c)**. Section 21(r) was inserted by S.I. 2006/349, **Schedule 1**, paragraph 10.

**The Employment Rights Act 1996**

**21.** The 1996 Act is amended as follows.

**22.**—(1) Section 98 (fairness of dismissal: general) is amended as follows.

(2) In subsection (2), after paragraph (b) insert—

“(ba) is retirement of the employee.”.

(3) After subsection (2) insert—

“(2A) Subsections (1) and (2) are subject to sections 98ZA to 98ZF.”.

(4) After subsection (3) insert—

“(3A) In any case where the employer has fulfilled the requirements of subsection (1) by showing that the reason (or the principal reason) for the dismissal is retirement of the employee, the question whether the dismissal is fair or unfair shall be determined in accordance with section 98ZG.”.

(5) In subsection (4) for “Where” substitute “ In any other case where ”.

**23.** After section 98 insert—

*“Retirement*

**98ZA No normal retirement age: dismissal before 65**

- (1) This section applies to the dismissal of an employee if—
  - (a) the employee has no normal retirement age, and
  - (b) the operative date of termination falls before the date when the employee reaches the age of 65.
- (2) Retirement of the employee shall not be taken to be the reason (or a reason) for the dismissal.

**98ZB No normal retirement age: dismissal at or after 65**

- (1) This section applies to the dismissal of an employee if—
  - (a) the employee has no normal retirement age, and
  - (b) the operative date of termination falls on or after the date when the employee reaches the age of 65.
- (2) In a case where—
  - (a) the employer has notified the employee in accordance with paragraph 2 of Schedule 6 to the 2006 Regulations, and
  - (b) the contract of employment terminates on the intended date of retirement,retirement of the employee shall be taken to be the only reason for the dismissal by the employer and any other reason shall be disregarded.

- (3) In a case where—
  - (a) the employer has notified the employee in accordance with paragraph 2 of Schedule 6 to the 2006 Regulations, but
  - (b) the contract of employment terminates before the intended date of retirement,retirement of the employee shall not be taken to be the reason (or a reason) for dismissal.

- (4) In a case where—
  - (a) the employer has not notified the employee in accordance with paragraph 2 of Schedule 6 to the 2006 Regulations, and
  - (b) there is an intended date of retirement in relation to the dismissal, but
  - (c) the contract of employment terminates before the intended date of retirement,retirement of the employee shall not be taken to be the reason (or a reason) for dismissal.

- (5) In all other cases where the employer has not notified the employee in accordance with paragraph 2 of Schedule 6 to the 2006 Regulations, particular regard shall be had to the matters in section 98ZF when determining the reason (or principal reason) for dismissal.

**98ZC Normal retirement age: dismissal before retirement age**

- (1) This section applies to the dismissal of an employee if—
  - (a) the employee has a normal retirement age, and
  - (b) the operative date of termination falls before the date when the employee reaches the normal retirement age.
- (2) Retirement of the employee shall not be taken to be the reason (or a reason) for the dismissal.

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### **98ZD Normal retirement age 65 or higher: dismissal at or after retirement age**

- (1) This section applies to the dismissal of an employee if—
  - (a) the employee has a normal retirement age,
  - (b) the normal retirement age is 65 or higher, and
  - (c) the operative date of termination falls on or after the date when the employee reaches the normal retirement age.
- (2) In a case where—
  - (a) the employer has notified the employee in accordance with paragraph 2 of Schedule 6 to the 2006 Regulations, and
  - (b) the contract of employment terminates on the intended date of retirement,retirement of the employee shall be taken to be the only reason for the dismissal by the employer and any other reason shall be disregarded.
- (3) In a case where—
  - (a) the employer has notified the employee in accordance with paragraph 2 of Schedule 6 to the 2006 Regulations, but
  - (b) the contract of employment terminates before the intended date of retirement,retirement of the employee shall not be taken to be the reason (or a reason) for dismissal.
- (4) In a case where—
  - (a) the employer has not notified the employee in accordance with paragraph 2 of Schedule 6 to the 2006 Regulations, and
  - (b) there is an intended date of retirement in relation to the dismissal, but
  - (c) the contract of employment terminates before the intended date of retirement,retirement of the employee shall not be taken to be the reason (or a reason) for dismissal.
- (5) In all other cases where the employer has not notified the employee in accordance with paragraph 2 of Schedule 6 to the 2006 Regulations, particular regard shall be had to the matters in section 98ZF when determining the reason (or principal reason) for dismissal.

### **98ZE Normal retirement age below 65: dismissal at or after retirement age**

- (1) This section applies to the dismissal of an employee if—
  - (a) the employee has a normal retirement age,
  - (b) the normal retirement age is below 65, and
  - (c) the operative date of termination falls on or after the date when the employee reaches the normal retirement age.
- (2) If it is unlawful discrimination under the 2006 Regulations for the employee to have that normal retirement age, retirement of the employee shall not be taken to be the reason (or a reason) for dismissal.
- (3) Subsections (4) to (7) apply if it is not unlawful discrimination under the 2006 Regulations for the employee to have that normal retirement age.
- (4) In a case where—
  - (a) the employer has notified the employee in accordance with paragraph 2 of Schedule 6 to the 2006 Regulations, and
  - (b) the contract of employment terminates on the intended date of retirement,



retirement of the employee shall be taken to be the only reason for dismissal by the employer and any other reason shall be disregarded.

(5) In a case where—

(a) the employer has notified the employee in accordance with paragraph 2 of Schedule 6 to the 2006 Regulations, but

(b) the contract of employment terminates before the intended date of retirement, retirement of the employee shall not be taken to be the reason (or a reason) for dismissal.

(6) In a case where—

(a) the employer has not notified the employee in accordance with paragraph 2 of Schedule 6 to the 2006 Regulations, and

(b) there is an intended date of retirement in relation to the dismissal, but

(c) the contract of employment terminates before the intended date of retirement, retirement of the employee shall not be taken to be the reason (or a reason) for dismissal.

(7) In all other cases where the employer has not notified the employee in accordance with paragraph 2 of Schedule 6 to the 2006 Regulations, particular regard shall be had to the matters in section 98ZF when determining the reason (or principal reason) for dismissal

#### **98ZF Reason for dismissal: particular matters**

(1) These are the matters to which particular regard is to be had in accordance with section 98ZB(5), 98ZD(5) or 98ZE(7)—

(a) whether or not the employer has notified the employee in accordance with paragraph 4 of Schedule 6 to the 2006 Regulations;

(b) if the employer has notified the employee in accordance with that paragraph, how long before the notified retirement date the notification was given;

(c) whether or not the employer has followed, or sought to follow, the procedures in paragraph 7 of Schedule 6 to the 2006 Regulations.

(2) In subsection (1)(b) “notified retirement date” means the date notified to the employee in accordance with paragraph 4 of Schedule 6 to the 2006 Regulations as the date on which the employer intends to retire the employee.

#### **98ZG Retirement dismissals: fairness**

(1) This section applies if the reason (or principal reason) for a dismissal is retirement of the employee.

(2) The employee shall be regarded as unfairly dismissed if, and only if, there has been a failure on the part of the employer to comply with an obligation imposed on him by any of the following provisions of Schedule 6 to the 2006 Regulations—

(a) paragraph 4 (notification of retirement, if not already given under paragraph 2),

(b) paragraphs 6 and 7 (duty to consider employee's request not to be retired),

(c) paragraph 8 (duty to consider appeal against decision to refuse request not to be retired).

#### **98ZH Interpretation**

**98ZH.** In sections 98ZA to 98ZG—

“2006 Regulations” means the Employment Equality (Age) Regulations 2006;

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“intended date of retirement” means the date which, by virtue of paragraph 1(2) of Schedule 6 to the 2006 Regulations, is the intended date of retirement in relation to a particular dismissal;

“normal retirement age”, in relation to an employee, means the age at which employees in the employer's undertaking who hold, or have held, the same kind of position as the employee are normally required to retire;

“operative date of termination” means—

- (a) where the employer terminates the employee's contract of employment by notice, the date on which the notice expires, or
- (b) where the employer terminates the contract of employment without notice, the date on which the termination takes effect.

*Other dismissals”.*

**24.** In section 108 <sup>M15</sup> (qualifying period of employment) in subsection (3) (cases where no qualifying period of employment is required)—

- (a) at the end of paragraph (l) omit “or”; and
- (b) after paragraph (m) insert—

“or

- (n) paragraph (a) or (b) of paragraph 13(5) of Schedule 6 to the Employment Equality (Age) Regulations 2006 applies.”.

#### Marginal Citations

**M15** Section 108(1) was amended by S.I. 2004/3426, **regulation 31(2)(b)**. Section 108(1)(m) was inserted by S.I. 2006/349, **Schedule 1**, paragraph 6.

**25.** Omit section 109<sup>M16</sup> (upper age limit on unfair dismissal right).

#### Marginal Citations

**M16** Section 109 has been amended but the amendments are not relevant for the purposes of these Regulations.

**26.—**(1) Section 112 <sup>M17</sup> (remedies for unfair dismissal: orders and compensation) is amended as follows.

- (2) In subsection (5)(a) after “section” insert “ 98ZG or ”.

#### Marginal Citations

**M17** Subsection (5) was inserted by the **Employment Act 2002 (c. 22)**, **section 34(3)**.

**27.—**(1) Section 119 (basic award) is amended as follows.

- (2) Omit subsections (4) and (5).

**28.—**(1) Section 120 <sup>M18</sup> (basic award: minimum in certain cases) is amended as follows.

- (2) In subsection (1A) after “section” insert “ 98ZG or ”.

**Marginal Citations**

**M18** Subsection (1A) inserted by the Employment Act 2002, sections 34(1) and (6).

**29.** In section 126(1) <sup>M19</sup> (acts which are both unfair dismissal and discrimination), for paragraph (b) substitute—

- “(b) any one or more of the following—
- (i) the Sex Discrimination Act 1975;
  - (ii) the Race Relations Act 1976;
  - (iii) the Disability Discrimination Act 1995;
  - (iv) the Employment Equality (Sexual Orientation) Regulations 2003;
  - (v) the Employment Equality (Religion or Belief) Regulations 2003;
  - (vi) the Employment Equality (Age) Regulations 2006.”

**Marginal Citations**

**M19** Section 126(1)(b) was substituted by the [Employment Rights \(Dispute Resolution\) Act 1998 \(c. 8\)](#), [section 14\(3\)](#), and has been amended since, but the amendments are not relevant for the purposes of these Regulations.

**30.** Section 156(upper age limit) is repealed.

**31.** Section 158 (pension rights) is repealed.

**32.—**(1) Section 162 (amount of a redundancy payment) is amended in accordance with this paragraph.

(2) Subsections (4), (5) and (8) are repealed.

(3) In subsection (6), for the words “Subsections (1) to (5)” substitute “ Subsections (1) to (3) ”.

**33.** In relation to any case where the date that is the relevant date by virtue of section 153 of the 1996 Act falls before the commencement date, paragraphs 30 to 32 do not apply.

**34.—**(1) Section 209 (powers to amend Act) is amended as follows.

(2) In subsection (5) <sup>M20</sup> omit “109(1),”.

**Marginal Citations**

**M20** Section 209(5) was amended by the [Employment Relations Act 1999 \(c. 26\)](#), [section 44](#) and Schedule 9.

**35.—**(1) Section 211 (period of continuous employment) is amended in accordance with this paragraph.

(2) In paragraph (a) of subsection (1) for the words “subsections (2) and” substitute “ subsection ”.

(3) Subsection (2) is repealed.

**The Employment Act 2002**

**36.—**(1) The Employment Act 2002 is amended in accordance with this paragraph.

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- (2) At the end of each of the following Schedules—
- (a) Schedule 3 (tribunal jurisdictions to which section 31 applies for adjustment of awards for non-completion of statutory procedure);
  - (b) Schedule 4 (tribunal jurisdictions to which section 32 applies for complaints where the employee must first submit a statement of grievance to employer); and
  - (c) Schedule 5 (tribunal jurisdictions to which section 38 applies in relation to proceedings where the employer has failed to give a statement of employment particulars),
- insert— “ Regulation 36 of the Employment Equality (Age) Regulations 2006 (discrimination in the employment field) ”.

### The Equality Act 2006

37. The Equality Act 2006 <sup>M21</sup> is amended as follows.

#### Marginal Citations

M21 2006 c. 3.

38.—(1) Section 14(1)(codes of practice) is amended in accordance with this paragraph.

(2) At the end of paragraph (g) omit “and”.

(3) After paragraph (h) insert—

“and

(i) Parts 2 and 3 of the Employment Equality (Age) Regulations 2006.”.

39.—(1) Section 27(1) (conciliation) is amended in accordance with this paragraph.

(2) At the end of paragraph (f) omit “or”.

(3) After paragraph (g) insert—

“or

(h) regulation 39 of the Employment Equality (Age) Regulations 2006 (Jurisdiction of County and Sheriff Courts).”.

40.—(1) Section 33(1) (equality and human rights enactments) is amended in accordance with this paragraph.

(2) At the end of paragraph (g) omit “and”.

(3) After paragraph (h) insert—

“and

(i) the Employment Equality (Age) Regulations 2006.”.

## Part 2

### Other legislation

**41.**—(1) The Coal and Other Mines (Locomotives) Regulations 1956<sup>M22</sup>, Schedule 1 to the Coal and Other Mines (Locomotives) Order 1956 is amended in accordance with this paragraph.

(2) In regulation 17(1) (drivers of locomotives) omit the words “and no appointed driver shall operate a locomotive hauling persons in vehicles unless he has attained the age of—

- (a) in the case of a mine of shale, eighteen years;
- (b) in the case of any other mine, twenty-one years“.

.....

**Marginal Citations**

**M22** [S.I. 1956/1771](#).

**42.**—(1) The Stratified Ironstone, Shale and Fireclay Mines (Explosives) Regulations 1956<sup>M23</sup> are amended in accordance with this paragraph.

(2) In regulation 3 (qualification of shot firers) omit the words “he has attained the age of twenty-one years; and”.

.....

**Marginal Citations**

**M23** [S.I. 1956/1943](#).

**43.**—(1) The Miscellaneous Mines (Explosives) Regulations 1959<sup>M24</sup> are amended in accordance with this paragraph.

(2) Omit regulation 6(2).

(3) In regulation 8(2) (control of issue of detonators) omit the words “has attained the age of eighteen years and”.

.....

**Marginal Citations**

**M24** [S.I. 1959/2258](#).

**44.**—(1) The Lynemouth Mine (Diesel Vehicles and Storage Battery Vehicles) Special Regulations 1961<sup>M25</sup> are amended in accordance with this paragraph.

(2) In regulation 15 after the words “Regulations 17” insert “ as amended by the Employment Equality (Age) Regulations 2006 ”.

.....

**Marginal Citations**

**M25** [S.I.1961/2445](#).

**45.**—(1) The South Crofty Mine (Locomotive) Special Regulations 1965<sup>M26</sup> are amended in accordance with this paragraph.

(2) In regulation 11(2) omit the words “has attained the age of twenty-one years and”.

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**M26** [S.I. 1965/759](#).

**46.**—(1) The Glebe Mine (Locomotives and Diesel Vehicles) Special Regulations 1967 <sup>M27</sup> are amended in accordance with this paragraph.

(2) In regulation 15(2) omit the words “has attained the age of eighteen years and”.

**Marginal Citations**

**M27** [S.I. 1967/1335](#).

**47.**—(1) The Winsford Rock Salt Mine (Diesel Vehicles and Storage Battery Vehicles) Special Regulations 1971 <sup>M28</sup> are amended in accordance with this paragraph.

(2) In regulation 14(2) omit the words “is under the age of twenty-one years and”.

**Marginal Citations**

**M28** [S.I. 1971/50](#).

**48.**—(1) The Thoresby Mine (Cable Reel Load-Haul-Dump Vehicles) Special Regulations 1978 <sup>M29</sup> are amended in accordance with this paragraph.

(2) In regulation 17 after the words “Regulations 17” insert “ as amended by the Employment Equality (Age) Regulations 2006 ”.

**Marginal Citations**

**M29** [S.I. 1978/119](#).

**49.** The Statutory Sick Pay (General) Regulations 1982 <sup>M30</sup> are amended as follows.

**Marginal Citations**

**M30** [S.I. 1982/894](#); [regulation 17\(2\)](#) was amended by [S.I. 1999/567](#), [regulation 13](#).

**50.**—(1) Regulation 16 (meaning of “employee”) is amended in accordance with this paragraph.

(2) In paragraph (1)—

(a) at the beginning insert the words “ Subject to paragraph (1ZA), ”, and

(b) omit the words “over the age of 16”.

(3) After paragraph (1) insert—

“(1ZA) Any person under the age of 16 who would have been treated as an employed earner or, as the case may be, would have been treated otherwise than as an employed earner by virtue of the Social Security (Categorisation of Earners) Regulations 1978 had he been aged 16 or over, shall be treated as if he is aged 16 or over for the purposes of paragraph (1).”.

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**51.**—(1) Regulation 17(2) (meaning of “earnings”) is amended in accordance with this paragraph.

(2) At the end of sub-paragraph (a) insert “ (or would have been so excluded had he not been under the age of 16) ”.

(3) At the end of sub-paragraph (b) insert “ (or where such a payment or amount would have been so excluded and in consequence he would not have been entitled to statutory sick pay had he not been under the age of 16) ”.

**52.** The Statutory Maternity Pay (General) Regulations 1986 <sup>M31</sup> are amended as follows.

**Marginal Citations**

**M31** [S.I. 1986/1960](#).

**53.**—(1) Regulation 17 (meaning of “employee”) is amended in accordance with this paragraph.

(2) In paragraph (1)—

(a) at the beginning insert the words “ Subject to paragraph (1A), ”, and

(b) omit the words “over the age of 16”.

(3) After paragraph (1) insert—

“(1A) Any woman under the age of 16 who would have been treated as an employed earner or, as the case may be, would have been treated otherwise than as an employed earner by virtue of the Social Security (Categorisation of Earners) Regulations 1978 had she been aged 16 or over, shall be treated as if she is aged 16 or over for the purposes of paragraph (1).”.

**54.**—(1) Regulation 20(2) <sup>M32</sup> (Meaning of “earnings”) is amended in accordance with this paragraph.

(2) At the end of sub-paragraph (a) insert “ (or would have been so excluded had she not been under the age of 16) ”.

(3) At the end of sub-paragraph (b) insert “ (or where such a payment or amount would have been so excluded and in consequence she would not have been entitled to statutory maternity pay had she not been under the age of 16) ”.

(4) This paragraph applies in relation to any case where the expected week of confinement begins on or after 14<sup>th</sup> January 2007.

**Marginal Citations**

**M32** [Regulation 20\(2\)](#) was amended by [S.I. 1999/567](#), [regulation 12](#).

**55.**—(1) The Coal and Other Safety-Lamp Mines (Explosives) Regulations 1993 <sup>M33</sup> are amended in accordance with this paragraph.

(2) In regulation 4(4) (appointment of shotfirers and trainee shotfirers) omit the words “he is at least 21 years of age and”.

**Marginal Citations**

**M33** [S.I. 1993/208](#).

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**56.**—(1) The Employment Tribunals (Interest on Awards In Discrimination Cases) Regulations 1996<sup>M34</sup> are amended in accordance with this paragraph.

(2) In sub-paragraph (b) of the definition of “an award under the relevant legislation” in regulation 1(2) (interpretation)—

- (a) after “regulation 30(1)(b) of the Employment Equality (Sexual Orientation) Regulations 2003” omit “or”; and
- (b) after “regulation 30(1)(b) of the Employment Equality (Religion or Belief) Regulations 2003” insert—

“or regulation 38(1)(b) of the Employment Equality (Age) Regulations 2006”.

**Marginal Citations**

**M34** S.I. 1996/2803; regulation 1(2) was amended by S.I. 2003/1661, regulation 1(1), and S.I. 2003/1660, regulation 1(1).

**57.**—(1) The Employment Protection (Continuity of Employment) Regulations 1996<sup>M35</sup> are amended in accordance with this paragraph.

(2) In regulation 2 (application)—

- (a) omit the word “or” at the end of paragraph (e); and
- (b) after paragraph (f) insert—

“, or

- (g) a decision taken arising out of the use of the statutory duty to consider procedure contained in Schedule 6 to the Employment Equality (Age) Regulations 2006.”.

**Marginal Citations**

**M35** S.I. 1996/3147; regulation 2(c) was inserted by S.I. 2001/1188, regulation 1(1), and regulation 2(f) was amended by S.I. 2004/752, regulation 17(e).

**58.**—(1) The National Minimum Wage Regulations 1999<sup>M36</sup> are amended in accordance with this paragraph.

(2) Omit regulation 12(2)(a).

(3) Omit paragraphs (2) to (6) of regulation 13.

(4) In regulation 13(7) for the words “Paragraphs (1) and (2) do” substitute “Paragraph (1) does”.

(5) In relation to any case where, before the commencement date, a worker within the meaning of regulation 12(2) has attained the age of 26, sub-paragraph (2) does not apply.

**Marginal Citations**

**M36** S.I. 1999/584; regulation 13 has been amended, but the amendments are not relevant for the purposes of these Regulations.

**59.** The Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002<sup>M37</sup> are amended as follows.



**Marginal Citations**

**M37** [S.I. 2002/2822](#).

**60.**—(1) Regulation 32 (Treatment of persons as employees) is amended in accordance with this paragraph.

(2) In paragraph (1)—

(a) at the beginning insert the words “ Subject to paragraph (1A), ”, and

(b) omit the words “over the age of 16”.

(3) After paragraph (1) insert—

“(1A) Any person under the age of 16 who would have been treated as an employed earner or, as the case may be, would have been treated otherwise than as an employed earner by virtue of the Social Security (Categorisation of Earners) Regulations 1978 had he been aged 16 or over, shall be treated as if he is aged 16 or over for the purposes of paragraph (1).”.

**61.**—(1) Regulation 39(2) (Meaning of “earnings”) is amended in accordance with this paragraph.

(2) At the end of sub-paragraph (a) insert “ (or would have been so excluded had he not been under the age of 16) ”.

(3) At the end of sub-paragraph (b) insert “ (or where such a payment or amount would have been so excluded and in consequence he would not have been entitled to statutory paternity pay or, as the case may be, statutory adoption pay had he not been under the age of 16) ”.

**62.**—(1) Schedule 1A (occupational pension schemes) to the Employment Equality (Religion or Belief) Regulations 2003 <sup>M38</sup> is amended in accordance with this paragraph.

(2) In paragraph 1(1)—

(a) in the definition of “active member”, “deferred member”, “managers”, “pensioner member” and “trustees or managers”, omit the words “as at the date of the coming into force of these Regulations”, and

(b) in the definition of “occupational pension scheme” omit the words “as at the date of the coming into force of these Regulations”.

(3) In paragraph 1(2) omit the words “as at the date of the coming into force of these Regulations”.

**Marginal Citations**

**M38** [S.I. 2003/1660](#); [Schedule 1A](#) was inserted by [S.I. 2003/2828](#), [regulation 3](#).

**63.**—(1) Schedule 1A (occupational pension schemes) to the Employment Equality (Sexual Orientation) Regulations 2003 <sup>M39</sup> is amended in accordance with this paragraph.

(2) In paragraph 1(1)—

(a) in the definition of “active member”, “deferred member”, “managers”, “pensioner member” and “trustees or managers”, omit the words “as at the date of the coming into force of these Regulations”, and

(b) in the definition of “occupational pension scheme” omit the words “as at the date of the coming into force of these Regulations”.

(3) In paragraph 1(2) omit the words “as at the date of the coming into force of these Regulations”.

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**Marginal Citations**

**M39** [S.I. 2003/1661](#); [Schedule 1A](#) was inserted by [S.I. 2003/2827](#), [regulation 3](#).

**64.**—(1) The Employment Act 2002 (Dispute Resolution) Regulations 2004 <sup>M40</sup> are amended in accordance with this paragraph.

(2) In regulation 4(1) (dismissals to which the dismissal and disciplinary procedures do not apply)

(a) omit the word “or” at the end of sub-paragraph (f); and

(b) after sub-paragraph (g) insert —

“, or

(h) the reason (or, if more than one, the principal reason) for the dismissal is retirement of the employee (to be determined in accordance with section 98ZA to 98ZF of the 1996 Act <sup>M41</sup>)”.

**Marginal Citations**

**M40** [S.I. 2004/752](#).

**M41** [Sections 98ZA to 98ZF](#) are inserted by regulation 49 of, and paragraph 23 of Schedule 8 to, these Regulations.

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**Changes and effects yet to be applied to :**

- Sch. 8 para. 22-24 omitted by [S.I. 2011/1069 reg. 4\(2\)](#)
- Sch. 8 para. 26 omitted by [S.I. 2011/1069 reg. 4\(2\)](#)
- Sch. 8 para. 28 omitted by [S.I. 2011/1069 reg. 4\(2\)](#)
- Regulations revoked (except Schs. 6, 8) by [2010 c. 15 Sch. 27 Pt. 2](#) (Regulations revoked except Schs. 6, 8)

**Commencement Orders yet to be applied to the The Employment Equality (Age) Regulations 2006**

Commencement Orders bringing legislation that affects this Instrument into force:

- [S.I. 2010/2317 art. 2\(15\)\(f\)](#) commences ([2010 c. 15](#))
- [S.I. 2011/1066 art. 2\(h\)](#) commences ([2010 c. 15](#))