

SCHEDULE 2
CONSEQUENTIAL AMENDMENTS

PART 2
OTHER LEGISLATION

The Management of Health and Safety at Work Regulations 1999

17.—(1) The Management of Health and Safety at Work Regulations 1999(1) are amended as follows.

(2) After regulation 16 insert—

“Alteration of working conditions in respect of new or expectant mothers (agency workers)

16A.—(1) Where, in the case of an individual agency worker, the taking of any other action the hirer is required to take under the relevant statutory provisions would not avoid the risk referred to in regulation 16(1) the hirer shall, if it is reasonable to do so, and would avoid such risks, alter her working conditions or hours of work.

(2) If it is not reasonable to alter the working conditions or hours of work, or if it would not avoid such risk, the hirer shall without delay inform the temporary work agency, who shall then end the supply of that agency worker to the hirer.

(3) In paragraphs (1) and (2) references to risk, in relation to risk from any infectious or contagious disease, are references to a level of risk at work which is in addition to the level to which a new or expectant mother may be expected to be exposed outside the workplace.

18. After regulation 17 insert—

“Certificate from registered medical practitioner in respect of new or expectant mothers (agency workers)

17A. Where—

- (a) a new or expectant mother works at night; and
- (b) a certificate from a registered medical practitioner or a registered midwife shows that it is necessary for her health or safety that she should not be at work for any period of such work identified in the certificate,

the hirer shall without delay inform the temporary work agency, who shall then end the supply of that agency worker to the hirer.”.

19. After regulation 18 insert—

“Notification by new or expectant mothers (agency workers)

18A.—(1) Nothing in regulation 16A(1) or (2) shall require the hirer to take any action in relation to an agency worker until she has notified the hirer in writing that she is pregnant, has given birth within the previous six months, or is breastfeeding.

(1) [S.I. 1999/3242](#).

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(2) Nothing in regulation 16A(2) shall require the temporary work agency to end the supply of the agency worker until she has notified the temporary work agency in writing that she is pregnant, has given birth within the previous six months, or is breastfeeding.

(3) Nothing in regulation 16A(1) shall require the hirer to maintain action taken in relation to an agency worker—

(a) in a case—

(i) to which regulation 16A(1) relates; and

(ii) where the agency worker has notified the hirer, that she is pregnant, where she has failed, within a reasonable time of being requested to do so in writing by the hirer, to produce for the hirer’s inspection a certificate from a registered medical practitioner or a registered midwife showing that she is pregnant; or

(b) once the hirer knows that she is no longer a new or expectant mother; or

(c) if the hirer cannot establish whether she remains a new or expectant mother.

Agency workers: general provisions

18AB.—(1) Without prejudice to any other duties of the hirer or temporary work agency under any enactment or rule of law in relation to health and safety at work, regulation 16A, 17A and 18A shall 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 2010 pursuant to regulation 8(a) or (b) of those Regulations.

(2) Nothing in regulations 16A or 17A 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) This regulation, and regulations 16A, 17A and 18A do not apply in circumstances where regulations 16, 17 and 18 apply.

(4) For the purposes of this regulation and regulations 16A, 17A or 18A the following have the same meaning as in the Agency Workers Regulations 2010—

“agency worker”;

“assignment”;

“hirer”;

“qualifying period”;

“temporary work agency”.

20. In regulation 20(1)(a) for “regulations 16-18”, substitute, “regulations 16-18AB”.

The Information and Consultation of Employees Regulations 2004

21. The Information and Consultation of Employees Regulations 2004(2) are amended as follows.

22. In regulation 2 (interpretation) after the definition of—

(a) “the 1996 Act” insert—

““agency worker” has the same meaning as in regulation 3 of the Agency Workers Regulations 2010;” and

(b) “standard information and consultation provisions” insert—

““suitable information relating to the use of agency workers” means information as to—

- (a) the number of agency workers working temporarily for and under the supervision and direction of the employer,
- (b) the parts of the employer’s undertaking in which those agency workers are working, and
- (c) the type of work those agency workers are carrying out.”.

23. After regulation 3 insert—

“Agency Workers

3A.—(1) Paragraphs (2) and (3) apply to an agency worker whose contract within regulation 3(1)(b) of the Agency Workers Regulations 2010 (contract with the temporary work agency) is not a contract of employment.

(2) For the purposes of regulations 3, 4 and Schedule 1, any agency worker who has a contract with a temporary work agency shall be treated as being employed by that temporary work agency for the duration of that agency worker’s assignment with the employer.

(3) In these Regulations “assignment” has the same meaning as in regulation 2 and “temporary work agency” has the same meaning as in regulation 4, of the Agency Workers Regulations 2010.”.

24. After regulation 8 insert—

“Pre-existing agreements: agency workers

8A. Where information about the employment situation is to be provided under a pre-existing agreement by an employer, such information must include suitable information relating to the use of agency workers (if any) in that undertaking.”.

25. In regulation 16(1), omit the “and” at the end of sub-paragraph (e).

26. In regulation 16(1), after sub-paragraph (f) add—

“and

- (g) provide that where an employer is to provide information about the employment situation, under that agreement or under any part, such information shall include suitable information relating to the use of agency workers (if any) in that undertaking.”.

27. In regulation 20, paragraph (1), sub-paragraph (b), after “the situation, structure and probable development of employment within the undertaking” and before “and on any anticipatory measures envisaged” insert “(and such information must include suitable information relating to the use of agency workers (if any) in that undertaking)”.

The Transfer of Undertakings (Protection of Employment) Regulations 2006

28. The Transfer of Undertakings (Protection of Employment) Regulations 2006(3) are amended as follows.

(3) [S.I. 2006/246](#).

Status: This is the original version (as it was originally made).

29. In regulation 13, after paragraph (2) insert—

“**2A.** Where information is to be supplied under paragraph (2) by an employer—

- (a) this must include suitable information relating to the use of agency workers (if any) by that employer; and
- (b) “suitable information relating to the use of agency workers” means—
 - (i) the number of agency workers working temporarily for and under the supervision and direction of the employer;
 - (ii) the parts of the employer’s undertaking in which those agency workers are working; and
 - (iii) the type of work those agency workers are carrying out.”.

The European Cooperative Society (Involvement of Employees) Regulations 2006

30. The European Cooperative Society (Involvement of Employees) Regulations 2006(4) are amended as follows.

31. In regulation 3 (interpretation) after the definition in paragraph (1) of—

- (a) “absolute majority vote” insert—

““agency worker” has the same meaning as in regulation 3 of the Agency Workers Regulations 2010;”;
- (b) “Appeal Tribunal” insert—

““assignment” has the same meaning as in regulation 2 of the Agency Workers Regulations 2010;”;
- (c) “employees’ representatives” insert—

““hirer” has the same meaning as in regulation 2 of the Agency Workers Regulations 2010;” and
- (d) “standard rules on employee involvement” insert—

““suitable information relating to the use of agency workers” means—

 - (a) the number of agency workers working temporarily for and under the supervision and direction of the SCE or any subsidiary, in each EEA State;
 - (b) the parts of the SCE’s or subsidiary’s undertaking and the concerned establishments in which those agency workers are working; and
 - (c) the type of work those agency workers are carrying out;

“temporary work agency” has the same meaning as in regulation 4 of the Agency Workers Regulations 2010;”.

32. After regulation 6 insert—

“Agency Workers

6A.—(1) Paragraph (2) applies to an agency worker whose contract within regulation 3(1)(b) of the Agency Worker’s Regulations 2010 (contract with the temporary work agency) is not a contract of employment.

(2) For the purposes of regulations 5 and 6, any agency worker who has a contract with a temporary work agency, that is a participating individual, participating legal entity or SCE,

(4) S.I. 2006/2059.

shall be treated as being employed by that temporary work agency for the duration of that agency worker's assignment with the hirer.”.

- 33.** In regulation 7, paragraph 2—
- (a) omit the “and” at the end of sub-paragraph (c), and
 - (b) after sub-paragraph (d); add—
 - “(e) the number of agency workers working temporarily for and under the supervision and direction of a participating individual, legal entity or subsidiary;
 - (f) the parts of the undertaking and concerned establishments in which those agency workers are working; and
 - (g) the type of work those agency workers are carrying out.”.
- 34.** After regulation 17, paragraph (5) insert—
- “(6) Where under the employee involvement agreement information is to be provided on the employment situation in the SCE, such information must include suitable information relating to the use of agency workers (if any) in that SCE.”.
- 35.** After regulation 21, paragraph (3) insert—
- “(3A) For the purposes of paragraph (3), agency workers, whose contract within regulation 3(1)(b) of the Agency Workers Regulations 2010 was not a contract of employment with one or more temporary work agencies that were participating individuals or SCEs at the relevant time, are to be treated as having been employed by such a temporary work agency or agencies for the duration of any assignment with a hirer.”.
- 36.** In Schedule 1, paragraph 1—
- (a) omit the “and” at the end of sub-paragraph (2)(b); and
 - (b) after sub-paragraph (2)(c) add—
 - “(d) the number of agency workers working temporarily for and under the supervision and direction of the SCE or any subsidiary, in each EEA State;
 - (e) the parts of the undertaking or any establishment in which those agency workers are working; and
 - (f) the type of work those agency workers are carrying out.”.
- 37.** After Schedule 1, paragraph 11, sub-paragraph (4) add—
- “(5) Where under the employee involvement agreement the competent organ of the SCE is to provide information on the employment situation in the SCE, such information must include suitable information relating to the use of agency workers (if any) in that SCE.”.
- 38.** After Schedule 2, paragraph 6, sub-paragraph (3) insert—
- “**3A.** Where under sub-paragraphs (2) and (3) the competent organ of the SCE is to provide information on the employment situation in the SCE, such information must include suitable information relating to the use of agency workers (if any) in that SCE.”.

The Companies (Cross-Border Mergers) Regulations 2007

- 39.** The Companies (Cross-Border Mergers) Regulations 2007(5) are amended as follows.
- 40.** In regulation 3 (interpretation) after the definition in paragraph (1) of—
- (a) “the 1996 Act” insert—

(5) [S.I. 2007/2974](#).

Status: This is the original version (as it was originally made).

- ““agency worker” has the same meaning as in regulation 3 of the Agency Workers Regulations 2010;”;
- (b) “the Appeal Tribunal” insert—
““assignment” has the same meaning as in regulation 2 of the Agency Workers Regulations 2010;”;
- (c) “the Gazette” insert—
““hirer” has the same meaning as in regulation 2 of the Agency Workers Regulations 2010;”;
- (d) “standard rules of employee participation” insert—
““suitable information relating to the use of agency workers” means—
(a) the number of agency workers working temporarily for and under the supervision and direction of a merging company or the transferee company (as the case may be);
(b) the parts of the undertaking in which those agency workers are working; and
(c) the type of work those agency workers are carrying out;
“temporary work agency” has the same meaning as in regulation 4 of the Agency Workers Regulations 2010.”.
- 41.** After regulation 8, paragraph (2) insert—
“(2A) Where information to be provided under paragraph (2)(a) relates to the employment situation, it must include suitable information relating to the use of agency workers.”.
- 42.** After regulation 22, paragraph (1) insert—
“(1A) For the purposes of paragraph (1)(a), agency workers whose contract within regulation 3(1)(b) of the Agency Workers Regulations 2010 was not a contract of employment with one or more temporary work agencies that were merging companies at the relevant time are to be treated as having been employed by such a temporary work agency or agencies for the duration of their assignment with a hirer.”.
- 43.** After regulation 23(3) add—
“(4) Where under the provisions of this regulation a merging company is to provide information, such information must include suitable information relating to the use of agency workers (if any) in that company.”.
- 44.** After regulation 29(2) insert—
“(2A) Where under the employee participation agreement the transferee company is to provide information on the employment situation in that company, such information must include suitable information relating to the use of agency workers (if any) in that company.
- 45.** After regulation 37, paragraph (2) insert—
“(2A) For the purposes of paragraph (2), agency workers whose contract within regulation 3(1)(b) of the Agency Workers Regulations 2010 was not a contract of employment with one or more temporary work agencies that were merging companies at the relevant time, are to be treated as having been employed by such a temporary work agency or agencies for the duration of their assignment with a hirer.”.
- 46.** After regulation 38(4) add—

“(5) Where under the standard rules of employee participation the transferee company is to provide information on the employment situation in that company, such information must include suitable information relating to the use of agency workers (if any) in that company.

The European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009

47. The European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009(6) are amended as follows.

48. In regulation 3 (interpretation) after the definition in paragraph (1)—

(a) of “absolute majority vote” insert—

““agency worker” has the same meaning as in regulation 3 of the Agency Workers Regulations 2010;” and

(b) of “standard rules on employee involvement” insert—

““suitable information relating to the use of agency workers” means—

(a) the number of agency workers working temporarily for and under the supervision and direction of the undertaking;

(b) the parts of the undertaking in which those agency workers are working; and

(c) the type of work those agency workers are carrying out.”.

49. In regulation 5, paragraph (2)—

(a) omit the “and” at the end of sub-paragraph (b); and

(b) after sub-paragraph (c) insert—

“(d) the number of agency workers working temporarily for and under the supervision and direction of the undertaking;

(e) the parts of the undertaking in which those agency workers are working; and

(f) the type of work those agency workers are carrying out.”.

50. After regulation 15, paragraph (3) insert—

“(3A) Where under the employee involvement agreement the competent organ of the SE is to provide information on the employment situation in that company, such information must include suitable information relating to the use of agency workers (if any) in that company.

51. After regulation 19, paragraph (3) insert—

“(3A) This paragraph applies to an agency worker whose contract within regulation 3(1)(b) of the Agency Workers Regulations 2010 (contract with the temporary work agency) is not a contract of employment—

(a) for the purposes of paragraph (3)(a) and (b), any agency worker who has a contract with a temporary work agency, which was at the relevant time a participating company, is to be treated as having been employed by that temporary work agency for the duration of their assignment with a hirer, and

(b) in this paragraph “assignment” and “hirer” have the same meaning as in regulation 2, and “temporary work agency” has the same meaning as in regulation 4, of the Agency Workers Regulations 2010.”.

52. In the Schedule, Part 2, after paragraph 8 insert—

(6) [S.I. 2009/2401](#).

Status: *This is the original version (as it was originally made).*

“8A. Where under the provisions of this Part, the competent organ of the SE is to provide information on the employment situation in that company, such information must include suitable information relating to the use of agency workers (if any) in that company.”.