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STATUTORY INSTRUMENTS

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**2019 No. 731**

**The Employment Rights (Miscellaneous  
Amendments) Regulations 2019**

**PART 3**

**STATEMENTS OF EMPLOYMENT PARTICULARS**

**Amendment to the Employment Rights Act 1996**

4. The Employment Rights Act 1996<sup>(1)</sup> is amended as follows.

**Amendment of section 1**

5. In section 1 (statement of initial employment particulars)—
- (a) in subsection (1)—
    - (i) for “an employee” substitute “a worker”;
    - (ii) for “the employee” substitute “the worker”;
  - (b) in subsection (3)(a), for “employee” substitute “worker”;
  - (c) at the beginning of subsection (3)(c), insert “in the case of a statement given to an employee,”;
  - (d) in subsection (4)(d)(i), for “employee’s” substitute “worker’s”;
  - (e) in subsection (4)(e), (f), (h) and (k) for “employee” substitute “worker”;
  - (f) in subsection (4)(e), after “contract of employment” insert “or other worker’s contract”;
  - (g) in subsection (5), for “an employee” substitute “a worker”;
  - (h) in subsection (5)(a) and (b), for “employee’s” substitute “worker’s”;
  - (i) in subsection (5)(b) for “employee” substitute “worker”.

**Amendment of section 2**

6. In section 2 (statement of initial particulars: supplementary)—
- (a) in subsections (2), (3) and (5), for “employee”, in each place it occurs, substitute “worker”;
  - (b) in subsection (5) for “an employee’s” substitute “a worker’s”.

**Amendment of section 3**

7. In section 3(1)(a), (1)(aa), (1)(b)(i) and (ii) and (1)(c) (note about disciplinary procedures and pensions)<sup>(2)</sup>, for “the employee”, in each place it occurs, substitute “the worker”.

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<sup>(1)</sup> 1996 c. 18.

<sup>(2)</sup> Section 3 was amended by the Employment Act 2002, sections 35 and 36, and the Pensions Act 2014 (c. 19), Schedule 13(2), paragraph 67.

#### **Amendment of section 4**

8. In section 4 (statement of changes)—
- (a) in subsections (1), (3)(b), (4) in each place it occurs, (5) in each place it occurs and (6) for “the employee” substitute “the worker”;
  - (b) in subsection (6), for “an employee” substitute “a worker”;
  - (c) at the beginning of subsection (6)(b) insert “in the case of a statement given to an employee,”.

#### **Amendment of section 5**

9. In section 5(1) and (2) (exclusion from rights to statements)(3), for “an employee” substitute “a worker”.

#### **Amendment of section 6**

10. In section 6 (right to statements of employment particulars)—
- (a) in the words before paragraph (a), for “an employee” substitute “a worker”;
  - (b) in paragraphs (a) and (b) for “the employee” substitute “the worker”.

#### **Amendment of section 7A**

11. In section 7A (right to statements of employment particulars)(4)—
- (a) in subsection (1)(a)—
    - (i) for “an employee” substitute “a worker”;
    - (ii) after “contract of employment” insert “or other worker’s contract”;
  - (b) in subsections (2), (3), (4), (5) and (6) for “employee” substitute “worker”.

#### **Amendment of section 7B**

12. In section 7B (giving of alternative documents before start of employment)(5)—
- (a) after “contract of employment” insert “or other worker’s contract”;
  - (b) for “an employee” substitute “a worker”;
  - (c) for “employee’s” substitute “worker’s”.

#### **Amendment of section 11**

13. In section 11 (references to employment tribunals)(6)—
- (a) for subsection (1) substitute—
 

“(1) Where an employer does not give a worker a statement as required by section 1, 4 or 8 (either because the employer gives the worker no statement or because the statement the employer gives does not comply with what is required), the worker may require a reference to be made to an employment tribunal to determine what particulars ought to

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(3) Section 5 was amended by the Employment Relations Act 1999, section 32(3).

(4) Section 7A was inserted by the Employment Act 2002, section 37.

(5) Section 7B was inserted by the Employment Act 2002 section 37.

(6) Section 11 was amended by section 1(2) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8); section 8 of, and paragraphs 15 and 16 of Schedule 2 to, the Enterprise and Regulatory Reform Act 2013; section 24 of, and paragraphs 66 and 68 of Schedule 13 to, the Pensions Act 2014; and S.I. 2011/1133, 2014/431 and 2018/529 (the last of which comes into force on 6th April 2019).

have been included or referred to in a statement so as to comply with the requirements of the section concerned.”;

(b) for subsection (2)(a) substitute—

“(a) a statement purporting to be a statement under section 1 or 4, or a pay statement or a standing statement of fixed deductions purporting to comply with section 8 or 9, has been given to a worker, and”;

(c) in the text after subsection (2)(b), for “the person to whom the statement has been given” substitute “the worker”.

#### **Amendment of section 12**

**14.** In section 12(1) and (2) (determination of references)(7), for “employee” substitute “worker”.

#### **Application of regulations 4 to 14**

**15.** The amendments made by regulations 4 to 14 only apply in relation to a written statement required by section 1 or 4 of The Employment Rights Act 1996 where the worker to whom the statement must be given begins employment with the employer on or after the date those regulations come into force.

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(7) Section 12 was amended by section 1(2) of the Employment Rights (Dispute Resolution) Act 1998 and [S.I. 2018/529](#).