

*Draft Regulations laid before Parliament under paragraph *** of Schedule 7 to the European Union (Withdrawal) Act 2018, and section 12(5) of the Employment Agencies Act 1973, for approval by resolution of each House of Parliament.*

S T A T U T O R Y I N S T R U M E N T S

2018 No. XXXX

EXITING THE EUROPEAN UNION

TERMS AND CONDITIONS OF EMPLOYMENT

**The Employment Rights (Amendment) (EU Exit) (No. 2)
Regulations 2018**

Made - - - - *****

Coming into force in accordance with regulation 1(1)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 7, and [] of Schedule 7 to the European Union (Withdrawal) Act 2018, and section 5(1) of the Employment Agencies Act 1973.

In accordance with paragraph 1 of Schedule 7 to the European Union (Withdrawal) Act 2018, and section 12(5) of the Employment Agencies Act 1973, a draft of these Regulations has been laid before Parliament and approved by a resolution of each House of Parliament.

In accordance with section 12(2) of the Employment Agencies Act 1973 the Secretary of State has consulted, on the amendments provided for in Part 2 of these Regulations, with such bodies as appear to the Secretary of State to be representative of the interests concerned.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Employment Rights (Amendment) (EU Exit) (No. 2) Regulations 2018 and come into force on [TBC].

(2) Any amendment by these Regulations of an enactment has the same extent as the enactment amended.

Amendments to employment rights legislation

2. The Schedule (which amends employment rights legislation extending to England and Wales and Scotland) has effect.

Date

Name
Minister of State for Business, Energy and Industrial Strategy
Department for Business, Energy and Industrial Strategy

AMENDMENTS TO EMPLOYMENT RIGHTS LEGISLATION
EXTENDING TO ENGLAND AND WALES, AND SCOTLAND

PART 1

AMENDMENTS TO PRIMARY LEGISLATION

The Employment Relations Act 1999

1. In section 38 (transfer of undertakings) of the Employment Relations Act 1999(a) for subsections (1) and (2) substitute—

“(1) The Secretary of State may by regulations make TUPE-like provision in relation to the treatment of employees in circumstances other than those to which the main part of the TUPE regulations applies.

(2) In subsection (1)—

- (a) the “main part of the TUPE regulations” means so much of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) as relates to the treatment of employees on the transfer of an undertaking, business or part of an undertaking or business;
- (b) “TUPE-like provision” means provision which is the same or similar to that made by the main part of the TUPE regulations.

(2A) The circumstances mentioned in subsection (1) include circumstances in which there is no transfer, or no transfer to which the main part of the TUPE regulations applies.”.

The Work and Families Act 2006

2. In section 13 of the Work and Families Act 2006(b) (annual leave)—

- (a) omit subsection (2)(g),
- (b) omit subsection (4)(b), and
- (c) in subsection (8), omit the definition of “the 1972 Act”.

PART 2

AMENDMENTS TO SECONDARY LEGISLATION

Conduct of Employment Agencies and Employment Businesses Regulations 2003

3. In Regulation 27A (advertising in other EEA states) of the Conduct of Employment Agencies and Employment Businesses Regulations 2003(c)—

- (a) in the introductory words of paragraph (1) omit “other than the United Kingdom”; and
- (b) in the heading and in paragraph (1)(a) and (b) omit “other” at each place it appears.

(a) 1999 c.26.
(b) 2006 c. 18.
(c) S.I. 2003/3319.

PART 3

TRANSITIONAL, TRANSITORY AND SAVING PROVISION

4. The amendments made by Part 1 of this Schedule do not affect the validity of any regulations that came into force before [TBC] and were made under any of the Acts amended by that Part.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, are made in exercise of the powers conferred by section 7 of, and Schedule 7 to the European Union (Withdrawal) Act 2018 (c. **) and section 5(1) of the Employment Agencies Act 1973 (c. 35), in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to employment rights legislation.