STATUTORY RULES OF NORTHERN IRELAND

2007 No. 340

EMPLOYMENT

The Working Time (Amendment) Regulations (Northern Ireland) 2007

Made - - - - *20th July 2007*

Coming into operation *1st October 2007*

Approved by resolution of the Assembly on 14th January 2008

The Department for Employment and Learning makes the following Regulations in exercise of the powers conferred by Article 15 of the Work and Families (Northern Ireland) Order 2006(**1**):

Citation and commencement

1. These Regulations may be cited as the Working Time (Amendment) Regulations (Northern Ireland) 2007 and shall come into operation on 1st October 2007.

Amendment to the Working Time Regulations (Northern Ireland) 1998

2.—(1) The Working Time Regulations (Northern Ireland) 1998(**2**) shall be amended in accordance with paragraphs (2) to (9).

(2) After regulation 13 (entitlement to annual leave), insert—

"**Entitlement to additional annual leave**

13A.—(1) Subject to regulation 25C and paragraphs (3) and (5), a worker is entitled in each leave year to a period of additional leave determined in accordance with paragraph (2).

(2) The period of additional leave to which a worker is entitled under paragraph (1) is—

(a) in any leave year beginning on or after 1st October 2007 but before 1st April 2008, 0.8 weeks;

(b) in any leave year beginning before 1st October 2007, a proportion of 0.8 weeks equivalent to the proportion of the year beginning on 1st October 2007 which would have elapsed at the end of that leave year;

(c) in any leave year beginning on 1st April 2008, 0.8 weeks;

(**1**) S.I. 2006/1947 (N.I. 16)

(**2**) S.R. 1998 No. 386; as amended by S.R. 1998 No. 422, S.R. 1999 No. 133, S.R. 2000 No. 7, S.R. 2002 No. 93, S.R. 2003 No. 119, S.R. 2003 No. 330, S.R. 2006 No. 135 and S.R. 2006 No. 389

(d) in any leave year beginning after 1st April 2008 but before 1st April 2009, 0.8 weeks and a proportion of another 0.8 weeks equivalent to the proportion of the year beginning on 1st April 2009 which would have elapsed at the end of that leave year;

(e) in any leave year beginning on or after 1st April 2009, 1.6 weeks.

(3) The aggregate entitlement provided for in paragraph (2) and regulation 13(1) is subject to a maximum of 28 days.

(4) A worker's leave year begins for the purposes of this regulation on the same date as the worker's leave year begins for the purposes of regulation 13.

(5) Where the date on which a worker's employment begins is later than the date on which his first leave year begins, the additional leave to which he is entitled in that leave year is a proportion of the period applicable under paragraph (2) equal to the proportion of that leave year remaining on the date on which his employment begins.

(6) Leave to which a worker is entitled under this regulation may be taken in instalments, but it may not be replaced by a payment in lieu except where—

(a) the worker's employment is terminated; or

(b) the leave is an entitlement that arises under paragraph (2)(a), (b) or (c); or

(c) the leave is an entitlement to 0.8 weeks that arises under paragraph (2)(d) in respect of that part of the leave year which would have elapsed before 1st April 2009.

(7) A relevant agreement may provide for any leave to which a worker is entitled under this regulation to be carried forward into the leave year immediately following the leave year in respect of which it is due."

(3) After regulation 25B insert—

"**Entitlement to additional annual leave under a relevant agreement**

25C.—(1) Regulation 13A does not apply in relation to a worker whose employer, as at 1st October 2007 and by virtue of a relevant agreement, provides each worker employed by him with an annual leave entitlement of 1.6 weeks or 8 days (whichever is the lesser) in addition to each worker's entitlement under regulation 13, provided that such additional annual leave—

(a) may not be replaced by a payment in lieu except in relation to a worker whose employment is terminated;

(b) may not be carried forward into a leave year other than that which immediately follows the leave year in respect of which the leave is due; and

(c) is leave for which the worker is entitled to be paid at not less than the rate of a week's pay in respect of each week of leave, calculated in accordance with Articles 17 to 20 of the 1996 Order, modified such that—

(i) references to the employee are references to the worker;

(ii) references to the employee's contract of employment are references to the worker's contract;

(iii) the calculation date is the first day of the period of leave in question; and

(iv) the references to Articles 23 and 24 do not apply.

(2) Notwithstanding paragraph (1), any additional annual leave in excess of 1.6 weeks or 8 days (whichever is the lesser) to which a worker is entitled, shall not be subject to the conditions of that paragraph.

(3) This regulation shall cease to apply to a worker from the day when an employer ceases to provide additional annual leave in accordance with the conditions in paragraph (1)."