

2020 No. 365

TERMS AND CONDITIONS OF EMPLOYMENT

**The Working Time (Coronavirus) (Amendment) Regulations
2020**

Made - - - at 9.00 p.m. on 26th March 2020

Laid before Parliament at 2.00 p.m. on 27th March 2020

Coming into force in accordance with regulation 1

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972^(a) in relation to measures relating to the organisation of working time^(b).

The Secretary of State, in exercise of the powers conferred by section 2(2) of that Act, makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Working Time (Coronavirus) (Amendment) Regulations 2020 and come into force immediately after they are made.

Amendment to the Working Time Regulations 1998

2. The Working Time Regulations 1998^(c) are amended as follows.

3. In regulation 13—

(a) at the beginning of paragraph (9)(a) insert “subject to the exception in paragraphs (10) and (11),”;

(b) after paragraph (9) insert—

“(10) Where in any leave year it was not reasonably practicable for a worker to take some or all of the leave to which the worker was entitled under this regulation as a result of the effects of coronavirus (including on the worker, the employer or the wider economy or society), the worker shall be entitled to carry forward such untaken leave as provided for in paragraph (11).

(11) Leave to which paragraph (10) applies may be carried forward and taken in the two leave years immediately following the leave year in respect of which it was due.

(a) 1972 c.68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) with effect from exit day, but saved with modifications until IP completion day by section 1A of that Act (as inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1). Section 2(2) of the European Communities Act 1972 was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

(b) S.I. 1997/1174.

(c) S.I. 1998/1833; the relevant amending instruments are S.I. 2001/3256, S.I. 2007/2079 and S.I. 2013/2228.

(12) An employer may only require a worker not to take leave to which paragraph (10) applies on particular days as provided for in regulation 15(2) where the employer has good reason to do so.

(13) For the purpose of this regulation “coronavirus” means severe acute respiratory syndrome corona-virus 2 (SARS-CoV-2).”.

4. In regulation 14—

- (a) in paragraph (1) for the introductory text substitute “Paragraphs (1) to (4) of this regulation apply where—”;
- (b) after paragraph (4) insert—

“(5) Where a worker’s employment is terminated and on the termination date the worker remains entitled to leave in respect of any previous leave year which carried forward under regulation 13(10) and (11), the employer shall make the worker a payment in lieu of leave equal to the sum due under regulation 16 for the period of untaken leave.”.

5. In regulation 15(2)(b) after “leave” insert “(subject, where it applies, to the requirement in regulation 13(12))”.

Paul Scully

Minister for Small Business, Consumers and Labour Markets

At 9.00 p.m. on 26th March 2020

Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide an exception relating to the effects of coronavirus to the bar on carrying forward untaken leave under Regulation 13 of the Working Time Regulations 1998 (“WTR”). They come into force on 26th March 2020.

Regulation 13 WTR entitles workers to 4 weeks of annual leave in each leave year. Where any of this leave remains untaken at the end of a leave year, regulation 13(9)(a) prevents that leave being carried forward into the next year. This is amended by regulation 3 of these Regulations, which inserts an exception to this bar on carrying forward untaken leave. The exception applies where at the end of a leave year it was not reasonably practicable for a worker to take some or all of the leave to which the worker was entitled under regulation 13 as a result of the effects of coronavirus (including on the worker, the employer or the wider economy or society). In this case the untaken leave may be carried forward and taken in the following two leave years.

Regulation 14 WTR provides for a payment in lieu of any untaken annual leave where a worker’s employment terminates. This regulation is amended by regulation 4 of these Regulations to provide for a payment in lieu of any leave that carried forward under the exception inserted by regulation 3 and remains untaken on the date of termination.

An impact assessment has not been produced for this instrument as this is a temporary, emergency measure and no significant impact on business, charities, voluntary bodies and the public sector is foreseen.