
STATUTORY INSTRUMENTS

2002 No. 2788

TERMS AND CONDITIONS OF EMPLOYMENT

The Paternity and Adoption Leave Regulations 2002

Made - - - - *11th November 2002*

Coming into force - - *8th December 2002*

Whereas a draft of the following Regulations was laid before Parliament in accordance with section 236(3) of the Employment Rights Act 1996⁽¹⁾ and approved by a resolution of each House of Parliament:

Now, therefore, the Secretary of State, in exercise of the powers conferred on her by sections 47C(2), 75A(1) to (3), (6) and (7), 75B(1), (2), (4) and (8), 75C(1) and (2), 75D(1), 80A(1), (2) and (5), 80B(1), (2) and (5), 80C(1) and (6), 80D(1), 80E and 99(1) of that Act⁽²⁾, hereby makes the following Regulations:—

Modifications etc. (not altering text)

- C1** Regulations modified (6.4.2003) by [The Paternity and Adoption Leave \(Adoption from Overseas\) Regulations 2003](#) (S.I. 2003/921), **regs. 1-13** (as amended (5.12.2005) by S.I. 2005/2114, art. 2(17), reg. 1, **Sch. 17 para. 5(2)(a)**); (5.4.2015) by S.I. 2014/3092, reg. 1, **22-25**; (8.3.2024) by S.I. 2024/329, reg. 2, **17-20** (with reg. 6) and (6.4.2024) by S.I. 2024/264, reg. 1(3), **6**)
- C2** Regulations applied in part (with modifications) (1.12.2014) by [The Paternity, Adoption and Shared Parental Leave \(Parental Order Cases\) Regulations 2014](#) (S.I. 2014/3096), reg. 3, **6-17** (as amended (3.1.2019) by S.I. 2018/1413, **Sch. 2 para. 9** and (8.3.2024) by S.I. 2024/329, reg. 2, **21-25** (with reg. 6))

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- (1) [1996 c. 18](#); section 236(3) was amended by paragraph 42 of Part 3 of Schedule 4 to the Employment Relations Act 1999 ([c. 26](#)) and paragraph 49 of Schedule 7 to the Employment Act 2002 ([c. 22](#)).
- (2) Section 47C of the Employment Rights Act 1996 was inserted by paragraph 8 of Part 3 of Schedule 4 to the Employment Relations Act 1999 and amended by paragraph 26 of Schedule 7 to the Employment Act 2002; sections 75A to 75D were inserted by section 3 of the Employment Act 2002, and sections 80A to 80E by section 1 of that Act; section 99 was substituted by paragraph 16 of Part 3 of Schedule 4 to the 1999 Act and amended by paragraph 33 of Schedule 7 to the Employment Act 2002. The word “prescribed” in section 47C of the 1996 Act is defined in subsection (2) of that section; the same word in sections 75A and 75B of the 1996 Act is defined in section 75D(2), inserted by section 3 of the 2002 Act; in section 99 of the 1996 Act it is defined in subsection (2) of that section.

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Paternity and Adoption Leave Regulations 2002 and shall come into force on 8th December 2002.

Commencement Information

II Reg. 1 in force at 8.12.2002, see [reg. 1](#)

Interpretation

2.—(1) In these Regulations—

“the 1996 Act” means the Employment Rights Act 1996;

“additional adoption leave” means leave under section 75B of the 1996 Act;

“additional maternity leave” means leave under section 73 of the 1996 Act;

“adopter”, in relation to a child, means a person who has been matched with the child for adoption, or, in a case where two people have been matched jointly, whichever of them has elected to be the child’s adopter for the purposes of these Regulations;

“adoption agency” has the meaning given, in relation to England and Wales, by [^{F1}section 2(1) of the Adoption and Children Act 2002] and, in relation to Scotland, by [^{F2}section 119(1) of the Adoption and Children (Scotland) Act 2007];

“adoption leave” means ordinary or additional adoption leave;

“child” means a person who is, or when placed with an adopter for adoption was, under the age of 18;

“contract of employment” means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing;

“employee” means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment;

“employer” means the person by whom an employee is (or, where the employment has ceased, was) employed;

“expected week”, in relation to the birth of a child, means the week, beginning with midnight between Saturday and Sunday, in which it is expected that the child will be born;

“ordinary adoption leave” means leave under section 75A of the 1996 Act;

“parental leave” means leave under regulation 13(1) of the Maternity and Parental Leave etc. Regulations 1999⁽³⁾;

“partner”, in relation to a child’s mother or adopter, means a person (whether of a different sex or the same sex) who lives with the mother or adopter and the child in an enduring family relationship but is not a relative of the mother or adopter of a kind specified in paragraph (2);

“paternity leave” means leave under regulation 4 or regulation 8 of these Regulations;

[^{F3}“placed for adoption” means—

(3) [SI 1999/3312](#), to which there are amendments not relevant to these Regulations.

- (a) placed for adoption under the Adoption and Children Act 2002 or the Adoption and Children (Scotland) Act 2007(3); or
- (b) placed in accordance with section 22C of the Children Act 1989 with a local authority foster parent who is also a prospective adopter;

“prospective adopter” means a person who has been approved as suitable to adopt a child and has been notified of that decision in accordance with regulation 30B(4) of the Adoption Agencies Regulations 2005;]

[^{F4}returned after being placed for adoption means—

- (a) returned under sections 31 to 35 of the Adoption and Children Act 2002;
- (b) in Scotland, returned to the adoption agency, adoption society or nominated person in accordance with section 25(6) of the Adoption and Children (Scotland) Act 2007; or
- (c) where the child is placed in accordance with section 22C of the Children Act 1989, returned to the adoption agency following a termination of the placement.]

[^{F5}“shared parental leave” means leave under section 75E or 75G of the 1996 Act];

[^{F6}“statutory adoption leave” means ordinary adoption leave and additional adoption leave;]

[^{F6}“statutory adoption leave period” means the period during which the adopter is on statutory adoption leave;]

“statutory leave” means leave provided for in Part 8 of the 1996 Act.

(2) The relatives of a child’s mother or adopter referred to in the definition of “partner” in paragraph (1) are the mother’s or adopter’s parent, grandparent, sister, brother, aunt or uncle.

(3) References to relationships in paragraph (2)—

- (a) are to relationships of the full blood or half blood or, in the case of an adopted person, such of those relationships as would exist but for the adoption, and
- (b) include the relationship of a child with his adoptive, or former adoptive, parents,

but do not include any other adoptive relationships.

[^{F7}(4) For the purposes of these Regulations—

- (a) a person is matched with a child for adoption when an adoption agency decides that that person would be a suitable adoptive parent for the child either individually or jointly with another person;
- (b) in a case where sub-paragraph (a) applies, a person is notified of having been matched with a child on the date on which the person receives notification of the agency’s decision, under regulation 33(3)(a) of the Adoption Agencies Regulations 2005, regulation 28(3) of the Adoption Agencies (Wales) Regulations 2005, or regulation 8(5) of the Adoption Agencies (Scotland) Regulations 2009;
- (c) a person is also matched with a child for adoption when a decision has been made in accordance with regulation 22A of the Care Planning, Placement and Case Review (England) Regulations 2010 and an adoption agency has identified that person with whom the child is to be placed in accordance with regulation 12B of the Adoption Agencies Regulations 2005;
- (d) in a case where paragraph (c) applies, a person is notified of having been matched with a child on the date on which that person receives notification in accordance with regulation 12B(2)(a) of the Adoption Agencies Regulations 2005 of the decision to place for adoption the child with that person.

(3) SI 1999/3312, to which there are amendments not relevant to these Regulations.

(4A) For the purposes of these Regulations, a person elects to be a child’s adopter, in a case where the child is matched with him and another person jointly, if he and that person agree, at the time at which they are matched that he and not the other person will be the adopter.]

(5) A reference in any provision of these Regulations to a period of continuous employment is to a period computed in accordance with Chapter 1 of Part 14 of the 1996 Act, as if that provision were a provision of that Act.

(6) For the purposes of these Regulations, any two employers shall be treated as associated if—

- (a) one is a company of which the other (directly or indirectly) has control; or
- (b) both are companies of which a third person (directly or indirectly) has control;

and “associated employer” shall be construed accordingly.

Textual Amendments

- F1** Words in [reg. 2\(1\)](#) substituted (1.12.2014) by [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(3), **3(a)(i)**
- F2** Words in [reg. 2\(1\)](#) substituted (15.7.2011) by [The Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), art. 1(2), **Sch. 1 para. 30(2)(a)**
- F3** Words in [reg. 2\(1\)](#) inserted (5.4.2015) by [The Paternity and Adoption Leave \(Amendment\) \(No. 2\) Regulations 2014 \(S.I. 2014/3206\)](#), regs. 1, **4(2)** (with [reg. 2](#))
- F4** Words in [reg. 2\(1\)](#) inserted (8.3.2024 with effect from 6.4.2024 in accordance with [reg. 5](#) of the amending S.I.) by [The Paternity Leave \(Amendment\) Regulations 2024 \(S.I. 2024/329\)](#), regs. 2, **8** (with [reg. 6](#))
- F5** Words in [reg. 2\(1\)](#) inserted (1.12.2014) by [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(3), **3(a)(ii)**
- F6** Words in [reg. 2\(1\)](#) inserted (1.10.2006 with effect from 1.4.2007 in accordance with [reg. 2](#) of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **13**
- F7** [Reg. 2\(4\)\(4A\)](#) substituted for [reg. 2\(4\)](#) (5.4.2015) by [The Paternity and Adoption Leave \(Amendment\) \(No. 2\) Regulations 2014 \(S.I. 2014/3206\)](#), regs. 1, **4(3)** (with [reg. 2](#))

Commencement Information

- I2** [Reg. 2](#) in force at 8.12.2002, see [reg. 1](#)

Application

3.—(1) The provisions relating to paternity leave under regulation 4 below have effect only in relation to children—

- (a) born on or after 6th April 2003, or
- (b) whose expected week of birth begins on or after that date.

(2) The provisions relating to paternity leave under regulation 8 and adoption leave under regulation 15 below have effect only in relation to children—

- (a) matched with a person who is notified of having been matched on or after 6th April 2003, or
- (b) placed for adoption on or after that date.

(3) Regulation 28 (protection from detriment) has effect only in relation to an act or failure to act which takes place on or after 8th December 2002.

(4) For the purposes of paragraph (3)—

- (a) where an act extends over a period, the reference to the date of the act is a reference to the last day of that period, and
 - (b) a failure to act is to be treated as done when it was decided on.
- (5) For the purposes of paragraph (4), in the absence of evidence establishing the contrary an employer shall be taken to decide on a failure to act—
- (a) when he does an act inconsistent with doing the failed act, or
 - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.
- (6) Regulation 29 (unfair dismissal) has effect only in relation to dismissals where the effective date of termination (within the meaning of section 97 of the 1996 Act) falls on or after 8th December 2002.

Commencement Information

I3 Reg. 3 in force at 8.12.2002, see [reg. 1](#)

PART 2

PATERNITY LEAVE

Entitlement to paternity leave: birth

4.—(1) [^{F8}Subject to paragraph (1A), an] employee is entitled to be absent from work for the purpose of caring for a child or supporting the child's mother if he—

- (a) satisfies the conditions specified in paragraph (2), and
- (b) has complied with the notice requirements in regulation 6 and, where applicable, the evidential requirements in that regulation.

[^{F9}(1A) An employee is not entitled to be absent from work under paragraph (1) if the employee has taken any shared parental leave in respect of the child.]

(2) The conditions referred to in paragraph (1) are that the employee—

- (a) has been continuously employed for a period of not less than 26 weeks ending with the week immediately preceding the 14th week before the expected week of the child's birth;
- (b) is either—
 - (i) the father of the child or;
 - (ii) married to [^{F10}, the civil partner] or the partner of the child's mother, but not the child's father;
- (c) has, or expects to have—
 - (i) if he is the child's father, responsibility for the upbringing of the child;
 - (ii) if he is the mother's husband [^{F11}, civil partner] or partner but not the child's father, the main responsibility (apart from any responsibility of the mother) for the upbringing of the child.

(3) An employee shall be treated as having satisfied the condition in paragraph (2)(a) on the date of the child's birth notwithstanding the fact that he has not then been continuously employed for a period of not less than 26 weeks, where—

- (a) the date on which the child is born is earlier than the 14th week before the week in which its birth is expected, and
 - (b) the employee would have been continuously employed for such a period if his employment had continued until that 14th week.
- (4) An employee shall be treated as having satisfied the condition in paragraph (2)(b)(ii) if he would have satisfied it but for the fact that the child's mother has died.
- (5) An employee shall be treated as having satisfied the condition in paragraph (2)(c) if he would have satisfied it but for the fact that the child was stillborn after 24 weeks of pregnancy or has died.
- (6) An employee's entitlement to leave under this regulation shall not be affected by the birth, or expected birth, of more than one child as a result of the same pregnancy.

Textual Amendments

- F8** Words in [reg. 4\(1\)](#) substituted (1.12.2014) by [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(3), [4\(a\)](#)
- F9** [Reg. 4\(1A\)](#) inserted (1.12.2014) by [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(3), [4\(b\)](#)
- F10** Words in [reg. 4\(2\)\(b\)\(ii\)](#) inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Amendments to Subordinate Legislation\) Order 2005 \(S.I. 2005/2114\)](#), art. 2(17), reg. 1, [Sch. 17 para. 1\(2\)\(a\)](#)
- F11** Words in [reg. 4\(2\)\(c\)\(ii\)](#) inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Amendments to Subordinate Legislation\) Order 2005 \(S.I. 2005/2114\)](#), art. 2(17), reg. 1, [Sch. 17 para. 1\(2\)\(b\)](#)
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Commencement Information

- I4** Reg. 4 in force at 8.12.2002, see [reg. 1](#)

Options in respect of leave under regulation 4

5.—^{F12}(1) An employee may choose to take either—

- (a) a single period of leave of either one week or two weeks, or
- (b) two non-consecutive periods of leave of a week each

in respect of a child under regulation 4.]

(2) The leave may only be taken during the period which begins with the date on which the child is born and ends—

- (a) except in the case referred to in sub-paragraph (b), ^{F13}52 weeks] after that date;
- (b) in a case where the child is born before the first day of the expected week of its birth, ^{F13}52 weeks] after that day.

(3) Subject to paragraph (2) and, where applicable, paragraph (4), an employee may choose to begin his period of leave on—

- (a) the date on which the child is born;
- (b) the date falling such number of days after the date on which the child is born as the employee may specify in a notice under regulation 6, or
- (c) a predetermined date, specified in a notice under that regulation, which is later than the first day of the expected week of the child's birth.

(4) In a case where the leave is in respect of a child whose expected week of birth begins before 6th April 2003, an employee may choose to begin a period of leave only on a predetermined date, specified in a notice under regulation 6, which is at least 28 days after the date on which that notice is given.

Textual Amendments

- F12** Reg. 5(1) substituted (8.3.2024 with effect from 6.4.2024 in accordance with reg. 5 of the amending S.I.) by [The Paternity Leave \(Amendment\) Regulations 2024 \(S.I. 2024/329\)](#), regs. 2, **9(a)** (with reg. 6)
- F13** Words in reg. 5(2) substituted (8.3.2024 with effect from 6.4.2024 in accordance with reg. 5 of the amending S.I.) by [The Paternity Leave \(Amendment\) Regulations 2024 \(S.I. 2024/329\)](#), regs. 2, **9(b)** (with reg. 6)

Commencement Information

- I5** Reg. 5 in force at 8.12.2002, see [reg. 1](#)

Notice and evidential requirements for leave under regulation 4

- [^{F14}6.—(1) An employee must give their employer—
- (a) notice of their entitlement to take leave in respect of a child under regulation 4 which specifies the expected week of the child’s birth, and
 - (b) a declaration in writing that the employee satisfies the conditions in regulation 4(2)(b) and (c).
- (2) The employee must also give their employer, on each occasion that a period of leave is chosen in accordance with regulation 5—
- (a) a notice that specifies the start day or date of the period of leave and its duration, and
 - (b) a declaration in writing that the purpose of that period of leave will be that specified in regulation 4(1).
- (3) The notice and declaration in paragraph (1) must be given in or before the 15th week before the expected week of the child’s birth or, if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- (4) The notice and declaration in paragraph (2) must be given at least 28 days before—
- (a) the first day of the expected week of the child’s birth, where the option in regulation 5(3)(a) is chosen;
 - (b) the date falling the specified number of days after the first day of the expected week of the child’s birth, where the option in regulation 5(3)(b) is chosen;
 - (c) the predetermined date, where the option in regulation 5(3)(c) is chosen;
- or, if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- (5) An employee who has previously given notice under paragraph (2)(a) or (8) or this paragraph may—
- (a) vary the day or date chosen as the day or date on which a period of leave will begin or end, or
 - (b) cancel the period of leave chosen,
- provided that notice of the variation or cancellation is given to the employer in accordance with paragraph (6).
- (6) A notice under paragraph (5) must be given by whichever is the earlier of at least 28 days before—
- (a) the original day or date referred to in paragraph (7)(a), or
 - (b) the new day or date referred to in paragraph (7)(b),

or, if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(7) For the purposes of—

(a) paragraph (6)(a), where a notice has previously been given under paragraph (2)(a), (5) or (8), the original day or date is—

- (i) the first day of the expected week of the child's birth, where the option in regulation 5(3)(a) was chosen in that notice;
- (ii) the specified number of days after the first day of the expected week of the child's birth, where the option in regulation 5(3)(b) was chosen in that notice;
- (iii) the predetermined date specified in that notice, where the option in regulation 5(3)(c) was chosen;

(b) paragraph (6)(b), the new day or date is—

- (i) the first day of the expected week of the child's birth, where the option in regulation 5(3)(a) is chosen in the notice of variation;
- (ii) the date falling the specified number of days after the first day of the expected week of the child's birth, where the option in regulation 5(3)(b) is chosen in the notice of variation;
- (iii) the predetermined date specified in the notice of variation, where the option in regulation 5(3)(c) is chosen.

(8) In a case where—

- (a) the employee has chosen to begin a period of leave on a particular predetermined date, and
- (b) the child is not born on or before that date,

the employee must vary the choice of date by substituting a later predetermined date, or exercising an alternative option under regulation 5(3), and must give the employer notice of the variation as soon as is reasonably practicable.

(9) Where a notice is given under paragraph (5) or (8) which varies the days or dates of a period of leave, a declaration under paragraph (2)(b) in relation to that period must be given at the same time as that notice.

(10) An employee must give their employer a further notice, as soon as is reasonably practicable after the child's birth, of the date on which the child was born.

(11) Notice under paragraphs (1)(a), (2)(a), (5), (8) or (10) must be given in writing, if the employer so requests.]

Textual Amendments

F14 Reg. 6 substituted (8.3.2024 with effect from 6.4.2024 in accordance with reg. 5 of the amending S.I.) by [The Paternity Leave \(Amendment\) Regulations 2024 \(S.I. 2024/329\)](#), regs. 2, **10** (with reg. 6)

Commencement Information

I6 Reg. 6 in force at 8.12.2002, see [reg. 1](#)

Commencement of leave under regulation 4

7.—^{F15}(1) Except in the case referred to in paragraph (2), a period of paternity leave under regulation 4 begins and ends—

- (a) on the days or dates specified in a notice under regulation 6(2)(a), or

- (b) where the employee has given a notice of variation under regulation 6(5) or (8), on the days or dates specified in that notice (or the last such notice if the employee has varied the choice more than once).]
- (2) In a case where—
- (a) the employee has chosen to begin his period of leave on the date on which the child is born, and
- (b) he is at work on that date,
- the employee’s period of leave begins on the day after that date.

Textual Amendments

F15 Reg. 7(1) substituted (8.3.2024 with effect from 6.4.2024 in accordance with reg. 5 of the amending S.I.) by [The Paternity Leave \(Amendment\) Regulations 2024 \(S.I. 2024/329\)](#), regs. 2, **11** (with reg. 6)

Commencement Information

I7 Reg. 7 in force at 8.12.2002, see [reg. 1](#)

Entitlement to paternity leave: adoption

8.—(1) [^{F16}Subject to paragraph (1A), an] employee is entitled to be absent from work for the purpose of caring for a child or supporting the child’s adopter if he—

- (a) satisfies the conditions specified in paragraph (2), and
- (b) has complied with the notice requirements in regulation 10 and, where applicable, the evidential requirements in that regulation.

[^{F17}(1A) An employee is not entitled to be absent from work under paragraph (1) if the employee—

- (a) has taken any shared parental leave in respect of the child; ^{F18} ...
- (b) has exercised a right to take time off under section 57ZJ of the 1996 Act in respect of the child [^{F19}; or
- (c) has already taken paternity leave in relation to the child as a result of the child being placed with a prospective adopter who is at the time of the placement the employee’s spouse, civil partner or partner.]]

(2) The conditions referred to in paragraph (1) are that the employee—

- (a) has been continuously employed for a period of not less than 26 weeks ending with the week in which the child’s adopter is notified of having been matched with the child;
- (b) is either married to [^{F20}, the civil partner] or the partner of the child’s adopter, and
- (c) has, or expects to have, the main responsibility (apart from the responsibility of the adopter) for the upbringing of the child.

(3) In paragraph (2)(a), “week” means the period of seven days beginning with Sunday.

(4) An employee shall be treated as having satisfied the condition in paragraph (2)(b) if he would have satisfied it but for the fact that the child’s adopter died during the child’s placement.

(5) An employee shall be treated as having satisfied the condition in paragraph (2)(c) if he would have satisfied it but for the fact that the child’s placement with the adopter has ended.

(6) An employee’s entitlement to leave under this regulation shall not be affected by the placement for adoption of more than one child as part of the same arrangement.

Textual Amendments

- F16** Words in [reg. 8\(1\)](#) substituted (1.12.2014) by [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(3), **5(a)**
- F17** [Reg. 8\(1A\)](#) inserted (1.12.2014 for specified purposes, 5.4.2015 in so far as not already in force) by [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(3)(4), **5(b)**
- F18** Word in [reg. 8\(1A\)](#) omitted (5.4.2015) by virtue of [The Paternity and Adoption Leave \(Amendment\) \(No. 2\) Regulations 2014 \(S.I. 2014/3206\)](#), regs. 1, **5(2)(a)** (with [reg. 2](#))
- F19** [Reg. 8\(1A\)\(c\)](#) and preceding word inserted (5.4.2015) by [The Paternity and Adoption Leave \(Amendment\) \(No. 2\) Regulations 2014 \(S.I. 2014/3206\)](#), regs. 1, **5(2)(b)** (with [reg. 2](#))
- F20** Words in [reg. 8\(2\)\(b\)](#) inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Amendments to Subordinate Legislation\) Order 2005 \(S.I. 2005/2114\)](#), art. 2(17), [reg. 1](#), **Sch. 17 para. 1(3)**

Commencement Information

- I8** [Reg. 8](#) in force at 8.12.2002, see [reg. 1](#)

Options in respect of leave under regulation 8

9.—^[F21](1) An employee may choose to take either—

- (a) a single period of leave of either one week or two weeks, or
- (b) two non-consecutive periods of leave of a week each,

in respect of a child under regulation 8.]

(2) The leave may only be taken during the period of ^[F22]52 weeks] beginning with the date on which the child is placed with the adopter.

(3) Subject to paragraph (2) and, where applicable, paragraph (4), an employee may choose to begin a period of leave under regulation 8 on—

- (a) the date on which the child is placed with the adopter;
- (b) the date falling such number of days after the date on which the child is placed with the adopter as the employee may specify in a notice under regulation 10, or
- (c) a predetermined date, specified in a notice under that regulation, which is later than the date on which the child is expected to be placed with the adopter.

(4) In a case where the adopter was notified of having been matched with the child before 6th April 2003, the employee may choose to begin a period of leave only on a predetermined date, specified in a notice under regulation 10, which is at least 28 days after the date on which that notice is given.

Textual Amendments

- F21** [Reg. 9\(1\)](#) substituted (8.3.2024 with effect from 6.4.2024 in accordance with [reg. 5](#) of the amending S.I.) by [The Paternity Leave \(Amendment\) Regulations 2024 \(S.I. 2024/329\)](#), regs. 2, **12(a)** (with [reg. 6](#))
- F22** Words in [reg. 9\(2\)](#) substituted (8.3.2024 with effect from 6.4.2024 in accordance with [reg. 5](#) of the amending S.I.) by [The Paternity Leave \(Amendment\) Regulations 2024 \(S.I. 2024/329\)](#), regs. 2, **12(b)** (with [reg. 6](#))

Commencement Information

- I9** [Reg. 9](#) in force at 8.12.2002, see [reg. 1](#)

Notice and evidential requirements for leave under regulation 8

[^{F23}10.—(1) An employee must give their employer—

- (a) notice of their entitlement to take leave in respect of a child under regulation 8 which specifies—
 - (i) the date on which the adopter was notified of having been matched with the child, and
 - (ii) the date on which the child is expected to be placed with the adopter or, where the child has already been placed for adoption, the date of placement, and
- (b) a declaration in writing that the employee satisfies the conditions in regulation 8(2)(b) and (c).

(2) The employee must also give their employer, on each occasion that a period of leave is chosen in accordance with regulation 9—

- (a) a notice that specifies the start day or date of the period of leave and its duration, and
- (b) a declaration in writing that the purpose of the period of leave will be that specified in regulation 8(1).

(3) The notices and declarations in paragraphs (1) and (2) must be given no more than seven days after the date on which the adopter is notified of having been matched with the child or, if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(4) An employee who has previously given notice under paragraph (2)(a) or (7) or this paragraph may—

- (a) vary the day or date chosen as the day or date on which a period of leave will begin or end, or
- (b) cancel the period of leave chosen,

provided that notice of the variation or cancellation is given to the employer in accordance with paragraph (5).

(5) A notice under paragraph (4) must be given by whichever is the earlier of at least 28 days before—

- (a) the original day or date referred to in paragraph (6)(a), or
- (b) the new day or date referred to in paragraph (6)(b),

or, if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(6) For the purposes of—

- (a) paragraph (5)(a), where a notice has previously been given under paragraph (2)(a), (4) or (7), the original day or date is—
 - (i) the date provided under paragraph (1)(a)(ii) as the date on which the child is expected to be placed with the adopter, where the option in regulation 9(3)(a) was chosen in that notice;
 - (ii) the date falling the specified number of days after the date provided under paragraph (1)(a)(ii) as the date on which the child is expected to be placed with the adopter, where the option in regulation 9(3)(b) was chosen in that notice;
 - (iii) the predetermined date specified in that notice, where the option in regulation 9(3)(c) was chosen;
- (b) paragraph (5)(b), the new day or date is—
 - (i) the date provided under paragraph (1)(a)(ii) as the date on which the child is expected to be placed with the adopter, where the option in regulation 9(3)(a) is chosen in the notice of variation;

- (ii) the date falling the specified number of days after the date provided under paragraph (1)(a)(ii) as the date on which the child is expected to be placed with the adopter, where the option in regulation 9(3)(b) chosen in the notice of variation;
- (iii) the predetermined date specified in the notice of variation, where the option in regulation 9(3)(c) is chosen.

(7) In a case where—

- (a) the employee has chosen to begin a period of leave on a particular predetermined date, and
- (b) the child is not placed with the adopter on or before that date,

the employee must vary the choice of date by substituting a later predetermined date or exercising an alternative option under regulation 9(3) and must give the employer notice of the variation as soon as is reasonably practicable.

(8) Where a notice is given under paragraph (4) or (7) which varies the days or dates of a period of leave, a declaration under paragraph (2)(b) in relation to that period must be given at the same time as that notice.

(9) An employee must give their employer a further notice, as soon as is reasonably practicable after the child's placement, of the date on which the child was placed, unless that information has already been provided under paragraph (1)(a)(ii).

(10) Notice under paragraphs (1)(a), (2)(a), (4), (7) or (9) must be given in writing, if the employer so requests.]

Textual Amendments

F23 Reg. 10 substituted (8.3.2024 with effect from 6.4.2024 in accordance with reg. 5 of the amending S.I.) by [The Paternity Leave \(Amendment\) Regulations 2024 \(S.I. 2024/329\)](#), regs. 2, **13** (with reg. 6)

Commencement Information

I10 Reg. 10 in force at 8.12.2002, see [reg. 1](#)

Commencement of leave under regulation 8

11.—^{F24}(1) Except in the case referred to in paragraph (2), a period of paternity leave under regulation 8 begins and ends—

- (a) on the days or dates specified in a notice given under regulation 10(2)(a), or
- (b) where the employee has given a notice of variation under regulation 10(4) or (7), on the days or dates specified in that notice (or the last such date if the employee has varied the choice more than once).]

(2) In a case where—

- (a) the employee has chosen to begin his period of leave on the date on which the child is placed with the adopter, and
- (b) he is at work on that date,

the employee's period of leave begins on the day after that date.

Textual Amendments

F24 Reg. 11(1) substituted (8.3.2024 with effect from 6.4.2024 in accordance with reg. 5 of the amending S.I.) by [The Paternity Leave \(Amendment\) Regulations 2024 \(S.I. 2024/329\)](#), regs. 2, **14** (with reg. 6)

Commencement Information

111 Reg. 11 in force at 8.12.2002, see [reg. 1](#)

[^{F25}Change in circumstances

11A.—(1) This regulation applies where an employee is otherwise entitled to paternity leave in respect of a child but a relevant event, as specified in paragraph (2), occurs.

(2) A relevant event as referred to in paragraph (1) occurs when—

- (a) the employee is notified that the child will no longer be placed with the person with whom the child was to be placed for adoption, or
- (b) the child—
 - (i) dies, or
 - (ii) is returned after being placed for adoption.

(3) In a case where this regulation applies, an employee is not entitled to be absent from work on paternity leave after the end of a period of eight weeks following the end of the relevant week specified in paragraph (4), except in the circumstances mentioned in paragraph (5).

(4) The relevant week referred to in paragraph (3) is—

- (a) in a case falling within paragraph (2)(a), the week during which the person with whom the child was to be placed for adoption is notified that the placement will not be made;
- (b) in a case falling within paragraph (2)(b)(i), the week during which the child dies;
- (c) in a case falling within paragraph (2)(b)(ii), the week during which the child is returned.

(5) Where the employee has complied with the requirements in regulation 6 (notice and evidential requirements for leave under regulation 4 (birth)) or regulation 10 (notice and evidential requirements for leave under regulation 8 (adoption)), as the case may be, the employee will remain entitled to any period of leave which has been specified in a notice given, before the day on which the relevant event occurs, under whichever of those regulations is relevant.

(6) Where paragraph (5) applies, no further notices may be served under regulation 6 or 10, other than a notice under regulation 6(5)(b) or 10(4)(b), as the case may be.

(7) In this regulation—

- (a) “week” means the period of seven days beginning with Sunday;
- (b) references to the death of a child are to be read, in relation to a child stillborn after twenty-four weeks of pregnancy, as references to the birth of the child.]

Textual Amendments

F25 Reg. 11A inserted (8.3.2024 with effect from 6.4.2024 in accordance with reg. 5 of the amending S.I.) by [The Paternity Leave \(Amendment\) Regulations 2024 \(S.I. 2024/329\)](#), [regs. 2, 15](#) (with [reg. 6](#))

Application of terms and conditions during paternity leave

12.—(1) An employee who takes paternity leave—

- (a) is entitled, during the period of leave, to the benefit of all of the terms and conditions of employment which would have applied if he had not been absent, and

(b) is bound, during that period, by any obligations arising under those terms and conditions, subject only to the exception in section 80C(1)(b) of the 1996 Act⁽⁴⁾.

(2) In paragraph (1)(a), “terms and conditions of employment” has the meaning given by section 80C(5) of the 1996 Act, and accordingly does not include terms and conditions about remuneration.

(3) For the purposes of section 80C of the 1996 Act, only sums payable to an employee by way of wages or salary are to be treated as remuneration.

Commencement Information

I12 Reg. 12 in force at 8.12.2002, see [reg. 1](#)

Right to return after paternity leave

13.—(1) An employee who returns to work after a period of paternity leave which was—

(a) an isolated period of leave, or

[^{F26}(b) the last of two or more consecutive periods of statutory leave which did not include any—

(i) period of parental leave of more than four weeks; or

(ii) period of statutory leave which when added to any other periods of statutory leave (excluding parental leave) taken in relation to the same child means that the total amount of statutory leave taken in relation to that child totals more than 26 weeks.]

is entitled to return from leave to the job in which he was employed before his absence.

(2) An employee who returns to work after a period of paternity leave not falling within the description in paragraph (1)(a) or (b) above is entitled to return from leave to the job in which he was employed before his absence, or, if it is not reasonably practicable for the employer to permit him to return to that job, to another job which is both suitable for him and appropriate for him to do in the circumstances.

(3) The reference in paragraphs (1) and (2) to the job in which an employee was employed before his absence is a reference to the job in which he was employed—

(a) if his return is from an isolated period of paternity leave, immediately before that period began;

(b) if his return is from consecutive periods of statutory leave, immediately before the first such period.

Textual Amendments

F26 Reg. 13(1)(b) substituted (1.12.2014) by [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(3), **6**

Commencement Information

I13 Reg. 13 in force at 8.12.2002, see [reg. 1](#)

Incidents of the right to return after paternity leave

14.—(1) An employee’s right to return under regulation 13 is a right to return—

(4) Section 80C was inserted by section 1 of the Employment Act 2002.

- (a) with his seniority, pension rights and similar rights—
 - (i) in a case where the employee is returning from consecutive periods of statutory leave which included a period of additional adoption leave or additional maternity leave, as they would have been if the period or periods of his employment prior to the additional adoption leave or (as the case may be) additional maternity leave were continuous with the period of employment following it;
 - (ii) in any other case, as they would have been if he had not been absent, and
 - (b) on terms and conditions not less favourable than those which would have applied if he had not been absent.
- (2) The provision in paragraph (1)(a)(i) concerning the treatment of periods of additional maternity leave or additional adoption leave is subject to the requirements of [F27 paragraphs 5, 5B and 6 of Schedule 5 to the Social Security Act 1989 (equal treatment under pension schemes: maternity absence, adoption leave and family leave).]
- (3) The provisions in paragraph (1)(a)(ii) and (b) for an employee to be treated as if he had not been absent refer to his absence—
- (a) if his return is from an isolated period of paternity leave, since the beginning of that period;
 - (b) if his return is from consecutive periods of statutory leave, since the beginning of the first such period.

Textual Amendments

F27 Words in [reg. 14\(2\)](#) substituted (9.2.2005) by [The Pensions Act 2004 \(Commencement No. 2, Transitional Provisions and Consequential Amendments\) Order 2005 \(S.I. 2005/275\)](#), [art. 5\(2\)](#)

Commencement Information

I14 Reg. 14 in force at 8.12.2002, see [reg. 1](#)

PART 3

ADOPTION LEAVE

Entitlement to ordinary adoption leave

15.—(1) [F28 Subject to paragraph (1A), an] employee is entitled to ordinary adoption leave in respect of a child if he—

- (a) satisfies the conditions specified in paragraph (2), and
- (b) has complied with the notice requirements in regulation 17 and, where applicable, the evidential requirements in that regulation.

[F29(1A) An employee is not entitled to be absent from work under paragraph (1) in relation to a child if the employee has already taken ordinary adoption leave as a result of that child being placed, or expected to be placed, with the employee under section 22C of the Children Act 1989.]

(2) The conditions referred to in paragraph (1) are that the employee—

- (a) is the child’s adopter; [F30 and]
- [F31] (b)
- (c) has notified the agency that he agrees that the child should be placed with him and on the date of placement.

^{F32}(3)

(4) An employee's entitlement to leave under this regulation shall not be affected by the placement for adoption of more than one child as part of the same arrangement.

Textual Amendments

- F28** Words in [reg. 15\(1\)](#) substituted (5.4.2015) by [The Paternity and Adoption Leave \(Amendment\) \(No. 2\) Regulations 2014 \(S.I. 2014/3206\)](#), regs. 1, **6(2)** (with [reg. 2](#))
- F29** [Reg. 15\(1A\)](#) inserted (5.4.2015) by [The Paternity and Adoption Leave \(Amendment\) \(No. 2\) Regulations 2014 \(S.I. 2014/3206\)](#), regs. 1, **6(3)** (with [reg. 2](#))
- F30** Word in [reg. 15\(2\)\(a\)](#) inserted (5.4.2015) by [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(4), **7(a)**
- F31** [Reg. 15\(2\)\(b\)](#) omitted (5.4.2015) by virtue of [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(4), **7(b)**
- F32** [Reg. 15\(3\)](#) omitted (5.4.2015) by virtue of [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(4), **7(c)**

Commencement Information

- I15** [Reg. 15](#) in force at 8.12.2002, see [reg. 1](#)

Options in respect of ordinary adoption leave

16.—(1) Except in the case referred to in paragraph (2), an employee may choose to begin a period of ordinary adoption leave on—

- (a) the date on which the child is placed with him for adoption, or
- (b) a predetermined date, specified in a notice under regulation 17, which is no more than 14 days before the date on which the child is expected to be placed with the employee and no later than that date.

(2) In a case where the employee was notified of having been matched with the child before 6th April 2003, the employee may choose to begin a period of leave only on a predetermined date, specified in a notice under regulation 17, which is after 6th April 2003 and at least 28 days after the date on which that notice is given.

Commencement Information

- I16** [Reg. 16](#) in force at 8.12.2002, see [reg. 1](#)

Notice and evidential requirements for ordinary adoption leave

17.—(1) An employee must give his employer notice of his intention to take ordinary adoption leave in respect of a child, specifying—

- (a) the date on which the child is expected to be placed with him for adoption, and
- (b) the date on which, in accordance with regulation 16(1) or (2), the employee has chosen that his period of leave should begin.

(2) The notice provided for in paragraph (1) must be given to the employer—

- (a) no more than seven days after the date on which the employee is notified of having been matched with the child for the purposes of adoption, or

- (b) in a case where it was not reasonably practicable for the employee to give notice in accordance with sub-paragraph (a), as soon as is reasonably practicable.
- (3) Where the employer requests it, an employee must also provide his employer with evidence, in the form of one or more documents issued by the adoption agency that matched the employee with the child, of—
 - (a) the name and address of the agency;
 - ^{F33}(b)
 - (c) the date on which the employee was notified that he had been matched with the child, and
 - (d) the date on which the agency expects to place the child with the employee.
- (4) An employee who has given notice under paragraph (1) may vary the date he has chosen as the date on which his period of leave will begin, subject to paragraph (5) and provided that he gives his employer notice of the variation—
 - (a) where the variation is to provide for the employee’s period of leave to begin on the date on which the child is placed with him for adoption, at least 28 days before the date specified in his notice under paragraph (1) as the date on which the child is expected to be placed with him;
 - (b) where the variation is to provide for the employee’s period of leave to begin on a predetermined date (or a different predetermined date), at least 28 days before that date,or, if it is not reasonably practicable to give the notice 28 days before whichever date is relevant, as soon as is reasonably practicable.
- (5) In a case where regulation 16(2) applies, an employee may only vary the date which he has chosen as the date on which his period of leave will begin by substituting a different predetermined date.
- (6) Notice under paragraph (1) or (4) shall be given in writing, if the employer so requests.
- (7) An employer who is given notice under paragraph (1) or (4) of the date on which an employee has chosen that his period of ordinary adoption leave should begin shall notify the employee, within 28 days of his receipt of the notice, of the date on which the period of additional adoption leave to which the employee will be entitled (if he satisfies the conditions in regulation 20(1)) after his period of ordinary adoption leave ends.
- (8) The notification provided for in paragraph (7) shall be given to the employee—
 - (a) where the employer is given notice under paragraph (1), within 28 days of the date on which he received that notice;
 - (b) where the employer is given notice under paragraph (4), within 28 days of the date on which the employee’s ordinary adoption leave period began.

Textual Amendments
^{F33} Reg. 17(3)(b) omitted (6.4.2004) by virtue of [The Paternity and Adoption Leave \(Amendment\) Regulations 2004 \(S.I. 2004/923\)](#), regs. 1(1), 3

Commencement Information
^{I17} Reg. 17 in force at 8.12.2002, see [reg. 1](#)

Duration and commencement of ordinary adoption leave

18.—(1) Subject to regulations 22 and 24, an employee’s ordinary adoption leave period is a period of 26 weeks.

(2) Except in the case referred to in paragraph (3), an employee's ordinary adoption leave period begins on the date specified in his notice under regulation 17(1), or, where he has varied his choice of date under regulation 17(4), on the date specified in his notice under that provision (or the last such date if he has varied his choice more than once).

(3) In a case where—

- (a) the employee has chosen to begin his period of leave on the date on which the child is placed with him, and
- (b) he is at work on that date,

the employee's period of leave begins on the day after that date.

Commencement Information

I18 Reg. 18 in force at 8.12.2002, see [reg. 1](#)

Application of terms and conditions during ordinary adoption leave [^{F34} and additional adoption leave]

19.—(1) An employee who takes ordinary adoption leave [^{F35} or additional adoption leave]—

- (a) is entitled, during the period of leave, to the benefit of all of the terms and conditions of employment which would have applied if he had not been absent, and
- (b) is bound, during that period, by any obligations arising under those terms and conditions, subject only to [^{F36} the exceptions in sections 75A(3)(b) and 75B(4)(b)] of the 1996 Act **(5)**.

(2) In paragraph (1)(a), “terms and conditions of employment” has the meaning given by [^{F37} sections 75A(4) and 75B(5)] of the 1996 Act, and accordingly does not include terms and conditions about remuneration.

(3) For the purposes of [^{F38} sections 75A and 75B] of the 1996 Act, only sums payable to an employee by way of wages or salary are to be treated as remuneration.

Textual Amendments

- F34** Words in [reg. 19](#) heading inserted (23.7.2008 with effect from 5.10.2008 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **9(1)(a)**
- F35** Words in [reg. 19\(1\)](#) inserted (23.7.2008 with effect from 5.10.2008 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **9(1)(b)**
- F36** Words in [reg. 19\(1\)\(b\)](#) substituted (23.7.2008 with effect from 5.10.2008 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **9(1)(c)**
- F37** Words in [reg. 19\(2\)](#) substituted (23.7.2008 with effect from 5.10.2008 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **9(1)(d)**
- F38** Words in [reg. 19\(3\)](#) substituted (23.7.2008 with effect from 5.10.2008 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **9(1)(e)**

(5) Section 75A was inserted by section 3 of the Employment Act 2002.

Commencement Information

I19 Reg. 19 in force at 8.12.2002, see [reg. 1](#)

Additional adoption leave: entitlement, duration and commencement

- 20.**—(1) An employee is entitled to additional adoption leave in respect of a child if—
- (a) the child was placed with him for adoption,
 - (b) he took ordinary adoption leave in respect of the child, and
 - (c) his ordinary adoption leave period did not end prematurely under regulation 22(2)(a) or 24.
- (2) Subject to regulations 22 and 24, an employee’s additional adoption leave period is a period of 26 weeks beginning on the day after the last day of his ordinary adoption leave period.

Commencement Information

I20 Reg. 20 in force at 8.12.2002, see [reg. 1](#)

Application of terms and conditions during additional adoption leave

^{F39}**21.**

Textual Amendments

F39 [Reg. 21](#) revoked (23.7.2008 with effect from 5.10.2008 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **9(2)**

[^{F40}Work during adoption leave period

- 21A.**—(1) An employee may carry out up to 10 days' work for his employer during his statutory adoption leave period without bringing his statutory adoption leave to an end.
- (2) For the purposes of this regulation, any work carried out on any day shall constitute a day’s work.
- (3) Subject to paragraph (4), for the purposes of this regulation, work means any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.
- (4) Reasonable contact from time to time between an employee and his employer which either party is entitled to make during an adoption leave period (for example to discuss an employee’s return to work) shall not bring that period to an end.
- (5) This regulation does not confer any right on an employer to require that any work be carried out during the statutory adoption leave period, nor any right on an employee to work during the statutory adoption leave period.
- (6) Any days' work carried out under this regulation shall not have the effect of extending the total duration of the statutory adoption leave period.]

Textual Amendments

F40 Reg. 21A inserted (1.10.2006 with effect from 1.4.2007 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, 14

Disrupted placement in the course of adoption leave

- 22.—(1) This regulation applies where—
- (a) an employee has begun a period of adoption leave in respect of a child before the placement of the child with him, and the employee is subsequently notified that the placement will not be made, or
 - (b) during an employee’s period of adoption leave in respect of a child placed with him—
 - (i) the child dies, or
 - [^{F41}(ii) the child is returned after being placed for adoption].
- (2) Subject to regulation 24, in a case where this regulation applies—
- (a) except in the circumstances referred to in sub-paragraphs (b) and (c), the employee’s adoption leave period ends eight weeks after the end of the relevant week specified in paragraph (3);
 - (b) where the employee is taking ordinary adoption leave and the period of 26 weeks provided for in regulation 18 ends within eight weeks of the end of the relevant week—
 - (i) the employee’s ordinary adoption leave period ends on the expiry of the 26-week period;
 - (ii) the employee is entitled to additional adoption leave, and
 - (iii) the employee’s additional adoption leave period ends eight weeks after the end of the relevant week;
 - (c) where the employee is taking additional adoption leave and the period of 26 weeks provided for in regulation 20 ends within eight weeks of the end of the relevant week, the employee’s additional adoption leave period ends on the expiry of the 26-week period.
- (3) The relevant week referred to in paragraph (2) is—
- (a) in a case falling within paragraph (1)(a), the week during which the person with whom the child was to be placed for adoption is notified that the placement will not be made;
 - (b) in a case falling within paragraph (1)(b)(i), the week during which the child dies;
 - (c) in a case falling within paragraph (1)(b)(ii), the week during which the child is returned.
- ^{F42}(3A)
- (4) In paragraph (3), “week” means the period of seven days beginning with Sunday.

Textual Amendments

F41 Reg. 22(1)(b)(ii) substituted (5.4.2015) by [The Paternity and Adoption Leave \(Amendment\) \(No. 2\) Regulations 2014 \(S.I. 2014/3206\)](#), regs. 1, 7(2) (with reg. 2)

F42 Reg. 22(3A) omitted (8.3.2024 with effect from 6.4.2024 in accordance with reg. 5 of the amending S.I.) by virtue of [The Paternity Leave \(Amendment\) Regulations 2024 \(S.I. 2024/329\)](#), regs. 2, 16 (with reg. 6)

Commencement Information

I21 Reg. 22 in force at 8.12.2002, see [reg. 1](#)

[^{F43}Redundancy:] adoption leave

23.—[^{F44}(1) This regulation applies where it is not practicable by reason of redundancy for an employer to continue to employ an employee under their existing contract of employment during—

- (a) the statutory adoption leave period, or
- (b) the additional protected period.

(1A) For the purposes of paragraph (1)(b) the additional protected period—

- (a) begins with the day after the last day of the employee’s statutory adoption leave period;
- (b) continues during any period of continuous employment that includes the statutory adoption leave period referred to in sub-paragraph (a); and
- (c) ends immediately before the relevant day.

(1B) For the purposes of paragraph (1A)(c) the relevant day is the day after a period of 18 months beginning with the day the child is placed with the employee for adoption.]

(2) Where there is a suitable available vacancy, the employee is entitled to be offered (before the end of his employment under his existing contract) alternative employment with his employer or his employer’s successor, or an associated employer, under a new contract of employment which complies with paragraph (3) and takes effect immediately on the ending of his employment under the previous contract.

(3) The new contract of employment must be such that—

- (a) the work to be done under it is of a kind which is both suitable in relation to the employee and appropriate for him to do in the circumstances, and
- (b) its provisions as to the capacity and place in which he is to be employed, and as to the other terms and conditions of his employment, are not substantially less favourable to him than if he had continued to be employed under the previous contract.

Textual Amendments

F43 Word in [reg. 23](#) heading substituted (6.4.2024) by [The Maternity Leave, Adoption Leave and Shared Parental Leave \(Amendment\) Regulations 2024 \(S.I. 2024/264\)](#), regs. 1(2), **5(a)** (with [reg. 3\(3\)](#))

F44 [Reg. 23\(1\)-\(1B\)](#) substituted for [reg. 23\(1\)](#) (6.4.2024) by [The Maternity Leave, Adoption Leave and Shared Parental Leave \(Amendment\) Regulations 2024 \(S.I. 2024/264\)](#), regs. 1(2), **5(b)** (with [reg. 3\(3\)](#))

Commencement Information

I22 Reg. 23 in force at 8.12.2002, see [reg. 1](#)

Dismissal during adoption leave

24. Where an employee is dismissed after an ordinary or additional adoption leave period has begun but before the time when (apart from this regulation) that period would end, the period ends at the time of the dismissal.

Commencement Information

I23 Reg. 24 in force at 8.12.2002, see [reg. 1](#)

Requirement to notify intention to return during adoption leave period

25.—(1) An employee who intends to return to work earlier than the end of his additional adoption leave period must give his employer at least [^{F45}8 weeks'] notice of the date on which he intends to return.

(2) If an employee attempts to return to work earlier than the end of his additional adoption leave period without complying with paragraph (1), his employer is entitled to postpone his return to a date such as will secure, subject to paragraph (3), that he has at least [^{F46}8 weeks'] notice of the employee's return.

[^{F47}(2A) An employee who complies with his obligations in paragraph (1) or whose employer has postponed his return in the circumstances described in paragraph (2), and who then decides to return to work—

- (a) earlier than the original return date, must give his employer not less than 8 weeks' notice of the date on which he now intends to return;
- (b) later than the original return date, must give his employer not less than 8 weeks' notice ending with the original return date.

(2B) In paragraph (2A) the “original return date” means the date which the employee notified to his employer as the date of his return to work under paragraph (1), or the date to which his return was postponed by his employer under paragraph (2).]

(3) An employer is not entitled under paragraph (2) to postpone an employee's return to work to a date after the end of the employee's additional adoption leave period.

(4) If an employee whose return has been postponed under paragraph (2) has been notified that he is not to return to work before the date to which his return was postponed, the employer is under no contractual obligation to pay him remuneration until the date to which his return was postponed if he returns to work before that date.

(5) This regulation does not apply in a case where the employer did not notify the employee in accordance with regulation 17(7) and (8) of the date on which the employee's additional adoption leave period would end.

(6) In a case where an employee's adoption leave is curtailed because regulation 22 applies, the references in this regulation to the end of an employee's additional adoption leave period are references to the date on which that period would have ended had that regulation not applied, irrespective of whether it was the employee's ordinary adoption leave period or his additional adoption leave period that was curtailed.

Textual Amendments

F45 Words in [reg. 25\(1\)](#) substituted (1.10.2006 with effect from 1.4.2007 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **15(a)**

F46 Words in [reg. 25\(2\)](#) substituted (1.10.2006 with effect from 1.4.2007 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **15(b)**

F47 Reg. 25(2A)(2B) inserted (1.10.2006 with effect from 1.4.2007 in accordance with reg. 2 of the amending S.I.) by The Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations 2006 (S.I. 2006/2014), regs. 1, 15(c)

Modifications etc. (not altering text)

C3 Reg. 25 modified (1.9.2013) by Employment Rights Act 1996 (c. 18), s. 205A(3)(b) (as inserted by Growth and Infrastructure Act 2013 (c. 27), ss. 31(1), 35(1); S.I. 2013/1766, art. 2)

Commencement Information

I24 Reg. 25 in force at 8.12.2002, see [reg. 1](#)

Right to return after adoption leave

26.—(1) An employee who returns to work after a period of ordinary adoption leave which was—

(a) an isolated period of leave, or

[^{F48}(b) the last of two or more consecutive periods of statutory leave which did not include any—

(i) period of parental leave of more than four weeks; or

(ii) period of statutory leave which when added to any other periods of statutory leave (excluding parental leave) taken in relation to the same child means that the total amount of statutory leave taken in relation to that child totals more than 26 weeks,]

is entitled to return from leave to the job in which he was employed before his absence.

(2) An employee who returns to work after—

(a) a period of additional adoption leave, whether or not preceded by another period of statutory leave, or

(b) a period of ordinary adoption leave not falling within the description in paragraph (1)(a) or (b) above,

is entitled to return from leave to the job in which he was employed before his absence, or, if it is not reasonably practicable for the employer to permit him to return to that job, to another job which is both suitable for him and appropriate for him to do in the circumstances.

(3) The reference in paragraphs (1) and (2) to the job in which an employee was employed before his absence is a reference to the job in which he was employed—

(a) if his return is from an isolated period of adoption leave, immediately before that period began;

(b) if his return is from consecutive periods of statutory leave, immediately before the first such period.

(4) This regulation does not apply where regulation 23 applies.

Textual Amendments

F48 Reg. 26(1)(b) substituted (1.12.2014) by The Paternity and Adoption Leave (Amendment) Regulations 2014 (S.I. 2014/2112), regs. 1(3), 9

Commencement Information

I25 Reg. 26 in force at 8.12.2002, see [reg. 1](#)

Incidents of the right to return from adoption leave

27.—(1) An employee’s right to return under regulation 26 is to return—

- [^{F49}(a) with his seniority, pension rights and similar rights as they would have been if he had not been absent, and]
- (b) on terms and conditions ^{F50}... not less favourable than those which would have been applied to him if he had not been absent.

[^{F51}(2) In the case of accrual of rights under an employment-related benefit scheme within the meaning given by Schedule 5 to the Social Security Act 1989, nothing in paragraph (1)(a) concerning the treatment of additional adoption leave shall be taken to impose a requirement which exceeds the requirements of paragraphs 5, 5B and 6 of that Schedule .]

(3) The provisions [^{F52}in paragraph (1)] for an employee to be treated as if he had not been absent refer to his absence—

- (a) if his return is from an isolated period of ordinary adoption leave, since the beginning of that period;
- (b) if his return is from consecutive periods of statutory leave, since the beginning of the first such period.

Textual Amendments

- F49** Reg. 27(1)(a) substituted (23.7.2008 with effect from 5.10.2008 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **10(a)**
- F50** Words in reg. 27(1)(b) omitted (6.4.2004) by virtue of [The Paternity and Adoption Leave \(Amendment\) Regulations 2004 \(S.I. 2004/923\)](#), regs. 1(1), **4**
- F51** Reg. 27(2) substituted (23.7.2008 with effect from 5.10.2008 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **10(b)**
- F52** Words in reg. 27(3) substituted (23.7.2008 with effect from 5.10.2008 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **10(c)**

Commencement Information

- I26** Reg. 27 in force at 8.12.2002, see [reg. 1](#)

PART 4

PROVISIONS APPLICABLE IN RELATION TO BOTH PATERNITY AND ADOPTION LEAVE

Protection from detriment

28.—(1) An employee is entitled under section 47C of the 1996 Act⁽⁶⁾ not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer because—

- [^{F53}(za) the employee took or sought to take time off under section 57ZE of the 1996 Act;

(6) 1996 c. 18; section 47C was inserted by paragraph 8 of Part 3 of Schedule 4 to the Employment Relations Act 1999 and amended by paragraph 26 of Schedule 7 to the Employment Act 2002.

- (zb) the employer believed that the employee was likely to take time off under section 57ZE of the 1996 Act;]
- [^{F54}(zc) the employee took or sought to take time off under section 57ZJ or 57ZL of the 1996 Act;
- (zd) the employer believed that the employee was likely to take time off under section 57ZJ or 57ZL of the 1996 Act;]
- (a) the employee took or sought to take paternity leave or ordinary or additional adoption leave;
- (b) the employer believed that the employee was likely to take ordinary or additional adoption leave, ^{F55}...
- [^{F56}(bb) the employee undertook, considered undertaking or refused to undertake work in accordance with regulation 21A; or]
- (c) the employee failed to return after a period of additional adoption leave in a case where—
 - (i) the employer did not notify him, in accordance with regulation 17(7) and (8) or otherwise, of the date on which that period ended, and he reasonably believed that the period had not ended, or
 - (ii) the employer gave him less than 28 days' notice of the date on which the period would end, and it was not reasonably practicable for him to return on that date.
- (2) Paragraph (1) does not apply where the detriment in question amounts to dismissal within the meaning of Part 10 of the 1996 Act.

Textual Amendments

- F53** Reg. 28(1)(za)(zb) inserted (1.10.2014) by [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(2), **10** (with reg. 14(1))
- F54** Reg. 28(1)(zc)(zd) inserted (5.4.2015) by [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(4), **11** (with reg. 14(2))
- F55** Word in reg. 28 omitted (1.10.2006 with effect from 1.4.2007 in accordance with reg. 2 of the amending S.I.) by virtue of [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **16**
- F56** Reg. 28(1)(bb) inserted (1.10.2006 with effect from 1.4.2007 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **16**

Commencement Information

- I27** Reg. 28 in force at 8.12.2002, see [reg. 1](#)

Unfair dismissal

29.—(1) An employee who is dismissed is entitled under section 99 of the 1996 Act to be regarded for the purpose of Part 10 of that Act as unfairly dismissed if—

- (a) the reason or principal reason for the dismissal is of a kind specified in paragraph (3), or
- (b) the reason or principal reason for the dismissal is that the employee is redundant, and regulation 23 has not been complied with.

(2) An employee who is dismissed shall also be regarded for the purposes of Part 10 of the 1996 Act as unfairly dismissed if—

- (a) the reason (or, if more than one, the principal reason) for the dismissal is that the employee was redundant;

- (b) it is shown that the circumstances constituting the redundancy applied equally to one or more employees in the same undertaking who had positions similar to that held by the employee and who have not been dismissed by the employer, and
 - (c) it is shown that the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was a reason of a kind specified in paragraph (3).
- (3) The kinds of reason referred to in paragraph (1) and (2) are reasons connected with the fact that—
- [^{F57}(za) the employee took or sought to take time off under section 57ZE of the 1996 Act;
 - (zb) the employer believed that the employee was likely to take time off under section 57ZE of the 1996 Act;]
 - [^{F58}(zc) the employee took or sought to take time off under section 57ZJ or 57ZL of the 1996 Act;
 - (zd) the employer believed that the employee was likely to take time off under section 57ZJ or 57ZL of the 1996 Act;]
 - (a) the employee took, or sought to take, paternity or adoption leave;
 - (b) the employer believed that the employee was likely to take ordinary or additional adoption leave,^{F59} ...
 - [^{F60}(bb) the employee undertook, considered undertaking or refused to undertake work in accordance with regulation 21A; or]
 - (c) the employee failed to return after a period of additional adoption leave in a case where—
 - (i) the employer did not notify him, in accordance with regulation 17(7) and (8) or otherwise, of the date on which that period would end, and he reasonably believed that the period had not ended, or
 - (ii) the employer gave him less than 28 days' notice of the date on which the period would end, and it was not reasonably practicable for him to return on that date.
 - ^{F61}(4)
- (5) Paragraph (1) does not apply in relation to an employee if—
- (a) it is not reasonably practicable for a reason other than redundancy for the employer (who may be the same employer or a successor of his) to permit the employee to return to a job which is both suitable for the employee and appropriate for him to do in the circumstances;
 - (b) an associated employer offers the employee a job of that kind, and
 - (c) the employee accepts or unreasonably refuses that offer.
- (6) Where, on a complaint of unfair dismissal, any question arises as to whether the operation of paragraph (1) is excluded by the provisions of paragraph ^{F62}... (5), it is for the employer to show that the provisions in question were satisfied in relation to the complainant.

Textual Amendments

- F57** Reg. 29(3)(za)(zb) inserted (1.10.2014) by [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(2), **12** (with reg. 14(3))
- F58** Reg. 29(3)(zc)(zd) inserted (5.4.2015) by [The Paternity and Adoption Leave \(Amendment\) Regulations 2014 \(S.I. 2014/2112\)](#), regs. 1(4), **13** (with reg. 14(4))
- F59** Word in reg. 29(3) omitted (1.10.2006 with effect from 1.4.2007 in accordance with reg. 2 of the amending S.I.) by virtue of [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **17(a)**

- F60** Reg. 29(3)(bb) inserted (1.10.2006 with effect from 1.4.2007 in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **17(a)**
- F61** Reg. 29(4) omitted (1.10.2006 with effect from 1.4.2007 in accordance with reg. 2 of the amending S.I.) by virtue of [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **17(b)**
- F62** Words in reg. 29(6) omitted (1.10.2006 with effect from 1.4.2007 in accordance with reg. 2 of the amending S.I.) by virtue of [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **17(b)**

Commencement Information

- I28** Reg. 29 in force at 8.12.2002, see [reg. 1](#)

Contractual rights to paternity or adoption leave

30.—(1) This regulation applies where an employee is entitled to—

- (a) paternity leave,
- (b) ordinary adoption leave, or
- (c) additional adoption leave,

(referred to in paragraph (2) as a “statutory right”) and also to a right which corresponds to that right and which arises under the employee’s contract of employment or otherwise.

(2) In a case where this regulation applies—

- (a) the employee may not exercise the statutory right and the corresponding right separately but may, in taking the leave for which the two rights provide, take advantage of whichever right is, in any particular respect, the more favourable, and
- (b) the provisions of the 1996 Act and of these Regulations relating to the statutory right apply, subject to any modifications necessary to give effect to any more favourable contractual terms, to the exercise of the composite right described in sub-paragraph (a) as they apply to the exercise of the statutory right.

Commencement Information

- I29** Reg. 30 in force at 8.12.2002, see [reg. 1](#)

Calculation of a week’s pay

31. Where—

- (a) under Chapter 2 of Part 14 of the 1996 Act, the amount of a week’s pay of an employee falls to be calculated by reference to the average rate of remuneration, or the average amount of remuneration, payable to the employee in respect of a period of twelve weeks ending on a particular date (referred to as “the calculation date”);
- (b) during a week in that period, the employee was absent from work on paternity leave or ordinary or additional adoption leave, and
- (c) remuneration is payable to the employee in respect of that week under his contract of employment, but the amount payable is less than the amount that would be payable if he were working,

Changes to legislation: There are currently no known outstanding effects for the The Paternity and Adoption Leave Regulations 2002. (See end of Document for details)

that week shall be disregarded for the purpose of the calculation and account shall be taken of remuneration in earlier weeks so as to bring up to twelve the number of weeks of which account is taken.

.....
Commencement Information

I30 Reg. 31 in force at 8.12.2002, see [reg. 1](#)

11th November 2002

Alan Johnson
Minister of State for Employment Relations,
Industry and the Regions,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to the new rights to paternity and adoption leave provided for in the Employment Act 2002. The relevant provisions are incorporated by that Act into the Employment Rights Act 1996 (“the 1996 Act”).

The right to take paternity leave is conferred by regulation 4 in connection with the birth of a child, and by regulation 8 in connection with the adoption of a child. In each case, the right is available to employees with 26 weeks' qualifying service, and is exercisable for the purpose of caring for the child or supporting the child's mother (in the case of a birth) or adopter (in the case of an adoption).

Regulations 5 and 9 give an employee the option of taking either one week's leave or two consecutive weeks' leave, and also options concerning the date on which the employee's period of leave will begin; however, leave may only be taken within 56 days of the child's birth or placement with the adopter. Regulations 6 and 10 require an employee to notify his employer of his intention to take leave and of his choices in respect of the options available.

Regulation 12 elaborates new section 80C of the 1996 Act, by providing that an employee is entitled during his absence on leave to the benefit of all of his terms and conditions of employment apart from the right to remuneration (excluded by section 80C(5)(b)); also that the employee is subject to all of the obligations under those terms and conditions except in so far as they are inconsistent with the right to leave (the exception appears in section 80C(1)(b)). Regulations 13 and 14 provide for an employee's right to return to work after taking leave, distinguishing the case where the leave was an isolated period of absence from the case where it followed another period of statutory leave.

New sections 75A and 75B of the 1996 Act confer rights to ordinary and additional adoption leave which are analogous to the right to ordinary and additional maternity leave conferred by sections 71 and 73 of that Act.

Regulation 15 sets out the conditions of entitlement to ordinary adoption leave. An employee must have 26 weeks' qualifying service, must have been matched with a child by an adoption agency, and must have agreed that the child should be placed with him for adoption. Only one person may take adoption leave in respect of a child at any time; accordingly, where a couple propose to adopt a child jointly, one may take adoption leave but the other may only take paternity leave. Regulation 16 enables an employee to choose when his period of leave should begin. Regulation 17 imposes notice requirements similar to those applicable in relation to paternity leave.

Ordinary adoption leave may be taken for a period of 26 weeks (regulation 18), and an employee who has completed a period of ordinary adoption leave is eligible for 26 weeks' additional adoption leave (regulation 20). During ordinary adoption leave, an employee's terms and conditions of employment continue to apply to the same extent as during paternity leave (regulation 19). During additional adoption leave only certain terms and conditions continue to apply. These are listed in regulation 21; the list is the same as that prescribed by the Maternity and Parental Leave etc. Regulations 1999 in relation to additional maternity leave.

Regulations 22–27 contain provisions applicable in relation to both ordinary and additional adoption leave. Regulation 22 deals with cases where the child is not placed with the employee or the placement ends; in such cases, the employee's entitlement to leave comes to an end after a period of eight weeks. Regulations 23 and 24 deal with cases where an employee becomes redundant or is dismissed during an adoption leave period. Regulation 25 requires an employee to notify his employer if he intends to return to work before his entitlement to both ordinary and additional

Changes to legislation: *There are currently no known outstanding effects for the The Paternity and Adoption Leave Regulations 2002. (See end of Document for details)*

adoption leave is exhausted. Regulations 26 and 27 deal with the employee's right to return: an employee has the right to return to the same job after an isolated period of ordinary adoption leave, and the right to return to the same or a similar job after a period of additional adoption leave. Provision is made for adoption leave taken after other periods of statutory leave.

Regulations 28–31 contain provisions applicable in relation to both paternity leave and adoption leave. As in the case of employees entitled to maternity or parental leave under the 1996 Act, an employee entitled to paternity or adoption leave is protected against detriment or dismissal attributable to the fact that he took or sought to take such leave. The same protection is available where an employee fails to return after a period of additional adoption leave, if his employer has not notified him of the date on which that period would end.

A Regulatory Impact Assessment of the costs and benefits of these regulations to business has been placed in the libraries of both Houses of Parliament. Copies are available to the public from the Employment Relations Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET; the Assessment is also accessible at the Directorate's website www.dti.gov.uk/er.

Changes to legislation:

There are currently no known outstanding effects for the The Paternity and Adoption Leave Regulations 2002.