
STATUTORY INSTRUMENTS

2024 No. 329

The Paternity Leave (Amendment) Regulations 2024

PART 2

Amendments to the Paternity and Adoption Leave Regulations 2002

7. The Paternity and Adoption Leave Regulations 2002 are amended as set out in regulations 8 to 16.

8. In regulation 2(1), insert at the appropriate place—

“returned after being placed for adoption means—

- (a) returned under sections 31 to 35 of the Adoption and Children Act 2002(1);
- (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(2); 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(3).”

9. In regulation 5 (options in respect of leave under regulation 4)—

(a) for paragraph (1) substitute—

“(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.”;

(b) in paragraph (2), for “56 days”, in both places those words occur substitute “52 weeks”.

10. For regulation 6 (notice and evidential requirements for leave under regulation 4) substitute—

“Notice and evidential requirements for leave under regulation 4

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—

(1) 2002 c. 38. Sections 32, 34 and 35 were amended by the Children and Families Act 2014 (c. 6), Schedule 2, Part 2, paragraphs 63 and 64 and by S.I. 2016/413 and 2018/195 and applied, with modifications, by S.I. 2005/392.

(2) 2007 asp 4. Section 25 was applied, with modifications, and disappplied in certain circumstances by S.S.I. 2009/182.

(3) 1989 c. 41. Section 22C was inserted by the Children and Young Persons Act 2008 (c. 23), section 8 and amended by the Children and Families Act 2014 (c. 6), section 2 and Schedule 2, Part 1, paragraph 29, S.I. 2016/413 and S.I. 2018/195, and disappplied in certain circumstances by S.I. 2012/2813.

- (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.”.

11. In regulation 7 (commencement of leave under regulation 4), for paragraph (1) substitute—

“(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).”.

12. In regulation 9 (options in respect of leave under regulation 8)—

(a) for paragraph (1) substitute—

“(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.”;

(b) in paragraph (2) for “56 days” substitute “52 weeks”.

13. For regulation 10 (notice and evidential requirements for leave under regulation 8) substitute—

“Notice and evidential requirements for leave under regulation 8

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.”.

14. In regulation 11 (commencement of leave under regulation 8), for paragraph (1) substitute—

“(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).”.

15. After regulation 11, insert—

“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

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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.”

16. In regulation 22 (disrupted placement in the course of adoption leave), omit paragraph (3A)(4).