
EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations, together with provisions inserted into the Employment Rights (Northern Ireland) Order 1996 (“the 1996 Order”) by the Employment Relations (Northern Ireland) Order 1999, confer new rights to maternity and parental leave. The provisions relating to parental leave implement Council Directive [96/34/EC](#) on the framework agreement on parental leave (O.J. No. L145, 19.6.96, p. 4).

The provisions relating to ordinary maternity leave are derived from the maternity leave provisions in Articles 104-110 of the 1996 Order as originally enacted, although the period of leave provided for is 18 weeks (regulation 7(1)) rather than 14 weeks as under the Order. The provisions relating to additional maternity leave replace Articles 111-117 of the 1996 Order as originally enacted; the new provisions differ principally in that the new right is a right to leave for a period of 29 weeks from the beginning of the week of childbirth (regulation 7(4)) rather than a right to return within such a period, and that the new right is available to women who have been continuously employed for a year (regulation 5) rather than for two years. The provision made for compulsory maternity leave (in new Article 104 of the 1996 Order and regulation 8) implements Article 8.2 of the Pregnant Workers Directive ([92/85/EEC](#); O.J. No. L348, 28.11.92, p. 1), replacing the Maternity (Compulsory Leave) Regulations (Northern Ireland) 1994 ([S.R. 1994, No. 379](#)) which originally implemented that provision.

The right to parental leave is available to employees who have been continuously employed for a year and have, or expect to have, parental responsibility for a child (regulation 13). The period of leave is 13 weeks (regulation 14), and leave must generally be taken before the child’s fifth birthday (regulation 15, which sets out exceptions including provision for leave to be taken before the eighteenth birthday of a child entitled to a disability living allowance). Schedule 2 to the Regulations sets out provisions requiring that the employer must be notified of any proposal to take parental leave and may postpone it for up to six months; it also provides that (except in the case of a child entitled to a disability living allowance) parental leave may not be taken in periods other than a week or a multiple of a week. These provisions apply only to employees who are not subject to a collective or workforce agreement relating to parental leave.

In relation to both additional maternity leave and parental leave, provision is made for certain contractual rights and obligations to continue during the period of absence (regulation 17), and for the employee to return to the same or an appropriate alternative job after that period (regulation 18). The regulations also make provision under Articles 70C and 131 of the 1996 Order (both amendments introduced by the Employment Relations (Northern Ireland) Order 1999), identifying the cases where the protection against detriment or dismissal for which those Articles provide is applicable (regulations 19 and 20). The cases are not only cases connected with maternity or parental leave but also cases connected with the right to time off for dependants under new Article 85A of the 1996 Order.