
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers inserted into the Employment Rights (Northern Ireland) Order 1996 (N.I. 16) (the “1996 Order”) by the Parental Bereavement (Leave and Pay) Act (Northern Ireland) 2022 (c. 5).

The Regulations revoke and re-enact the provisions of the Parental Bereavement Leave Regulations (Northern Ireland) 2023 which would otherwise cease to have effect by virtue of Article 251(1A) of the Employment Rights (Northern Ireland) Order 1996.

These Regulations provide for a statutory entitlement for bereaved parents who are employees to take up to two weeks’ leave from their job called parental bereavement leave in the 56 weeks following the death of a child.

Part 2 relates to entitlement to parental bereavement leave. The right to take parental bereavement leave is conferred by regulation 4 which sets out the conditions for entitlement which must be satisfied by the employee in order to take parental bereavement leave. These include substantive requirements, such as the employee falling within the definition of a bereaved parent (in particular, specifying the types of parental relationships in respect of which the new entitlement arises), as well as procedural requirements, such as the employee giving appropriate notices to their employer. Where an employee is entitled to parental bereavement leave under regulation 4 as the result of the death of more than one child, the employee is entitled to parental bereavement leave in respect of each child.

Regulation 5 sets out the number of weeks of parental bereavement leave that are available to a bereaved parent and gives an employee the option of taking either one or two weeks’ parental bereavement leave. The weeks taken as parental bereavement leave do not need to be taken consecutively. It also provides that parental bereavement leave may only be taken within the period of 56 weeks beginning with the date of the child’s death.

Regulation 6 details the notice requirements and other information the bereaved parent must provide to their employer before taking parental bereavement leave. An employee does not need to provide notice in writing to his or her employer, but the length of notice required to book and cancel parental bereavement leave will vary depending on whether the period the employee intends to take as parental bereavement leave falls within 56 days of the child’s death or later. Regulations 7 and 8 respectively set out when an employee’s period of bereavement leave may start and what happens when a period of parental bereavement leave is interrupted by another type of statutory leave under Part 9 of the 1996 Order.

Part 3 contains provisions applicable in relation to the taking of parental bereavement leave. Regulation 9 elaborates on the new Article 112EB of the 1996 Order, by providing that an employee is entitled during his or her absence on leave to the benefit of all of his or her terms and conditions of employment apart from the right to remuneration (excluded by Article 112EB(2)(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 take parental bereavement leave (the exception appears in Article 112EB(1)(b)). Regulations 10 and 11 provide for an employee’s right to return to work after taking a period of parental bereavement leave, distinguishing the case where the leave was an isolated period of absence from the case where it followed another period of statutory leave. Regulations 12 and 13 provide that an employee entitled to parental bereavement leave is protected from detriment and dismissal attributable to the fact that they took or sought to take parental bereavement leave.

Status: Point in time view as at 29/09/2023.

Changes to legislation: There are currently no known outstanding effects for the The Parental Bereavement Leave (No. 2) Regulations (Northern Ireland) 2023. (See end of Document for details)

Part 4 contains provisions applicable where an employee has a contractual right to parental bereavement leave, in addition to the statutory right contained within these Regulations.

Part 5 (regulations 16 to 22) contains provisions in respect of the Transitional arrangements that will ensure a continuity of entitlement between the revoked Regulations and current Regulations. This part also contains the revocation of the Parental Bereavement Leave Regulations (Northern Ireland) 2023.

A separate impact assessment has not been prepared for these Regulations. The Regulations are part of a package of legislative measures and the relevant impact assessment is the Parental Bereavement (Leave and Pay) Bill impact assessment which was published in April 2020. (<https://www.economy-ni.gov.uk/sites/default/files/consultations/economy/equality-impact-assessment-parental-bereavement-leave-and-pay.pdf>).

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