
STATUTORY RULES OF NORTHERN IRELAND

2023 No. 156

**The Parental Bereavement Leave (No. 2)
Regulations (Northern Ireland) 2023**

PART 2

ENTITLEMENT TO PARENTAL BEREAVEMENT LEAVE

Entitlement to parental bereavement leave

4.—(1) An employee is entitled to be absent from work to take parental bereavement leave if he or she—

- (a) satisfies one of the conditions specified in paragraph (2); and
- (b) complies with the notice requirements in regulation 6.

(2) The conditions referred to in paragraph (1) are that, at the date of C's death, the employee is—

- (a) C's parent;
- (b) C's natural parent and named in an order made pursuant to section 51A(2)(a) of the Adoption and Children Act 2002(1) or section 11(3)(aa) of the Children (Scotland) Act 1995(2), provided that such an order has not subsequently been revoked or discharged;
- (c) a person with whom C has been placed for adoption, for so long as that placement has not been disrupted, as mentioned in paragraph (3);
- (d) an adopter—
 - (i) with whom C was living; and
 - (ii) who has received official notification in respect of C;
- (e) an intended parent of C;
- (f) C's parent in fact; or
- (g) the partner of P.

(3) For the purposes of paragraph (2)(c), a placement has been disrupted—

- (a) when C has been returned to the agency under Article 31(3) of the Adoption (Northern Ireland) Order 1987(3);
- (b) when C has been returned under sections 31 to 35 of the Adoption and Children Act 2002(4);

(1) Section 51A was inserted by the Children and Families Act 2014, section 9.

(2) Section 11(3)(aa) was inserted by the Adoption and Children (Scotland) Act 2007, section 107.

(3) Article 31(3) was amended by the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)), Article 185(1) Schedule 9, paragraph 154(2).

(4) Sections 32, 34 and 35 were amended by the Children and Families Act 2014, section 12 and Schedule 2, Part 2, paragraphs 63 and 64 and by S.I. 2016/43.

- (c) in Scotland, when C has been 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
- (d) when C's placement—
- (i) with a local authority foster parent who is also a prospective adopter in accordance with section 22C of the Children Act 1989 following consideration in accordance with subsection (9B)(c) of that section⁽⁵⁾; or
 - (ii) with a prospective adopter in accordance with section 81 of the Social Services and Well-being (Wales) Act 2014;
- has been terminated.
- (4) Subject to paragraph (6), a person is C's parent in fact if that person, for a continuous period of at least four weeks ending with the day on which C dies—
- (a) lived with C in the person's own home; and
 - (b) had day to day responsibility for C's care.
- (5) For the purposes of the continuous period mentioned in paragraph (4), no account is to be taken of any absences of a temporary or intermittent nature.
- (6) A person is not to be regarded as C's parent in fact if—
- (a) C is in the care of that person in premises in which any parent of C's, or any person who is not a parent of C's but who has responsibility for C, is living; or
 - (b) that person was or is entitled to receive remuneration, whether by way of wages or otherwise, in respect of the care of C.
- (7) A person has responsibility for C, for the purposes of paragraph (6)(a), if the person has parental responsibility within the meaning of Article 6 of the Children (Northern Ireland) Order 1995⁽⁶⁾.
- (8) For the purposes of paragraph (6)(b), the following payments are not to be regarded as remuneration—
- (a) any fostering fee or allowance paid to an approved foster parent;
 - (b) payments wholly or mainly intended to reimburse the person for expenses which arise from, or are expected to arise from, the person's care of C;
 - (c) amounts received pursuant to the terms of a will, trust or similar instrument which makes provision in respect of C's care.
- (9) In this regulation—
- (a) "P" means any person who satisfies one of the conditions in paragraph (2)(a) to (f);
 - (b) "partner" means a person (whether of a different sex or the same sex) who lives with C and P in an enduring family relationship but is not a relative of P of a kind specified in sub-paragraph (c);
 - (c) the relatives of P referred to in sub-paragraph (b) are P's parent, grandparent, sister, brother, aunt or uncle;
 - (d) references to relationships in sub-paragraph (c)—
 - (i) 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

⁽⁵⁾ 1989 c. 41; section 22C(9B) was inserted by the Children and Families Act 2014, section 2(3).

⁽⁶⁾ S.I. 1995/755 (N.I. 2).

(ii) include the relationship of a child with his or her adoptive, or former adoptive, parents;

but do not include any other adoptive relationships.

(10) Where an employee is eligible to take parental bereavement leave under this regulation as a result of the death of more than one child, the employee is entitled to parental bereavement leave in respect of each child.

Commencement Information

II Reg. 4 in operation at 29.9.2023, see [reg. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Parental Bereavement Leave (No. 2) Regulations (Northern Ireland) 2023, Section 4.