
DRAFT STATUTORY INSTRUMENTS

1999 No.

The Maternity and Parental Leave etc. Regulations 1999

PART IV

**PROVISIONS APPLICABLE IN RELATION
TO MORE THAN ONE KIND OF ABSENCE**

Protection from detriment

19.—(1) An employee is entitled under section 47C of the 1996 Act not to be subjected to any detriment by any act, or by deliberate failure to act, by her employer done for any of the reasons specified in paragraph (2).

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

- (a) is pregnant;
- (b) has given birth to a child;
- (c) is the subject of a relevant requirement, or a relevant recommendation, as defined by section 66(2) of the 1996 Act;
- (d) took, sought to take or availed herself of the benefits of, ordinary maternity leave;
- (e) took or sought to take—
 - (i) additional maternity leave;
 - (ii) parental leave, or
 - (iii) time off under section 57A of the 1996 Act;
- (f) declined to sign a workforce agreement for the purpose of these Regulations, or
- (g) being—
 - (i) a representative of members of the workforce for the purposes of Schedule 1, or
 - (ii) a candidate in an election in which any person elected will, on being elected, become such a representative,performed (or proposed to perform) any functions or activities as such a representative or candidate.

(3) For the purposes of paragraph (2)(d), a woman avails herself of the benefits of ordinary maternity leave if, during her ordinary maternity leave period, she avails herself of the benefit of any of the terms and conditions of her employment preserved by section 71 of the 1996 Act during that period.

(4) Paragraph (1) does not apply in a case where the detriment in question amounts to dismissal within the meaning of Part X of the 1996 Act.

(5) Paragraph (2)(b) only applies where the act or failure to act takes place during the employee's ordinary or additional maternity leave period.

(6) For the purposes of paragraph (5)—

- (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.
- (7) For the purposes of paragraph (6), 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 were to be done.