



Employment Rights Act 1996

1996 CHAPTER 18

[^{F1}PART VIII

[^{F1}]^{F2}CHAPTER 1A

ADOPTION LEAVE

Textual Amendments

- F1** Pt. 8 (ss. 71-80) substituted for Pt. 8 (ss. 71-85) (15.12.1999) by 1999 c. 26, s. 7, **Sch. 4 Pt. 1**; S.I. 1999/2830, art. 2(1)(2), **Sch. 1 Pt. 2** (with transitional provisions in Sch. 3 para. 10)
- F2** Pt. 8 Ch. 1A inserted (8.12.2002) by **Employment Act 2002** (c. 22), s. 3; S.I. 2002/2866, art. 2(2), Sch. 1 Pt. 2

75A Ordinary adoption leave

- (1) An employee who satisfies prescribed conditions may be absent from work at any time during an ordinary adoption leave period.

- [The conditions that may be prescribed under subsection (1) include conditions as to—
- ^{F3}(1A) (a) being a local authority foster parent;
- (b) being approved as a prospective adopter;
- (c) [^{F4}being notified—
- (i) by a local authority in England that a child is to be, or is expected to be, placed with the employee under section 22C of the Children Act 1989;
- (ii) by a local authority in Wales that a child is to be, or is expected to be, placed with the employee under section 81 of the Social Services and Well-being (Wales) Act 2014.]

- (2) An ordinary adoption leave period is a period calculated in accordance with regulations made by the Secretary of State.

Status: Point in time view as at 03/01/2019.

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- [Regulations under subsection (2)]^{F6}—
- ^{F5}(2A) [may allow an employee to bring forward the date on which an ordinary
- ^{F6}(a) adoption leave period ends, subject to prescribed restrictions and subject to satisfying prescribed conditions;
- (b) may allow an employee in prescribed circumstances to revoke, or to be treated as revoking, the bringing forward of that date;]
- [may specify circumstances in which an employee may work for his employer
- ^{F7}(c)] during an ordinary adoption leave period without bringing the period to an end.]
- [Provision under subsection (2A)(a) is to secure that an employee may bring forward
- ^{F8}(2B) the date on which an ordinary adoption leave period ends only if the employee or another person has taken, or is taking, prescribed steps as regards leave under section 75G or statutory shared parental pay in respect of the child.]
- (3) Subject to section 75C, an employee who exercises his right under subsection (1)—
- (a) is entitled, for such purposes and to such extent as may be prescribed, to the benefit of the terms and conditions of employment which would have applied if he had not been absent,
- (b) is bound, for such purposes and to such extent as may be prescribed, by any obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1)), and
- (c) is entitled to return from leave to a job of a prescribed kind.
- (4) In subsection (3)(a) “ terms and conditions of employment ”—
- (a) includes matters connected with an employee’s employment whether or not they arise under his contract of employment, but
- (b) does not include terms and conditions about remuneration.
- (5) In subsection (3)(c), the reference to return from leave includes, where appropriate, a reference to a continuous period of absence attributable partly to ordinary adoption leave and partly to maternity leave.
- (6) The Secretary of State may make regulations specifying matters which are, or are not, to be treated as remuneration for the purposes of this section.
- (7) The Secretary of State may make regulations making provision, in relation to the right to return under subsection (3)(c), about—
- (a) seniority, pension rights and similar rights;
- (b) terms and conditions of employment on return.
- [^{F9}(8) The Secretary of State may by regulations provide for this section to have effect, with such modifications as the regulations may prescribe, in relation to—
- (a) cases which involve an employee who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order,
- (b) cases which involve an employee who has applied, or intends to apply, for a parental order under section 54A of that Act and a child who is, or will be, the subject of the order.]

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Textual Amendments

- F3** S. 75A(1A) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 121(1)**, 139(6); S.I. 2014/1640, art. 3(1)(e)
- F4** S. 75A(1A)(c) substituted (E.W.) (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **145**
- F5** S. 75A(2A) inserted (27.6.2006 for certain purposes, otherwise 1.10.2006) by [Work and Families Act 2006 \(c. 18\)](#), ss. 11, 19, **Sch. 1 para. 33**; S.I. 2006/1682, **art. 2(c), 3(c)(d)**
- F6** Words in s. 75A(2A) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 118(4)(a)**, 139(6); S.I. 2014/1640, art. 3(1)(b)
- F7** Words in s. 75A(2A)(c) renumbered as s. 75A(2A)(c) (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 118(4)(b)**, 139(6); S.I. 2014/1640, art. 3(1)(b)
- F8** S. 75A(2B) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 118(4)(c)**, 139(6); S.I. 2014/1640, art. 3(1)(b)
- F9** S. 75A(8) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 1 para. 11(10)**

Modifications etc. (not altering text)

- C1** S. 75A applied (25.11.2014) by [The Employment Rights Act 1996 \(Application of Sections 75A, 75B, 75G, 75H, 80A and 80B to Parental Order Cases\) Regulations 2014 \(S.I. 2014/3095\)](#), regs. 1(1), **2**
- C2** S. 75A amendment to earlier affecting provision S.I. 2014/3095, reg. 2 (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 8**

75B Additional adoption leave

- (1) An employee who satisfies prescribed conditions may be absent from work at any time during an additional adoption leave period.
- (2) An additional adoption leave period is a period calculated in accordance with regulations made by the Secretary of State.

[^{F10}(3) Regulations under subsection (2)—

- (a) may allow an employee [^{F11}to bring forward the date on which an additional adoption leave period ends, subject to prescribed restrictions and subject to satisfying prescribed conditions;]
- [^{F12}(aa) may allow an employee in prescribed circumstances to revoke, or to be treated as revoking, the bringing forward of that date;]
- (b) may specify circumstances in which an employee may work for his employer during an additional adoption leave period without bringing the period to an end.]

[Provision under subsection (3)(a) is to secure that an employee may bring forward the
^{F13}(3A) date on which an additional adoption leave period ends only if the employee or another person has taken, or is taking, prescribed steps as regards leave under section 75G or statutory shared parental pay in respect of the child.]

- (4) Subject to section 75C, an employee who exercises his right under subsection (1)—
 - (a) is entitled, for such purposes and to such extent as may be prescribed, to the benefit of the terms and conditions of employment which would have applied if he had not been absent,

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- (b) is bound, for such purposes and to such extent as may be prescribed, by obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1)), and
 - (c) is entitled to return from leave to a job of a prescribed kind.
- (5) In subsection (4)(a) “ terms and conditions of employment ”—
- (a) includes matters connected with an employee’s employment whether or not they arise under his contract of employment, but
 - (b) does not include terms and conditions about remuneration.
- (6) In subsection (4)(c), the reference to return from leave includes, where appropriate, a reference to a continuous period of absence attributable partly to additional adoption leave and partly to—
- (a) maternity leave, or
 - (b) ordinary adoption leave,
- or to both.
- (7) The Secretary of State may make regulations specifying matters which are, or are not, to be treated as remuneration for the purposes of this section.
- (8) The Secretary of State may make regulations making provision, in relation to the right to return under subsection (4)(c), about—
- (a) seniority, pension rights and similar rights;
 - (b) terms and conditions of employment on return.
- [^{F14}(9) The Secretary of State may by regulations provide for this section to have effect, with such modifications as the regulations may prescribe, in relation to—
- (a) cases which involve an employee who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order,
 - (b) cases which involve an employee who has applied, or intends to apply, for a parental order under section 54A of that Act and a child who is, or will be, the subject of the order.]

Textual Amendments

- F10** S. 75B(3) substituted (27.6.2006 for certain purposes, otherwise 1.10.2006) by [Work and Families Act 2006 \(c. 18\)](#), ss. 11, 19, [Sch. 1 para. 34](#); S.I. 2006/1682, [art. 2\(c\)](#), 3(c)(d)
- F11** Words in s. 75B(3)(a) substituted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 118\(5\)\(a\)](#), 139(6); S.I. 2014/1640, [art. 3\(1\)\(b\)](#)
- F12** S. 75B(3)(aa) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 118\(5\)\(b\)](#), 139(6); S.I. 2014/1640, [art. 3\(1\)\(b\)](#)
- F13** S. 75B(3A) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 118\(5\)\(c\)](#), 139(6); S.I. 2014/1640, [art. 3\(1\)\(b\)](#)
- F14** S. 75B(9) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial Order 2018 \(S.I. 2018/1413\)\)](#), [art. 1\(1\)](#), [Sch. 1 para. 11\(11\)](#)

Modifications etc. (not altering text)

- C3** S. 75B applied (25.11.2014) by [The Employment Rights Act 1996 \(Application of Sections 75A, 75B, 75G, 75H, 80A and 80B to Parental Order Cases\) Regulations 2014 \(S.I. 2014/3095\)](#), regs. 1(1), 2

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- C4** S. 75B amendment to earlier affecting provision S.I. 2014/3095, reg. 2 (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), [Sch. 2 para. 8](#)

75C Redundancy and dismissal

- (1) Regulations under section 75A or 75B may make provision about—
- (a) redundancy, or
 - (b) dismissal (other than by reason of redundancy),
- during an ordinary or additional adoption leave period.
- (2) Regulations made by virtue of subsection (1) may include—
- (a) provision requiring an employer to offer alternative employment;
 - (b) provision for the consequences of failure to comply with the regulations (which may include provision for a dismissal to be treated as unfair for the purposes of Part 10).
- (3) Regulations under section 75A or 75B may make provision—
- (a) for section 75A(3)(c) or 75B(4)(c) not to apply in specified cases, and
 - (b) about dismissal at the conclusion of an ordinary or additional adoption leave period.

75D Chapter 1A: supplemental

- (1) Regulations under section 75A or 75B may—
- (a) make provision about notices to be given, evidence to be produced and other procedures to be followed by employees and employers;
 - (b) make provision requiring employers or employees to keep records;
 - (c) make provision for the consequences of failure to give notices, to produce evidence, to keep records or to comply with other procedural requirements;
 - (d) make provision for the consequences of failure to act in accordance with a notice given by virtue of paragraph (a);
 - (e) make special provision for cases where an employee has a right which corresponds to a right under this Chapter and which arises under his contract of employment or otherwise;
 - (f) make provision modifying the effect of Chapter 2 of Part 14 (calculation of a week's pay) in relation to an employee who is or has been absent from work on ordinary or additional adoption leave;
 - (g) make provision applying, modifying or excluding an enactment, in such circumstances as may be specified and subject to any conditions specified, in relation to a person entitled to ordinary or additional adoption leave;
 - (h) make different provision for different cases or circumstances.

[Where section 75A or 75B has effect in relation to such cases as are described in ^{F15}(1A) section 75A(8) or 75B(9), regulations under section 75A or 75B about evidence to be produced may require statutory declarations as to—

- (a) eligibility to apply for a parental order [^{F16}under section 54 or 54A of the Human Fertilisation and Embryology Act 2008];
- (b) intention to apply for such an order.]

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(2) In sections 75A and 75B “prescribed” means prescribed by regulations made by the Secretary of State.]]

Textual Amendments

- F15** S. 75D(1A) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 122(3)**, 139(6); S.I. 2014/1640, **art. 3(1)(f)**
- F16** Words in s. 75D(1A)(a) inserted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), **art. 1(1)**, **Sch. 1 para. 11(12)**

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