



# Employment Rights Act 1996

## 1996 CHAPTER 18

### [<sup>F1</sup>PART VIII]

### [<sup>F1</sup>CHAPTER 3

### PATERNITY LEAVE

#### Textual Amendments

- F1** Pt. 8 Ch. 3 inserted (8.12.2002) by [Employment Act 2002 \(c. 22\), s. 1](#); [S.I. 2002/2866, art. 2\(2\)](#), Sch. 1 Pt. 2

#### **80A** Entitlement to <sup>F2</sup>... paternity leave: birth

- (1) The Secretary of State shall make regulations entitling an employee who satisfies specified conditions—
  - (a) as to duration of employment,
  - (b) as to relationship with a newborn, or expected, child, and
  - (c) as to relationship with the child's mother,to be absent from work on leave under this section for the purpose of caring for the child or supporting the mother.
- (2) The regulations shall include provision for determining—
  - (a) the extent of an employee's entitlement to leave under this section in respect of a child;
  - (b) when leave under this section may be taken.
- (3) Provision under subsection (2)(a) shall secure that where an employee is entitled to leave under this section in respect of a child he is entitled to at least two weeks' leave.

*Status: Point in time view as at 06/08/2022.*

*Changes to legislation: Employment Rights Act 1996, Chapter 3 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) Provision under subsection (2)(b) shall secure that leave under this section must be taken before the end of a period of at least 56 days beginning with the date of the child's birth.
- [ Provision under subsection (2)(b) must secure that, once an employee takes leave
- <sup>F3</sup>(4A) under section 75E in respect of a child, the employee may not take leave under this section in respect of the child.]
- (5) Regulations under subsection (1) may—
- specify things which are, or are not, to be taken as done for the purpose of caring for a child or supporting the child's mother;
  - make provision excluding the right to be absent on leave under this section in respect of a child where more than one child is born as a result of the same pregnancy;
  - make provision about how leave under this section may be taken.
- (6) Where more than one child is born as a result of the same pregnancy, the reference in subsection (4) to the date of the child's birth shall be read as a reference to the date of birth of the first child born as a result of the pregnancy.
- (7) In this section—
- “ newborn child ” includes a child stillborn after twenty-four weeks of pregnancy;
- “ week ” means any period of seven days.

#### Textual Amendments

- F2** Word in s. 80A heading repealed (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 7 para. 32](#); S.I. 2014/1640, art. 7(o) (with art. 16)
- F3** S. 80A(4A) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 118\(6\)](#), 139(6); S.I. 2014/1640, art. 3(1)(b)

#### Modifications etc. (not altering text)

- C1** S. 80A applied (with modifications) (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), 4, [Sch. 2](#)
- C2** S. 80A amendment to earlier affecting provision S.I. 2014/3095, reg. 4, Sch. 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](#)

#### <sup>F4</sup> **Entitlement to additional paternity leave: birth**

#### **80AA**

.....

#### Textual Amendments

- F4** S. 80AA repealed (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 125\(1\)](#), 139(6); S.I. 2014/1640, art. 6(b) (with art. 14)

*Status: Point in time view as at 06/08/2022.*

*Changes to legislation: Employment Rights Act 1996, Chapter 3 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## **80B Entitlement to <sup>F5</sup> ... paternity leave: adoption**

- (1) The Secretary of State shall make regulations entitling an employee who satisfies specified conditions—
  - (a) as to duration of employment,
  - (b) as to relationship with a child placed, or expected to be placed, for adoption under the law of any part of the United Kingdom, and
  - (c) as to relationship with a person with whom the child is, or is expected to be, so placed for adoption,to be absent from work on leave under this section for the purpose of caring for the child or supporting the person by reference to whom he satisfies the condition under paragraph (c).
- (2) The regulations shall include provision for determining—
  - (a) the extent of an employee's entitlement to leave under this section in respect of a child;
  - (b) when leave under this section may be taken.
- (3) Provision under subsection (2)(a) shall secure that where an employee is entitled to leave under this section in respect of a child he is entitled to at least two weeks' leave.
- (4) Provision under subsection (2)(b) shall secure that leave under this section must be taken before the end of a period of at least 56 days beginning with the date of the child's placement for adoption.

[ Provision under subsection (2)(b) must secure that, once an employee takes leave <sup>F6</sup>(4A) under section 75G in respect of a child, the employee may not take leave under this section in respect of the child.]
- (5) Regulations under subsection (1) may—
  - (a) specify things which are, or are not, to be taken as done for the purpose of caring for a child or supporting a person with whom a child is placed for adoption;
    - [ <sup>F7</sup>(aa) make provision excluding the right to be absent on leave under this section in the case of an employee who, by virtue of provision under subsection (6A), has already exercised a right to be absent on leave under this section in connection with the same child;]
    - (b) make provision excluding the right to be absent on leave under this section in the case of an employee who exercises a right to be absent from work on adoption leave;
      - [ <sup>F8</sup>(ba) make provision excluding the right to be absent on leave under this section in the case of an employee who has exercised a right to take time off under section 57ZJ;]
      - (c) make provision excluding the right to be absent on leave under this section in respect of a child where more than one child is placed for adoption as part of the same arrangement;
      - (d) make provision about how leave under this section may be taken.
  - (6) Where more than one child is placed for adoption as part of the same arrangement, the reference in subsection (4) to the date of the child's placement shall be read as a reference to the date of placement of the first child to be placed as part of the arrangement.

*Status: Point in time view as at 06/08/2022.*

*Changes to legislation: Employment Rights Act 1996, Chapter 3 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[<sup>F10</sup> Regulations under subsection (1) shall include provision for leave in respect of a<sup>F9</sup>(6A) child placed, or expected to be placed—

- (a) under section 22C of the Children Act 1989 by a local authority in England, or
- (b) under section 81 of the Social Services and Well-being (Wales) Act 2014 by a local authority in Wales,

with a local authority foster parent who has been approved as a prospective adopter.]

(6B) This section has effect in relation to regulations made by virtue of subsection (6A) as if—

- (a) references to being placed for adoption were references to being placed under section 22C of the Children Act 1989<sup>F11</sup>, or section 81 of the Social Services and Well-being (Wales) Act 2014] with a local authority foster parent who has been approved as a prospective adopter;
- (b) references to placement for adoption were references to placement under section 22C<sup>F12</sup> of the Children Act 1989, or section 81 of the Social Services and Well-being (Wales) Act 2014] with such a person;
- (c) paragraph (aa) of subsection (5) were omitted.]

(7) In this section, “ week ” means any period of seven days.

(8) The Secretary of State may by regulations provide for this section to have effect in relation to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom, with such modifications as the regulations may prescribe.

[ The Secretary of State may by regulations provide for this section to have effect in<sup>F13</sup>(9) relation to 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, with such modifications as the regulations may prescribe.]

#### Textual Amendments

- F5** Word in s. 80B heading repealed (5.4.2015) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 7 para. 33](#); S.I. 2014/1640, art. 7(o) (with art. 16)
- F6** S. 80B(4A) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\), ss. 118\(7\), 139\(6\)](#); S.I. 2014/1640, art. 3(1)(b)
- F7** S. 80B(5)(aa) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\), ss. 121\(2\)\(a\), 139\(6\)](#); S.I. 2014/1640, art. 3(1)(e)
- F8** S. 80B(5)(ba) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\), ss. 128\(2\)\(b\), 139\(6\)](#); S.I. 2014/1640, art. 3(1)(j)
- F9** S. 80B(6A)(6B) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\), ss. 121\(2\)\(b\), 139\(6\)](#); S.I. 2014/1640, art. 3(1)(e)
- F10** S. 80B(6A) 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\(1\), 147\(a\)](#)
- F11** Words in s. 80B(6B)(a) inserted (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\(1\), 147\(b\)](#)
- F12** Words in s. 80B(6B)(b) inserted (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\(1\), 147\(c\)](#)
- F13** S. 80B(9) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\), ss. 122\(4\), 139\(6\)](#); S.I. 2014/1640, art. 3(1)(f)

*Status: Point in time view as at 06/08/2022.*

*Changes to legislation: Employment Rights Act 1996, Chapter 3 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Modifications etc. (not altering text)**

- C3** S. 80B applied (with modifications) (1.4.2003) by [The Employment Rights Act 1996 \(Application of Section 80B to Adoptions from Overseas\) Regulations 2003 \(S.I. 2003/920\)](#), **reg. 2**
- C4** S. 80B applied (with modifications) (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), 4, **Sch. 2**
- C5** S. 80B amendment to earlier affecting provision S.I. 2014/3095, reg. 4, Sch. 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**

**F14**  
**80BB** **Entitlement to additional paternity leave: adoption**  
.....

**Textual Amendments**

- F14** S. 80BB repealed (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 125(1)**, 139(6); S.I. 2014/1640, art. 6(b) (with art. 14)

**80C** **Rights during and after paternity leave**

- (1) Regulations under section 80A <sup>F15</sup> ... shall provide—
  - (a) that an employee who is absent on leave under that section is entitled, for such purposes and to such extent as the regulations may prescribe, to the benefit of the terms and conditions of employment which would have applied if he had not been absent;
  - (b) that an employee who is absent on leave under that section is bound, for such purposes and to such extent as the regulations may prescribe, by obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1) of that section), and
  - (c) that an employee who is absent on leave under that section is entitled to return from leave to a job of a kind prescribed by regulations, subject to section 80D(1).
- (2) The reference in subsection (1)(c) to absence on leave under section 80A <sup>F16</sup> ... includes, where appropriate, a reference to a continuous period of absence attributable partly to leave under that section and partly to any one or more of the following—
  - <sup>F17</sup>( za ) .....
  - (a) maternity leave,
  - (b) adoption leave, <sup>F18</sup> ...  
[ shared parental leave,]
  - <sup>F19</sup>(ba)  
[ parental bereavement leave,] and
  - <sup>F20</sup>(bb)  
(c) parental leave.
- (3) Subsection (1) shall apply to regulations under section 80B <sup>F21</sup>[<sup>F22</sup> ... as it applies to regulations under section 80A <sup>F23</sup> ....]

*Status: Point in time view as at 06/08/2022.*

*Changes to legislation: Employment Rights Act 1996, Chapter 3 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) In the application of subsection (1)(c) to regulations under section 80B <sup>F24</sup> ..., the reference to absence on leave under that section includes, where appropriate, a reference to a continuous period of absence attributable partly to leave under that section and partly to any one or more of the following—
- <sup>F25</sup>( za ) . . . . .
- (a) maternity leave,
- (b) adoption leave,
- [ shared parental leave,]
- <sup>F26</sup>(ba) [ parental bereavement leave,]
- <sup>F27</sup>(bb) (c) parental leave, and
- (d) leave under section 80A <sup>F28</sup> ....
- (5) In subsection (1)(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) Regulations under [<sup>F29</sup>section 80A or 80B] may specify matters which are, or are not, to be treated as remuneration for the purposes of this section.
- (7) Regulations under [<sup>F30</sup>section 80A or 80B] may make provision, in relation to the right to return mentioned in subsection (1)(c), about—
- (a) seniority, pension rights and similar rights;
- (b) terms and conditions of employment on return.

#### Textual Amendments

- F15** Words in s. 80C(1) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(2)**; S.I. 2014/1640, art. 7(p) (with art. 16)
- F16** Words in s. 80C(2) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(3)(a)**; S.I. 2014/1640, art. 7(p) (with art. 16)
- F17** S. 80C(2)(za) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(3)(b)**; S.I. 2014/1640, art. 7(p) (with art. 16)
- F18** Word in s. 80C(2)(b) repealed (30.6.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(3)(c)**; S.I. 2014/1640, art. 3(2)(h)
- F19** S. 80C(2)(ba) inserted (30.6.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(3)(d)**; S.I. 2014/1640, art. 3(2)(h)
- F20** S. 80C(2)(bb) inserted (18.1.2020) by Parental Bereavement (Leave and Pay) Act 2018 (c. 24), s. 2(2), **Sch. para. 24(2)**; S.I. 2020/45, reg. 2
- F21** Words in s. 80C(3) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(4)(a)**; S.I. 2014/1640, art. 7(p) (with art. 16)
- F22** Words in s. 80C(3) substituted (3.3.2010) by Work and Families Act 2006 (c. 18), **ss. 5(4), 19**; S.I. 2010/495, **art. 3(a)**
- F23** Words in s. 80C(3) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(4)(b)**; S.I. 2014/1640, art. 7(p) (with art. 16)
- F24** Words in s. 80C(4) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(5)(a)**; S.I. 2014/1640, art. 7(p) (with art. 16)
- F25** S. 80C(4)(za) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(5)(b)**; S.I. 2014/1640, art. 7(p) (with art. 16)

*Status: Point in time view as at 06/08/2022.*

*Changes to legislation: Employment Rights Act 1996, Chapter 3 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F26** S. 80C(4)(ba) inserted (30.6.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(5)(c)**; S.I. 2014/1640, art. 3(2)(h)
- F27** S. 80C(4)(bb) inserted (18.1.2020) by Parental Bereavement (Leave and Pay) Act 2018 (c. 24), s. 2(2), **Sch. para. 24(3)**; S.I. 2020/45, reg. 2
- F28** Words in s. 80C(4)(d) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(5)(d)**; S.I. 2014/1640, art. 7(p) (with art. 16)
- F29** Words in s. 80C(6) substituted (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(6)**; S.I. 2014/1640, art. 7(p) (with art. 16)
- F30** Words in s. 80C(7) substituted (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 34(7)**; S.I. 2014/1640, art. 7(p) (with art. 16)

## 80D Special cases

- (1) Regulations under section [F31 80A [F32 or 80B ]] may make provision about—
- redundancy, or
  - dismissal (other than by reason of redundancy),
- during a period of leave under that section.
- (2) Provision by virtue of subsection (1) may include—
- provision requiring an employer to offer alternative employment;
  - 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).

### Textual Amendments

- F31** Words in s. 80D(1) substituted (3.3.2010) by Work and Families Act 2006 (c. 18), ss. 11, 19, **Sch. 1 para. 37**; S.I. 2010/495, art. 3(c)
- F32** Words in s. 80D(1) substituted (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 35**; S.I. 2014/1640, art. 7(q) (with art. 16)

## 80E Chapter 3: supplemental

- [ Regulations under [F34 section 80A or 80B] may—
- <sup>F33</sup>(1) (a) make provision about notices to be given, evidence to be produced and other procedures to be followed by employees and employers;
- make provision requiring employers or employees to keep records;
  - make provision for the consequences of failure to give notices, to produce evidence, to keep records or to comply with other procedural requirements;
  - make provision for the consequences of failure to act in accordance with a notice given by virtue of paragraph (a);
  - make special provision for cases where an employee has a right which corresponds to a right under [F34 section 80A or 80B] and which arises under his contract of employment or otherwise;
  - 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 leave under [F34 section 80A or 80B];
  - make provision applying, modifying or excluding an enactment, in such circumstances as may be specified and subject to any conditions which may

*Status: Point in time view as at 06/08/2022.*

*Changes to legislation: Employment Rights Act 1996, Chapter 3 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

be specified, in relation to a person entitled to take leave under [<sup>F34</sup>section 80A or 80B];

(h) make different provision for different cases or circumstances.

<sup>F35</sup>( 2 ) . . . . . ]

**Textual Amendments**

**F33** S. 80E renumbered (3.3.2010) as s. 80E(1) by [Work and Families Act 2006 \(c. 18\)](#), ss. 11, 19, [Sch. 1 para. 38\(3\)](#); S.I. 2010/495, [art. 3\(c\)](#)

**F34** Words in s. 80E(1) substituted (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 7 para. 36\(2\)](#); S.I. 2014/1640, [art. 7\(q\)](#) (with [art. 16](#))

**F35** S. 80E(2) repealed (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 7 para. 36\(3\)](#); S.I. 2014/1640, [art. 7\(q\)](#) (with [art. 16](#))



**Status:**

Point in time view as at 06/08/2022.

**Changes to legislation:**

Employment Rights Act 1996, Chapter 3 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.