



Employment Rights Act 1996

1996 CHAPTER 18

[^{F1}PART VIII

[^{F2}CHAPTER 1B

SHARED PARENTAL LEAVE

[^{F1} ^{F2}75F] **Entitlement to leave under section 75E: further provision**

- (1) Regulations under section 75E are to include provision for determining—
 - (a) the amount of leave under section 75E(1) or (4) to which an employee is entitled in respect of a child;
 - (b) when leave under section 75E(1) or (4) may be taken.
- (2) Provision under subsection (1)(a) is to secure that the amount of leave to which an employee is entitled in respect of a child does not exceed—
 - (a) in a case where the child's mother became entitled to maternity leave, the relevant amount of time reduced by—
 - (i) where her maternity leave ends without her ordinary or additional maternity leave period having been curtailed by virtue of section 71(3)(ba) or 73(3)(a), the amount of maternity leave taken by the child's mother, or
 - (ii) except where sub-paragraph (i) applies, the amount of time between the beginning of her maternity leave and the time when her ordinary or additional maternity leave period, as curtailed by virtue of section 71(3)(ba) or 73(3)(a), comes to an end;
 - (b) in a case where the child's mother became entitled to statutory maternity pay or maternity allowance but not maternity leave, the relevant amount of time reduced by an amount determined in accordance with paragraph (a) or, as the case may be, paragraph (b) of section 171ZU(6) of the Social Security Contributions and Benefits Act 1992.

Status: Point in time view as at 06/04/2017.

Changes to legislation: Employment Rights Act 1996, Section 75F is up to date with all changes known to be in force on or before 22 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)

- (3) In subsection (2) “ the relevant amount of time ” means an amount of time specified in or determined in accordance with regulations under section 75E.
- (4) Provision under subsection (1)(a) is to secure that the amount of leave that an employee is entitled to take in respect of a child takes into account—
 - (a) in a case where another person is entitled to leave under section 75E in respect of the child, the amount of such leave taken by the other person;
 - (b) in a case where another person is entitled to statutory shared parental pay in respect of the child but not leave under section 75E, the number of weeks in respect of which such pay is payable to the other person.
- (5) In reckoning for the purposes of subsection (2) the amount of maternity leave taken, a part of a week is to be treated as a full week.
- (6) In reckoning for the purposes of subsection (4) the amount of leave under section 75E taken during a period of such leave, a part of a week is to be treated as a full week.
- (7) Provision under subsection (1)(b) is to secure that leave under section 75E must be taken before the end of such period as may be specified by the regulations.
- (8) Regulations under section 75E are to provide for the taking of leave under section 75E in a single period or in non-consecutive periods.
- (9) Regulations under section 75E may—
 - (a) provide for an employer, subject to such restrictions as may be specified, to require an employee who proposes to take non-consecutive periods of leave under section 75E to take that amount of leave as a single period of leave;
 - (b) provide for a single period of leave that is so imposed on an employee to start with a day proposed by the employee or, if no day is proposed, with the first day of the first period of leave proposed by the employee.
- (10) Regulations under section 75E may provide for the variation, subject to such restrictions as may be specified, of—
 - (a) the period or periods during which an amount of leave under section 75E may be taken;
 - (b) the amount of leave under section 75E that the employee previously specified in accordance with provision under section 75E(3)(b) or (6)(b) or subsection (13)(b) of this section.
- (11) Provision under subsection (10)(a) may provide for variation to be subject to the consent of an employer in circumstances specified by the regulations.
- (12) Provision under subsection (10)(b) may require an employee to satisfy specified conditions—
 - (a) as to giving notice of an intention to vary the amount of leave under section 75E to be taken by the employee;
 - (b) if the employee proposes to vary the amount of leave under section 75E(1) to be taken by the employee, as to the consent of P to that variation;
 - (c) if the employee proposes to vary the amount of leave under section 75E(4) to be taken by the employee, as to the consent of the child's mother to that variation.
- (13) Provision under subsection (12)(a) may require an employee to give notice to the employer about—

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- (a) the extent to which the employee has exercised an entitlement to leave under section 75E(1) or (4) in respect of the child;
 - (b) how much of the entitlement to leave the employee intends to exercise;
 - (c) the extent to which a person other than the employee has exercised an entitlement to leave under section 75E or to statutory shared parental pay in respect of the child;
 - (d) the extent to which a person other than the employee intends to exercise such an entitlement.
- (14) Regulations under section 75E may—
- (a) specify things which are, or are not, to be taken as done for the purpose of caring for a child;
 - (b) make provision excluding the right to be absent on leave under section 75E in respect of a child where more than one child is born as a result of the same pregnancy;
 - (c) specify a minimum amount of leave under section 75E which may be taken;
 - (d) make provision about how leave under section 75E may be taken;
 - (e) specify circumstances in which an employee may work for the employer during a period of leave under section 75E without bringing the particular period of leave, or the employee's entitlement to leave under section 75E, to an end;
 - (f) specify circumstances in which an employee may be absent on leave under section 75E otherwise than for the purpose of caring for a child without bringing the person's entitlement to leave under section 75E to an end.
- (15) In this section “ week ” means any period of seven days.
- (16) The Secretary of State may by regulations provide that the following do not have effect, or have effect with modifications specified by the regulations, in a case where the mother of a child dies before another person has become entitled to leave under section 75E in respect of the child—
- (a) section 75E(4)(b), (c) and (e);
 - (b) section 75E(5);
 - (c) section 75E(6)(c);
 - (d) subsection (12)(c);
 - (e) subsection (13)(c) and (d).]]

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. 1B (ss. 75E-75K) inserted (30.6.2014) by Children and Families Act 2014 (c. 6), **ss. 117(1), 139(6)**; S.I. 2014/1640, **art. 3(1)(a)**

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