

2001 No. 4010

TERMS AND CONDITIONS OF EMPLOYMENT

**The Maternity and Parental Leave (Amendment)
Regulations 2001**

Made - - - - - *13th December 2001*

Coming into force - - - *10th January 2002*

Whereas a draft of the following Regulations was laid before Parliament in accordance with section 236(3) of the Employment Rights Act 1996(a) and approved by a resolution of each House of Parliament:

Now, therefore, the Secretary of State, in exercise of the powers conferred upon her by section 76(1), (2) and (5) of that Act and of all other powers enabling her in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Maternity and Parental Leave (Amendment) Regulations 2001 and shall come into force on 10th January 2002.

(2) In these Regulations, “the Principal Regulations” means the Maternity and Parental Leave etc. Regulations 1999(b).

Amendments to the Principal Regulations

2. The Principal Regulations shall be amended as follows.

3. In regulation 13 (entitlement to parental leave)—

(a) in paragraph (1)(a), after the words “employed for a period of not less than a year”, insert “or is to be treated as having been so employed by virtue of paragraph (1A)”;

(b) after paragraph (1), insert—

“(1A) If, in a case where regulation 15(2) or (3) applies—

(a) the employee was employed, during the period between 15th December 1998 and 9th January 2002, by a person other than the person who was his employer on 9th January 2002, and

(b) the period of his employment by that person (or, if he was employed by more than one person during that period, any such person) was not less than a year,

then, for the purposes of paragraph (1), he shall be treated as having been continuously employed for a period of not less than a year.”;

(c) omit regulation 13(3).

(a) 1996 c. 18; section 236 was amended, and section 76 substituted, by Schedule 4 to the Employment Relations Act 1999 (c. 26).

(b) S.I. 1999/3312.

4. In regulation 14 (extent of entitlement)—
- (a) in paragraph (1) for “An employee is entitled” substitute “Except in the case referred to in paragraph (1A), an employee is entitled”;
 - (b) after paragraph (1), insert—

“(1A) An employee is entitled to eighteen weeks’ leave in respect of a child who is entitled to a disability living allowance”.
5. For regulation 15 (when parental leave may be taken) substitute—
- “15.—(1) Except in the cases referred to in paragraphs (2)–(4), an employee may not exercise any entitlement to parental leave in respect of a child after the date of the child’s fifth birthday or, in the case of a child placed with the employee for adoption by him, on or after—
- (a) the fifth anniversary of the date on which the placement began, or
 - (b) the date of the child’s eighteenth birthday,
- whichever is the earlier.
- (2) In the case of child—
- (a) born before 15th December 1999, whose fifth birthday was or is on or after that date, or
 - (b) placed with the employee for adoption by him before 15th December 1999, the fifth anniversary of whose placement was or is on or after that date,
- not being a case to which paragraph (3) or (4) applies, any entitlement to parental leave may not be exercised after 31st March 2005.
- (3) In the case of a child who is entitled to a disability living allowance, any entitlement to parental leave may not be exercised on or after the date of the child’s eighteenth birthday.
- (4) In a case where—
- (a) the provisions set out in Schedule 2 apply, and
 - (b) the employee was unable to take leave in respect of a child within the time permitted in the case of that child under paragraphs (1) or (2) because the employer postponed the period of leave under paragraph 6 of that Schedule,
- the entitlement to leave is exercisable until the end of the period to which the leave was postponed.”
6. In Schedule 2 (default provisions in respect of parental leave)—
- (a) after paragraph 2, insert—

“2A. Where regulation 13(1A) applies, and the employee’s entitlement to parental leave arises out of a period of employment by a person other than the person who was his employer on 9th January 2002, the employee may not exercise the entitlement unless he has given his employer notice of that period of employment, and provided him with such evidence of it as the employer may reasonably require.”;
 - (b) in paragraph 6(c)—
 - (i) in sub-paragraph (i), omit “and”;
 - (ii) in sub-paragraph (ii), at the end, insert “and”, and
 - (iii) after sub-paragraph (ii) insert—

“(iii) ending before the date of the child’s eighteenth birthday.”.

Alan Johnson

Minister of State for the Regions and Employment Relations,
Department of Trade and Industry

13th December 2001

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the provisions relating to parental leave in the Maternity and Parental Leave etc. Regulations 1999 (S.I. 1999/3312). These provisions implement Council Directive 96/34/EC on the framework agreement on parental leave.

The Regulations revoke regulation 13(3) of the 1999 Regulations, which restricted the right to parental leave so as to be exercisable only in respect of children born or placed for adoption on or after 15th December 1999. Regulation 15 of the 1999 Regulations is amended to allow parents of children born or placed for adoption up to five years before that date the period up until 31st March 2005 in which to take parental leave (or up until the child's eighteenth birthday in the case of a child entitled to a disability living allowance). A new regulation 13(1A) enables these parents to rely on a period of service with a previous employer in order to satisfy the one-year qualifying service requirement to which the right to take parental leave is subject. Schedule 2 to the 1999 Regulations is amended to require parents seeking to take advantage of this provision to give their current employer notice of, and if the employer reasonably requires it, evidence of, the relevant period of service.

The Regulations also amend regulation 14 of the 1999 Regulations to extend the period of leave to which a parent is entitled from thirteen to eighteen weeks in the case of a child who is entitled to a disability living allowance. Paragraph 6 of Schedule 2 to those Regulations is amended to provide that an employer may not postpone a period of parental leave in respect of a child beyond the date of the child's eighteenth birthday.

A Regulatory Impact Assessment of the estimated costs and benefits of these Regulations is available from Employment Relations 5A, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET.

2001 No. 4010

TERMS AND CONDITIONS OF EMPLOYMENT

**The Maternity and Parental Leave (Amendment)
Regulations 2001**

£1.75

© Crown copyright 2002

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E0018 1/2002 020018 19585

ISBN 0-11-039191-8



9 780110 391915