
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend provisions in two statutory instruments relating to statutory maternity leave and adoption leave. The Regulations amended are the Maternity and Parental Leave etc. Regulations 1999 (S.I. 1999/3312) (“the 1999 Regulations”) and the Paternity and Adoption Leave Regulations 2002 (S.I. 2002/2788) (“the 2002 Regulations”).

The amendments have effect in relation to an employee whose expected week of childbirth begins on or after 5th October 2008, an employee whose child is expected to be placed with him for adoption on or after that date or, in cases of overseas adoption as defined in the Paternity and Adoption Leave (Adoption from Overseas) Regulations 2003 (S.I. 2003/921), an adopter whose child enters Great Britain on or after the same date.

Regulations 4 to 7 remove distinctions between the rights of employees on ordinary maternity leave and those of employees on additional maternity leave. Regulation 4 amends regulations 9 and 17 of the 1999 Regulations, so that an employee taking additional maternity leave is, like an employee taking ordinary maternity leave, entitled to the benefit of (and bound by any obligations arising from) all the terms and conditions of employment which would have applied if she had not been absent. This does not include terms and conditions about remuneration, as defined in regulation 9 of the 1999 Regulations. Regulation 5 amends regulation 18A of the 1999 Regulations, so that the seniority, pension and similar rights of an employee returning from additional maternity leave are, like those of an employee returning from ordinary maternity leave, unaffected by her absence. The amendments to regulations 9, 17 and 18A do not affect the accrual of rights under employment-related benefit schemes governed by the Social Security Act 1989. Regulations 6 and 7 respectively amend regulations 19 and 20 of the 1999 Regulations to align the protection of employees taking additional maternity leave with that for employees taking ordinary maternity leave.

Regulations 9 and 10 remove distinctions between the rights of employees on ordinary adoption leave and those of employees on additional adoption leave. Regulation 9 amends regulation 19 and revokes regulation 21 of the 2002 Regulations, so that an employee taking additional adoption leave is, like an employee taking ordinary adoption leave, entitled to the benefit of (and bound by any obligations arising from) all the terms and conditions of employment which would have applied if the employee had not been absent. This does not include terms and conditions about remuneration, as defined in regulation 19 of the 2002 Regulations. Regulation 10 amends regulation 27 of the 2002 Regulations, so that the seniority, pension and similar rights of an employee returning from additional adoption leave are, like those of an employee returning from ordinary adoption leave, unaffected by the absence. The amendments to regulations 19 and 27 and the revocation of regulation 21 do not affect the accrual of rights under employment-related benefit schemes governed by the Social Security Act 1989.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Employment Relations Directorate at the Department for Business, Enterprise and Regulatory Reform, 1 Victoria Street, London SW1H 0ET. Copies are also available on the Department’s website: www.berr.gov.uk.