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STATUTORY INSTRUMENTS

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**2014 No. 3050**

**The Shared Parental Leave Regulations 2014**

**PART 5**

**TAKING SHARED PARENTAL LEAVE**

**Unfair dismissal**

**43.**—(1) An employee who is dismissed is entitled under section 99(1) of the 1996 Act to be regarded for the purposes of Part 10 of that Act as unfairly dismissed if—

- (a) the reason or principal reason for the dismissal is of a kind specified in paragraph (3), or
- (b) the reason or principal reason for the dismissal is that the employee is redundant and regulation 39 has not been complied with.

(2) An employee who is dismissed is to be regarded for the purposes of Part 10 of the 1996 Act as unfairly dismissed if—

- (a) the reason or principal reason for the dismissal is that the employee was redundant,
- (b) it is shown that the circumstances constituting the redundancy applied equally to one or more employees in the same undertaking who had positions similar to that held by the dismissed employee and who have not been dismissed by an employer, and
- (c) it is shown that the reason or principal reason for which the employee was selected for dismissal was a reason of a kind specified in paragraph (3).

(3) The reasons referred to in paragraphs (1) and (2) are reasons connected with any of the following facts—

- (a) that the employee took, sought to take, or made use of the benefits of, shared parental leave;
- (b) that the employer believed that the employee was likely to take shared parental leave; or
- (c) that the employee undertook, considered undertaking, or refused to undertake work in accordance with regulation 37.

(4) For the purposes of paragraph (3)(a), the employee makes use of the benefits of shared parental leave if, during a period of shared parental leave, the employee benefits from any of the terms and conditions of employment preserved by regulation 38 during that period.

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(1) Section 99 was substituted by the Employment Relations Act 1999, Schedule 4, Part 3, paragraphs 5 and 16, and amended by the Children and Families Act 2014, Schedule 7, paragraphs 29 and 39; there are other amending instruments but none is relevant.