



2022 CHAPTER 5

Parental bereavement leave

1. After Article 112E of the Employment Rights (Northern Ireland) Order 1996 insert—

“CHAPTER 4

PARENTAL BEREAVEMENT LEAVE

112EA Parental bereavement leave

(1) The Department must make regulations entitling an employee who is a bereaved parent to be absent from work on leave under this Article.

(2) For the purposes of paragraph (1) an employee is a “bereaved parent” if the employee satisfies specified conditions as to relationship with a child who has died.

(3) The conditions specified under paragraph (2) may be framed, in whole or in part, by reference to the employee’s care of the child before the child’s death.

(4) The regulations must include provision for determining—

- (a) the extent of an employee’s entitlement to leave under this Article in respect of a child;
- (b) when leave under this Article may be taken.

(5) Provision under paragraph (4)(a) must secure that where an employee is entitled to leave under this Article in respect of a child, the employee is entitled to at least two weeks’ leave.

(6) Provision under paragraph (4)(b) must secure that leave under this Article must be taken before the end of a period of at least 56 days beginning with the date of the child’s death.

(7) The regulations must secure that where an employee is eligible under paragraph (1) as the result of the death of more than one child, the employee is entitled to leave in respect of each child.

(8) The regulations may make provision about how leave under this Article is to be taken.

(9) In this Article—

“child” means a person under the age of 18 (see also Article 112EE for the application of this Chapter in relation to stillbirths);

“week” means any period of seven days.

(10) In this Article and Articles 112EB and 112ED, “specified” means specified for the time being in regulations made under this Article.

112EB Rights during and after bereavement leave

(1) Regulations under Article 112EA must provide—

(a) that an employee who is absent on leave under that Article is entitled, for such purposes and to such extent as may be specified, to the benefit of the terms and conditions of employment which would have applied but for the absence;

(b) that an employee who is absent on leave under that Article is bound, for such purposes and to such extent as may be specified, by obligations arising under those terms and conditions (except in so far as they are inconsistent with paragraph (1) of that Article), and

(c) that an employee who is absent on leave under that Article is entitled to return from leave to a job of a specified kind (but this is subject to Article 112EC(1)).

(2) In paragraph (1)(a), “terms and conditions of employment”—

(a) includes matters connected with an employee’s employment whether or not they arise under the contract of employment, but

(b) does not include terms and conditions about remuneration.

(3) The reference in paragraph (1)(c) to absence on leave under Article 112EA includes, where appropriate, a reference to a continuous period of absence attributable partly to leave under that Article and partly to any one or more of the following—

(a) maternity leave;

(b) paternity leave;

(c) adoption leave;

(d) shared parental leave;

(e) parental leave.

(4) Regulations under Article 112EA may specify matters which are, or are not, to be treated as remuneration for the purposes of this Article.

(5) Regulations under Article 112EA may make provision, in relation to the right to return mentioned in paragraph (1)(c), about—

- (a) seniority, pension rights and similar rights;
- (b) terms and conditions of employment on return.

112EC Special cases

(1) Regulations under Article 112EA may make provision about—

- (a) redundancy, or
- (b) dismissal (other than by reason of redundancy),

during a period of leave under that Article.

(2) Provision by virtue of paragraph (1) may include—

- (a) provision requiring an employer to offer alternative employment;
- (b) 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 11).

112ED Chapter 4: supplemental

112ED. Regulations under Article 112EA may—

- (a) make provision about notices to be given, evidence to be produced and other procedures to be followed by employees and employers;
- (b) make provision requiring employers or employees to keep records;
- (c) make provision for the consequences of failure to give notices, to produce evidence, to keep records or to comply with other procedural requirements;
- (d) make provision for the consequences of failure to act in accordance with a notice given by virtue of paragraph (a);
- (e) make special provision for cases where an employee has a right that corresponds to a right under Article 112EA and that arises under the person's contract of employment or otherwise;
- (f) make provision modifying the effect of Chapter 4 of Part 1 (calculation of a week's pay) in relation to an employee who is or has been absent from work on leave under Article 112EA;
- (g) make provision applying, modifying or excluding a statutory provision, in such circumstances as may be specified and subject

to any conditions which may be specified, in relation to a person entitled to take leave under Article 112EA;

(h) make consequential provision.

112EE Application in relation to stillbirths

112EE. In this Chapter—

- (a) references to a child include a child stillborn after twenty-four weeks of pregnancy, and
- (b) references to the death of a child are to be read, in relation to a stillborn child, as references to the birth of the child.

112EF Application in relation to miscarriage

(1) The Department must by regulations provide that regulations under this Chapter apply in relation to a person who has experienced a miscarriage as they apply in relation to a bereaved parent, with such modifications, if any, as are specified in regulations.

(2) Regulations under this Article may—

- (a) specify conditions to be satisfied for the purpose of determining whether a person has experienced a miscarriage for the purposes of the regulations;
- (b) provide that regulations under this Chapter also apply in relation to a person who satisfies specified conditions as to relationship with the person who experienced the miscarriage.”.