
STATUTORY INSTRUMENTS

2002 No. 2836

The Employment (Northern Ireland) Order 2002

Adoption leave and paternity leave

Adoption leave

3. In Part IX of the Employment Rights (Northern Ireland) Order 1996 (N.I. 16), after Chapter I there shall be inserted—

“CHAPTER IA

ADOPTION LEAVE

Ordinary adoption leave

107A.—(1) An employee who satisfies prescribed conditions may be absent from work at any time during an ordinary adoption leave period.

(2) An ordinary adoption leave period is a period calculated in accordance with regulations made by the Department.

(3) Subject to Article 107C, an employee who exercises his right under paragraph (1)—

(a) is entitled, for such purposes and to such extent as may be prescribed, to the benefit of the terms and conditions of employment which would have applied if he had not been absent,

(b) is bound, for such purposes and to such extent as may be prescribed, by any obligations arising under those terms and conditions (except in so far as they are inconsistent with paragraph (1)), and

(c) is entitled to return from leave to a job of a prescribed kind.

(4) In paragraph (3)(a) “terms and conditions of employment”—

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

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

(5) In paragraph (3)(c), the reference to return from leave includes, where appropriate, a reference to a continuous period of absence attributable partly to ordinary adoption leave and partly to maternity leave.

(6) The Department may make regulations specifying matters which are, or, are not, to be treated as remuneration for the purposes of this Article.

(7) The Department may make regulations making provision, in relation to the right to return under paragraph (3)(c), about—

(a) seniority, pension rights and similar rights, and

(b) terms and conditions of employment on return.

Additional adoption leave

107B.—(1) An employee who satisfies prescribed conditions may be absent from work at any time during an additional adoption leave period.

(2) An additional adoption leave period is a period calculated in accordance with regulations made by the Department.

(3) Regulations under paragraph (2) may allow an employee to choose, subject to prescribed restrictions, the date on which an additional adoption leave period ends.

(4) Subject to Article 107C, an employee who exercises his right under paragraph (1)—

(a) is entitled, for such purposes and to such extent as may be prescribed, to the benefit of the terms and conditions of employment which would have applied if he had not been absent,

(b) is bound, for such purposes and to such extent as may be prescribed, by obligations arising under those terms and conditions (except in so far as they are inconsistent with paragraph (1)), and

(c) is entitled to return from leave to a job of a prescribed kind.

(5) In paragraph (4)(a) “terms and conditions of employment”—

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

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

(6) In paragraph (4)(c), the reference to return from leave includes, where appropriate, a reference to a continuous period of absence attributable partly to additional adoption leave and partly to—

(a) maternity leave, or

(b) ordinary adoption leave,

or to both.

(7) The Department may make regulations specifying matters which are, or are not, to be treated as remuneration for the purposes of this Article.

(8) The Department may make regulations making provision, in relation to the right to return under paragraph (4)(c), about—

(a) seniority, pension rights and similar rights;

(b) terms and conditions of employment on return.

Redundancy and dismissal

107C.—(1) Regulations under Article 107 A or 107B may make provision about—

(a) redundancy, or

(b) dismissal (other than by reason of redundancy)

during an ordinary or additional adoption leave period.

(2) Regulations made 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 ‘die regulations, (which may include provision for a dismissal to be treated as unfair for ‘die purposes of Part XI).

(3) Regulations under Article 107A or 107B may make provision—

- (a) for Article 107A(3)(c) or 107B(4)(c) not to apply in specified cases, and
- (b) about dismissal at the conclusion of an ordinary or additional adoption leave period.

Chapter IA: supplemental

107D.—(1) Regulations under Article 107A or 107B 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 sub-paragraph (a);
- (e) make special provision for cases where an employee has a right which corresponds to a right under this Chapter and which arises under his contract of employment or otherwise;
- (f) make provision modifying the effect of Chapter IV of Part I (calculation of a week's pay) in relation to an employee who is or has been absent from work on ordinary or additional adoption leave;
- (g) make provision applying, modifying or excluding a statutory provision, in such circumstances as may be specified and subject to any conditions specified, in relation to a person entitled to ordinary or additional adoption leave.

(2) In Articles 107A and 107B “prescribed” means prescribed by regulations made by the Department.”.