

SCHEDULE

SHARED PARENTAL LEAVE IN SPECIAL CIRCUMSTANCES

PART 1

SHARED PARENTAL LEAVE (BIRTH)

Entitlement of father or partner to shared parental leave in the event of death of mother before curtailment

1.—(1) Where before P has given a notice under regulation 9 M dies—

- (a) without curtailing her statutory maternity leave under Article 103(3) or 105(3) of the 1996 Order;
- (b) before the end of her maternity pay period and without curtailing that period under section 161(3A) of the 1992 Act; or
- (c) before the end of her maternity allowance period and without curtailing that period under section 35(3A) of the 1992 Act,

sub-paragraph (2) applies in relation to the entitlement of P to shared parental leave.

(2) The provisions of the Regulations apply in respect of any period after M dies with the modifications specified in heads (a) to (l)—

- (a) a person is to be regarded as falling within the definition of “P” in regulation 3(1) if that person fell within that definition immediately before M died;
- (b) regulation 5(2)(d) does not have effect;
- (c) in regulation 5(3)(a) for “M satisfies” substitute “immediately before her death M satisfied”;
- (d) in regulation 5(3)(c) for “M is entitled” substitute “immediately before her death, M was entitled”;
- (e) regulation 5(3)(d) does not have effect;
- (f) in regulation 6—

(i) for paragraph (1) substitute—

“(1) Where M was entitled to statutory maternity leave, subject to paragraph (10), the total amount of shared parental leave available in relation to C is 52 weeks less the number of weeks of statutory maternity leave taken by M before M died.”;

(ii) for paragraph (2) substitute—

“(2) Where M was not entitled to statutory maternity leave, but was entitled to statutory maternity pay, subject to paragraph (11), the total amount of shared parental leave available in relation to C is 52 weeks less the number of weeks of statutory maternity pay payable to M in respect of C before M died.”;

(iii) for paragraph (3) substitute—

“(3) Where M was not entitled to statutory maternity leave, but was entitled to maternity allowance, the total amount of shared parental leave available in relation to C is 52 weeks less the number of weeks of maternity allowance payable to M in respect of C before M died.”;

(g) in regulation 9(2)(f) for “and M each intend” substitute “intends”;

(h) in regulation 9(2) after sub-paragraph (g) insert—

Status: This is the original version (as it was originally made).

“(h) the date of M’s death.”;

- (i) regulation 9(3)(b) is omitted;
- (j) regulation 10 is omitted;
- (k) regulation 11(3)(d) is omitted;
- (l) where under regulation 9 or 12 a notice is required to be given not less than eight weeks before a start date and it is not reasonably practicable for P to satisfy that requirement, the notice may be given as soon as is reasonably practicable after the death of M and before the start date of the leave. The modification of regulation 12 applies only to the first notice given under regulation 12 following the death of M.