

SCHEDULE

Regulations 19 and 34

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—

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- “(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.

Entitlement of father or partner to shared parental leave in the event of death of mother after curtailment and before notice of entitlement given

2. Where M dies after curtailing her statutory maternity leave under Article 103(3) or 105(3) of the 1996 Order or her statutory maternity pay period under section 161(3A) of the 1992 Act or her maternity allowance period under section 35(3A) of that Act, or after returning to work, as the case may be, and before P gives a notice under regulation 9, heads (a) to (e) and (g) to (l) in paragraph 1(2) apply in relation to the entitlement of P to shared parental leave.

Entitlement of father or partner to shared parental leave in the event of death of mother after notice of entitlement given

3.—(1) Where M dies after P has given a notice under regulation 9, the provisions of the Regulations apply in respect of any period after M dies with the modifications in sub-paragraphs (2) (on entitlement), (3) to (6) (on the provision of notices), and (7) (on evidence) in relation to the entitlement of P to shared parental leave.

- (2) Heads (a) to (e) in paragraph 1(2) apply.
- (3) Regulation 11(3)(d) does not have effect.

(4) Where by reason of M’s death it is not reasonably practicable for P to satisfy a requirement under regulation 9, 12 or 15 for a notice to be given not less than eight weeks before the date on which a period of shared parental leave begins, that regulation is to have effect as if it required P to give the notice as soon as reasonably practicable before the date on which the period of leave begins. The modification of regulations 12 and 15 applies only to the first notice given under either regulation 12 or 15 following the death of M.

(5) The first notice given under either regulation 12 or 15 following the death of M must include the date of M’s death.

(6) Where at the time of M’s death P has given a combined total of three notices under regulations 12 and 15, in regulation 16(1) for “three” substitute “four”.

- (7) Where an employer—
 - (a) has made a request under regulation 10 and the 14 day period in paragraph (3), (4) or (5) has not ended, or
 - (b) has not made a request under regulation 10,

before M dies, regulation 5(2)(d) does not have effect and regulation 10 is omitted.

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

4.—(1) Where P dies after M has given a notice under regulation 8, the provisions of the Regulations apply in respect of any period after P dies with the modifications in sub-paragraphs (2) (on entitlement), (3) to (6) (on the provision of notices), and (7) (on evidence) apply.

(2) The following modifications apply—

- (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 that person died;
- (b) regulation 4(2)(f) does not have effect;
- (c) in regulation 4(3)(a) for “P satisfies” substitute “immediately before P’s death P satisfied”.

(3) Regulation 11(3)(d) does not have effect.

(4) Where by reason of P’s death it is not reasonably practicable for M to satisfy a requirement under regulation 8, 12 or 15 for a notice to be given not less than eight weeks before the date on which a period of shared parental leave begins, that regulation is to have effect as if it required M to give the notice as soon as reasonably practicable before the date on which the period of leave begins. The modification of regulation 12 or 15 applies only to the first notice given under either regulation 12 or 15 following the death of P.

(5) The first notice given under either regulation 12 or 15 following the death of P must include the date of P’s death.

(6) Where at the time of P’s death M has given a combined total of three notices under regulations 12 and 15, in regulation 16(1) for “three” substitute “four”.

(7) Where an employer—

- (a) has made a request under regulation 10 and the 14 day period in paragraph (3), (4) or (5) has not ended, or
- (b) has not made a request under regulation 10,

before P dies, regulation 4(2)(f) does not have effect and regulation 10 is omitted.

Entitlement to shared parental leave in the event of death of child (birth)

5.—(1) Where after a notice of entitlement has been given under regulation 8 C dies following birth, the modifications set out in sub-paragraphs (3), (5) and (6) apply in relation to the entitlement of M to shared parental leave after C’s death.

(2) Where after a notice of entitlement has been given under regulation 9 C dies following birth, the modifications set out in sub-paragraphs (4) to (6) apply in relation to the entitlement of P to shared parental leave after C’s death.

(3) In regulation 4(1) omit “to care for C”.

(4) In regulation 5(1) omit “to care for C”.

(5) In regulation 15 for paragraph (2) substitute—

“(2) A notice under paragraph (1) may—

- (a) vary the end date of any period of shared parental leave to reduce the period of leave to be taken provided that the notice is given at least eight weeks before the new end date;
- (b) cancel a period or periods of leave.”.

(6) In regulation 16 for paragraph (1) substitute—

“(1) After C dies, no notice may be given under regulation 12 and only one notice may be given under regulation 15.”.

(7) Where more than one child is born of the same pregnancy, a reference in this paragraph relating to the death of C must be construed as a reference to the last of those children to die.

PART 2

SHARED PARENTAL LEAVE (ADOPTION)

Entitlement of adopter's partner to shared parental leave in the event of death of adopter before curtailment

6.—(1) Where before AP has given a notice under regulation 25 A dies—

- (a) without curtailing A's statutory adoption leave under Article 107A(2A) or 107B(3) of the 1996 Order; or
- (b) before the end of the adoption pay period and without curtailing that period under section 167ZN(2A) of the 1992 Act,

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

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

- (a) a person is to be regarded as falling within the definition of AP in regulation 3(1) if that person fell within that definition immediately before A died;
- (b) regulation 21(2)(d) does not have effect;
- (c) in regulation 21(3)(a) for "A satisfies" substitute "immediately before A's death A satisfied";
- (d) in regulation 21(3)(c) for "A is entitled" substitute "immediately before A's death, A was entitled";
- (e) regulation 21(3)(d) does not have effect;
- (f) in regulation 22—
 - (i) for paragraph (1) substitute—

“(1) Where A was entitled to statutory adoption leave, subject to paragraph (9), the total amount of shared parental leave available in relation to C is 52 weeks less the number of weeks of statutory adoption leave taken by A before A died.”;
 - (ii) for paragraph (2) substitute—

“(2) Where A was not entitled to statutory adoption leave, but was entitled to statutory adoption pay, 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 adoption pay payable to A before A died.”;
- (g) in regulation 25(2)(g) for "and A each intend" substitute "intends";
- (h) in regulation 25(2) after sub-paragraph (h) insert—
 - “(i) the date of A's death.”;
- (i) regulation 25(3)(b) is omitted;
- (j) regulation 26 is omitted;
- (k) regulation 27(3)(d) is omitted;
- (l) where under regulation 25 or 28 a notice is required to be given not less than eight weeks before a start date and it is not reasonably practicable for AP to satisfy that requirement, the notice may be given as soon as is reasonably practicable after the death of A and before the start date of the leave. The modification of regulation 28 applies only to the first notice given under regulation 28 following the death of A.

Entitlement of adopter’s partner to shared parental leave in the event of death of adopter after curtailment and before notice of entitlement given

7. Where A dies after curtailing A’s statutory adoption leave under Article 107A(2A) or 107B(3) of the 1996 Order, or after curtailing the statutory adoption pay period under section 167ZN(2A) of the 1992 Act, or after returning to work, as the case may be, and before AP has given a notice under regulation 25, heads (a) to (e) and (g) to (l) in paragraph 6(2) apply in relation to the entitlement of AP to shared parental leave.

Entitlement of adopter’s partner to shared parental leave in the event of death of adopter after notice of entitlement given

8.—(1) Where A dies after AP has given a notice of entitlement under regulation 25, the provisions of the Regulations apply in respect of any period after A dies with the modifications in sub-paragraphs (2) (on entitlement), (3) to (6) (on the provision of notices), and (7) (on evidence) in relation to the entitlement of AP to shared parental leave.

(2) Heads (a) to (e) in paragraph 6(2) apply.

(3) Regulation 27(3)(d) does not have effect.

(4) Where by reason of A’s death it is not reasonably practicable for AP to satisfy a requirement under regulation 25, 28 or 31 for a notice to be given not less than eight weeks before the date on which a period of shared parental leave begins, that regulation is to have effect as if it required AP to give the notice as soon as reasonably practicable before the date on which the period of leave begins. The modification of regulations 28 and 31 applies only to the first notice given under either regulation 28 or 31 following the death of A.

(5) The first notice given under either regulation 28 or 31 following the death of A must include the date of A’s death.

(6) Where at the time of A’s death AP has given a combined total of three notices under regulations 28 and 31, in regulation 32(1) for “three” substitute “four”.

(7) Where an employer—

(a) has made a request under regulation 26 and the 14 day period in paragraph (3) or (4) has not ended, or

(b) has not made a request under regulation 26,

before A dies, regulation 21(2)(d) does not have effect and regulation 26 is omitted.

Entitlement of adopter to shared parental leave in the event of death of adopter’s partner

9.—(1) Where AP dies after A has given a notice of entitlement under regulation 24, the provisions of the Regulations apply in respect of any period after AP dies with the modifications in sub-paragraphs (2) (on entitlement), (3) to (6) (on the provision of notices), and (7) (on evidence) apply.

(2) The following modifications apply—

(a) a person is to be regarded as falling within the definition of “AP” in regulation 3(1) if that person fell within that definition immediately before that person died;

(b) regulation 20(2)(f) does not have effect;

(c) in regulation 20(3)(a) for “AP satisfies” substitute “immediately before AP’s death AP satisfied”.

(3) Regulation 27(3)(d) does not have effect.

(4) Where by reason of AP’s death it is not reasonably practicable for A to satisfy a requirement under regulation 24, 28 or 31 for a notice to be given not less than eight weeks before the date on

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which a period of shared parental leave begins, that regulation is to have effect as if it required A to give the notice as soon as reasonably practicable before the date on which the period of leave begins. The modification of regulations 28 and 31 applies only to the first notice given under either regulation 28 or 31 following the death of AP.

(5) The first notice given under either regulation 28 or 31 following the death of AP must include the date of AP's death.

(6) Where at the time of AP's death A has given a combined total of three notices under regulations 28 and 31, in regulation 32(1) for "three" substitute "four".

(7) Where an employer—

(a) has made a request under regulation 26 and the 14 day period in paragraph (3) or (4) has not ended, or

(b) has not made a request under regulation 26,

before AP dies, regulation 20(2)(f) does not have effect and regulation 26 is omitted.

Entitlement to shared parental leave in the event of a disrupted placement or the death of child

10.—(1) Where after a notice of entitlement has been given under regulation 24 C dies or is returned after being placed for adoption, the modifications set out in sub-paragraphs (3), (5) and (6) apply in relation to the entitlement of A to shared parental leave after C's return or death.

(2) Where after a notice of entitlement has been given under regulation 25 C dies or is returned after being placed for adoption, the modifications set out in sub-paragraphs (4) to (6) apply in relation to the entitlement of AP to shared parental leave after C's return or death.

(3) In regulation 20(1) omit "to care for C".

(4) In regulation 21(1) omit "to care for C".

(5) In regulation 31 for paragraph (2) substitute—

“(2) A notice under paragraph (1) may—

(a) vary the end date of any period of shared parental leave to reduce the period of leave to be taken provided that the notice is given at least eight weeks before the new end date;

(b) cancel a period or periods of leave.”.

(6) In regulation 32 for paragraph (1) substitute—

“(1) After C dies or is returned after being placed for adoption, no notice may be given under regulation 28 and only one notice may be given under regulation 31.”.

(7) Where more than one child is placed for adoption as a result of the same placement, a reference in this paragraph to the death of C or to the return of C after being placed for adoption must be construed as a reference to the last of those children to die or to the last of those children to be returned after being placed for adoption.