

---

DRAFT STATUTORY INSTRUMENTS

---

**2014 No.**

**The Shared Parental Leave and Paternity and Adoption  
Leave (Adoptions from Overseas) Regulations 2014**

**PART 3**

**Application of the Shared Parental Leave Regulations 2014**

**Application of the Shared Parental Leave Regulations 2014 to adoptions from overseas**

7.—(1) The provisions of the Shared Parental Leave Regulations 2014 mentioned in paragraph (2), insofar as they apply to shared parental leave (adoption), apply to adoptions from overseas, subject to the modifications set out in paragraphs (3) and (4) and regulations 8 to 21 below.

(2) The relevant provisions are—

- (a) regulation 2;
- (b) regulation 3;
- (c) Parts 3 to 6;
- (d) Part 2 of the Schedule.

(3) Any references in the provisions of the Shared Parental Leave Regulations 2014 mentioned in paragraph (2) to the provisions in Chapter 1B of Part 8 of the Employment Rights Act 1996 Act must be construed as references to the provisions of Chapter 1B as modified by the Application Regulations.

(4) Any references in the provisions of the Shared Parental Leave Regulations 2014 mentioned in paragraph (2) to other provisions of those Regulations must be construed as references to those provisions as modified by these Regulations.

**Modifications to the Shared Parental Leave Regulations 2014 for the purposes of adoptions from overseas**

8. The Shared Parental Leave Regulations 2014 are modified as follows.

9. In regulation 2 (application) for paragraph (2) substitute—

“(2) The provisions relating to shared parental leave in Part 3 have effect only in relation to children who enter Great Britain on or after 5th April 2015.”.

10.—(1) Regulation 3 (interpretation) is modified as follows.

(2) In paragraph (1)—

(a) for the definition of “A” substitute—

““A”, in relation to C, means the person by whom C has been or is to be adopted, or, in a case where two people have adopted C jointly, whichever of them has elected to be the adopter for the purposes of the Parental and Adoption Leave Regulations 2002;”;

(b) for the definition of “AP” substitute—

““AP” means the person who at the date on which C enters Great Britain is married to, or the civil partner or the partner of, A;” and

(c) insert the following definitions in the appropriate places alphabetically—

““enter Great Britain” means enter Great Britain from outside the United Kingdom in connection with or for the purposes of adoption;

“official notification” means written notification, issued by or on behalf of the relevant central authority, that it is prepared to issue a certificate to the overseas authority concerned with the adoption of C, or that it has issued a certificate and sent it to that authority, confirming, in either case, that A is eligible to adopt, and has been assessed and approved as being a suitable adoptive parent;

“relevant central authority” means—

- (a) where Part 3 of the Adoptions with a Foreign Element Regulations 2005<sup>(1)</sup> applies to A and A is habitually resident in Wales, the Welsh Ministers;
- (b) where the Adoptions with a Foreign Element (Scotland) Regulations 2009<sup>(2)</sup> apply to A and A is habitually resident in Scotland, the Scottish Ministers; and
- (c) in any other case, the Secretary of State.”.

**11.**—(1) Regulation 20 (adopter’s entitlement to shared parental leave) is modified as follows.

(2) In paragraphs (2)(b) and (3)(b) for “of the placement for adoption of C” substitute “on which C enters Great Britain”.

(3) In paragraph (4) for “placed for adoption through a single placement” substitute “adopted as part of the same arrangement”.

**12.**—(1) Regulation 21 (adopter’s partner’s entitlement to shared parental leave) is modified as follows.

(2) In paragraphs (2)(b) and (3)(b) for “of the placement for adoption of C” substitute “on which C enters Great Britain”.

(3) In paragraph (4) for “placed for adoption through a single placement” substitute “adopted as part of the same arrangement”.

**13.** In regulation 23 (periods when shared parental leave may be taken), for paragraph (1) substitute—

“(1) Shared parental leave may be taken at any time within the period which begins on the date on which C enters Great Britain (or where more than one child is adopted as a result of the same arrangement, the date on which the first child entered Great Britain) and ends on the day before the first anniversary of that date.”.

**14.**—(1) Regulation 24 (adopter’s notice of entitlement) is modified as follows.

(2) For sub-paragraph (c) in paragraph (2) substitute—

“(c) the date that A received the official notification;”.

(3) For sub-paragraph (d) in paragraph (2) substitute—

“(d) the date on which C is expected to enter Great Britain (except as provided for in paragraph (5));”.

(4) For paragraph (5) substitute—

---

(1) [S.I. 2005/392](#).

(2) [S.I. 2009/182](#).

“(5) Where a notice is given under paragraph (1) before the date that C enters Great Britain and C enters Great Britain less than eight weeks before the start of the first period of shared parental leave, A must give the date of C’s entry into Great Britain to A’s employer as soon as reasonably practicable and, in any event, before the first period of shared parental leave to be taken by A.”.

**15.—**(1) Regulation 25 (adopter’s partner’s notice of entitlement) is modified as follows.

(2) For sub-paragraph (c) in paragraph (2) substitute—

“(c) the date that A received the official notification;”.

(3) For sub-paragraph (d) in paragraph (2) substitute—

“(d) the date that C is expected to enter Great Britain (except as provided for in paragraph (4));”.

(4) For paragraph (4) substitute—

“(4) Where a notice is given under paragraph (1) before the date that C enters Great Britain, AP must give the date of C’s entry into Great Britain to AP’s employer as soon as reasonably practicable after the entry and, in any event, before the first period of shared parental leave to be taken by AP.”.

**16.—**(1) Regulation 26 (supplementary evidence) is modified as follows.

(2) For sub-paragraph (a) of paragraph (1) substitute—

“(a) a copy of the official notification; and”.

(3) For sub-paragraph (a) of paragraph (2) substitute—

“(a) a copy of the official notification; and”.

**17.** In regulation 28 (period of leave notice), for sub-paragraph (c) of paragraph (4) substitute—

“(c) if given before C enters Great Britain—

(i) contain a start for the leave which is the day on which C enters Great Britain or which is expressed as a number of days following the date of C’s entry into Great Britain;

(ii) contain an end date expressed as a number of days following the date of C’s entry into Great Britain.”.

**18.** In regulation 34 (entitlement in the event of disrupted placement or death), for paragraph (b) substitute—

“(b) regulation 28 of the Adoptions with a Foreign Element Regulations 2005 or regulation 31 of the Adoptions with a Foreign Element (Scotland) Regulations 2009 applies.”.

**19.** In regulation 35 (continuity of employment test), in sub-paragraph (b) of paragraph (3), for “A was notified of having been matched for adoption with C” substitute “A received the official notification”.

**20.** In regulation 36 (employment and earnings test), in paragraph (5), for the definition of “calculation week” substitute—

““calculation week” means the week during which C enters Great Britain;”.

**21.—**(1) Paragraph 10 (entitlement in the event of disrupted placement or death) of the Schedule is modified as follows.

(2) For sub-paragraph (1) substitute—

“(1) Where after a notice of entitlement has been given under regulation 24—

- (a) C dies, or
- (b) regulation 28 of the Adoptions with a Foreign Element Regulations 2005 or regulation 31 of the Adoptions with a Foreign Element (Scotland) Regulations 2009 applies,

the modifications set out in paragraphs (3), (5) and (6) below apply in relation to the entitlement of A to shared parental leave after C dies or either of those regulations apply.”.

(3) For sub-paragraph (2) substitute—

“(2) Where after a notice of entitlement has been given under regulation 25—

- (a) C dies, or
- (b) regulation 28 of the Adoptions with a Foreign Element Regulations 2005 or regulation 31 of the Adoptions with a Foreign Element (Scotland) Regulations 2009 applies,

the modifications set out in paragraphs (4) to (6) below apply in relation to the entitlement of AP to shared parental leave after C dies or either of those regulations apply.”.

(4) For sub-paragraph (6) substitute—

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

“(1) After the date on which C dies or regulation 28 of the Adoptions with a Foreign Element Regulations 2005 or regulation 31 of the Adoptions with a Foreign Element (Scotland) Regulations 2009 applies, only one notice may be given under regulation 31.”.”.

(5) For sub-paragraph (7) substitute—

“(7) Where more than one child is adopted as a result of the same arrangement, a reference in this paragraph to the death of C or to the application of regulation 28 of the Adoptions with a Foreign Element Regulations 2005 or regulation 31 of the Adoptions with a Foreign Element (Scotland) Regulations 2009 must be construed as a reference to the last of those children to die or to the last of those children in relation to whom those regulations applied.”.