Employment Act 2002

2002 CHAPTER 22

PART 1

STATUTORY LEAVE AND PAY

CHAPTER 1

PATERNITY AND ADOPTION

Rights to leave and pay

3 Adoption leave

In Part 8 of the Employment Rights Act 1996 (c. 18), after Chapter 1 there is inserted—

"**CHAPTER 1A**

ADOPTION LEAVE

75A **Ordinary adoption leave**

(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 Secretary of State.

(3) Subject to section 75C, an employee who exercises his right under subsection (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,

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(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 subsection (1)), and

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

(4) In subsection (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 subsection (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 Secretary of State may make regulations specifying matters which are, or are not, to be treated as remuneration for the purposes of this section.

(7) The Secretary of State may make regulations making provision, in relation to the right to return under subsection (3)(c), about—

(a) seniority, pension rights and similar rights;

(b) terms and conditions of employment on return.

75B **Additional adoption leave**

(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 Secretary of State.

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

(4) Subject to section 75C, an employee who exercises his right under subsection (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 subsection (1)), and

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

(5) In subsection (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 subsection (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

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(b) ordinary adoption leave,

or to both.

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

(8) The Secretary of State may make regulations making provision, in relation to the right to return under subsection (4)(c), about—

(a) seniority, pension rights and similar rights;

(b) terms and conditions of employment on return.

75C Redundancy and dismissal

(1) Regulations under section 75A or 75B 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 subsection (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 10).

(3) Regulations under section 75A or 75B may make provision—

(a) for section 75A(3)(c) or 75B(4)(c) not to apply in specified cases, and

(b) about dismissal at the conclusion of an ordinary or additional adoption leave period.

75D Chapter 1A: supplemental

(1) Regulations under section 75A or 75B 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 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 2 of Part 14 (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 an enactment, 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;

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(h) make different provision for different cases or circumstances.

(2) In sections 75A and 75B "prescribed" means prescribed by regulations made by the Secretary of State."

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7(3)(e) and word inserted by 2023 c. 20 Sch. para. 36(4)(c)
- s. 15(2)(bb) word omitted by 2023 c. 20 Sch. para. 43(a)
- s. 15(2)(bc) inserted by 2023 c. 20 Sch. para. 43(b)