
STATUTORY INSTRUMENTS

1999 No. 3312

The Maternity and Parental Leave etc. Regulations 1999

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Maternity and Parental Leave etc. Regulations 1999 and shall come into force on 15th December 1999.

Interpretation

2.—(1) In these Regulations—

“the 1996 Act” means the Employment Rights Act 1996;

“additional maternity leave” means leave under section 73 of the 1996 Act;

“business” includes a trade or profession and includes any activity carried on by a body of persons (whether corporate or unincorporated);

“child” means a person under the age of eighteen;

“childbirth” means the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy;

“collective agreement” means a collective agreement within the meaning of section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992(1), the trade union parties to which are independent trade unions within the meaning of section 5 of that Act;

“contract of employment” means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing;

“disability living allowance” means the disability living allowance provided for in Part III of the Social Security Contributions and Benefits Act 1992(2);

“employee” means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment;

“employer” means the person by whom an employee is (or, where the employment has ceased, was) employed;

“expected week of childbirth” means the week, beginning with midnight between Saturday and Sunday, in which it is expected that childbirth will occur, and “week of childbirth” means the week, beginning with midnight between Saturday and Sunday, in which childbirth occurs;

“job”, in relation to an employee returning after additional maternity leave or parental leave, means the nature of the work which she is employed to do in accordance with her contract and the capacity and place in which she is so employed;

(1) 1992 c. 52.

(2) 1992 c. 4.

“ordinary maternity leave” means leave under section 71 of the 1996 Act;

“parental leave” means leave under regulation 13(1);

“parental responsibility” has the meaning given by section 3 of the Children Act 1989(3), and “parental responsibilities” has the meaning given by section 1(3) of the Children (Scotland) Act 1995(4);

“workforce agreement” means an agreement between an employer and his employees or their representatives in respect of which the conditions set out in Schedule 1 to these Regulations are satisfied.

(2) A reference in any provision of these Regulations to a period of continuous employment is to a period computed in accordance with Chapter I of Part XIV of the 1996 Act, as if that provision were a provision of that Act.

(3) For the purposes of these Regulations any two employers shall be treated as associated if—

- (a) one is a company of which the other (directly or indirectly) has control; or
- (b) both are companies of which a third person (directly or indirectly) has control;

and “associated employer” shall be construed accordingly.

(4) In these Regulations, unless the context otherwise requires,—

- (a) a reference to a numbered regulation or schedule is to the regulation or schedule in these Regulations bearing that number;
- (b) a reference in a regulation or schedule to a numbered paragraph is to the paragraph in that regulation or schedule bearing that number, and
- (c) a reference in a paragraph to a lettered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter.

Application

3.—(1) The provisions of Part II of these Regulations have effect only in relation to employees whose expected week of childbirth begins on or after 30th April 2000.

(2) Regulation 19 (protection from detriment) has effect only in relation to an act or failure to act which takes place on or after 15th December 1999.

(3) For the purposes of paragraph (2)—

- (a) where an act extends over a period, the reference to the date of the act is a reference to the last day of that period, and
- (b) a failure to act is to be treated as done when it was decided on.

(4) For the purposes of paragraph (3), in the absence of evidence establishing the contrary an employer shall be taken to decide on a failure to act—

- (a) when he does an act inconsistent with doing the failed act, or
- (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.

(5) Regulation 20 (unfair dismissal) has effect only in relation to dismissals where the effective date of termination (within the meaning of section 97 of the 1996 Act) falls on or after 15th December 1999.

(3) 1989 c. 41.

(4) 1995 c. 36.