
STATUTORY INSTRUMENTS

1999 No. 3312

The Maternity and Parental Leave etc. Regulations 1999

PART IV

**PROVISIONS APPLICABLE IN RELATION
TO MORE THAN ONE KIND OF ABSENCE**

Unfair dismissal

20.—(1) An employee who is dismissed is entitled under section 99 of the 1996 Act to be regarded for the purposes of Part X of that Act as unfairly dismissed if—

- (a) the reason or principal reason for the dismissal is of a kind specified in paragraph (3), or
- (b) the reason or principal reason for the dismissal is that the employee is redundant, and regulation 10 has not been complied with.

(2) An employee who is dismissed shall also be regarded for the purposes of Part X of the 1996 Act as unfairly dismissed if—

- (a) the reason (or, if more than one, the principal reason) for the dismissal is that the employee was redundant;
- (b) it is shown that the circumstances constituting the redundancy applied equally to one or more employees in the same undertaking who held positions similar to that held by the employee and who have not been dismissed by the employer, and
- (c) it is shown that the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was a reason of a kind specified in paragraph (3).

(3) The kinds of reason referred to in paragraphs (1) and (2) are reasons connected with—

- (a) the pregnancy of the employee;
- (b) the fact that the employee has given birth to a child;
- (c) the application of a relevant requirement, or a relevant recommendation, as defined by section 66(2) of the 1996 Act;
- (d) the fact that she took, sought to take or availed herself of the benefits of, ordinary maternity leave;
- (e) the fact that she took or sought to take—
 - (i) additional maternity leave;
 - (ii) parental leave, or
 - (iii) time off under section 57A of the 1996 Act;
- (f) the fact that she declined to sign a workforce agreement for the purposes of these Regulations, or
- (g) the fact that the employee, being—
 - (i) a representative of members of the workforce for the purposes of Schedule 1, or

(ii) a candidate in an election in which any person elected will, on being elected, become such a representative,

performed (or proposed to perform) any functions or activities as such a representative or candidate.

(4) Paragraphs (1)(b) and (3)(b) only apply where the dismissal ends the employee's ordinary or additional maternity leave period.

(5) Paragraph (3) of regulation 19 applies for the purposes of paragraph (3)(d) as it applies for the purpose of paragraph (2)(d) of that regulation.

(6) Paragraph (1) does not apply in relation to an employee if—

(a) immediately before the end of her additional maternity leave period (or, if it ends by reason of dismissal, immediately before the dismissal) the number of employees employed by her employer, added to the number employed by any associated employer of his, did not exceed five, and

(b) it is not reasonably practicable for the employer (who may be the same employer or a successor of his) to permit her to return to a job which is both suitable for her and appropriate for her to do in the circumstances or for an associated employer to offer her a job of that kind.

(7) Paragraph (1) does not apply in relation to an employee if—

(a) it is not reasonably practicable for a reason other than redundancy for the employer (who may be the same employer or a successor of his) to permit her to return to a job which is both suitable for her and appropriate for her to do in the circumstances;

(b) an associated employer offers her a job of that kind, and

(c) she accepts or unreasonably refuses that offer.

(8) Where on a complaint of unfair dismissal any question arises as to whether the operation of paragraph (1) is excluded by the provisions of paragraph (6) or (7), it is for the employer to show that the provisions in question were satisfied in relation to the complainant.