

*These notes refer to the Work and Families Act (Northern Ireland)  
2015 (c.1) which received Royal Assent on 8th January 2015*

# Work and Families Act (Northern Ireland) 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: Shared Rights to Leave and Pay**

##### *Section 2: Shared parental leave*

##### **Article 107I: Entitlement to leave under Article 107G: further provision**

*Article 107I* is about the making of regulations to calculate the amount of shared parental leave available to the employee, to limit the amount of leave, to limit when it may be taken, to require the leave to be taken as a single period and to provide for the varying of the amount of shared parental leave that an employee may take and the times at which an employee takes this leave.

*Paragraph (1)* provides for regulations to determine the amount of shared parental leave and when this leave may be taken. In accordance with *paragraph (8)*, provision must be made for the taking of shared parental leave in a single period or in non-consecutive periods. The effect of this is to allow the leave to be taken more flexibly than in a single consecutive block.

*Paragraph (2)* deals with the maximum amount of shared parental leave as it relates to adoption leave and pay. This will be specified by regulations and is expected to be 52 weeks less the amount of adoption leave taken by the primary adopter (where the primary adopter returns to work without taking specified action to reduce the adoption leave period) or the amount by which the adoption leave period has been reduced. Where a primary adopter is entitled to statutory adoption pay only, the maximum amount of shared parental leave is again to be specified by regulations, and is expected to be 52 weeks less the number of weeks of statutory adoption pay payable to the primary adopter, or the number of weeks by which the adoption pay period has been reduced.

In accordance with *paragraph (4)*, the amount of shared parental leave to which the employee is entitled in respect of a child takes into account the amount of such leave taken by another person in respect of that child or the number of weeks of statutory shared parental pay received by another person in respect

of that child (in the case where the other person is entitled to statutory shared parental pay in respect of the child but not to shared parental leave).

*Paragraph (7)* ensures that shared parental leave must be taken before the end a period that may be specified.

*Paragraph (9)* provides that the regulations may enable an employer, in a case where an employee has proposed to take non-consecutive periods of shared parental leave, to require the employee to take that amount of leave as a single period of leave. This single period may start with a day proposed by the employee or, if no day is proposed, with the first day of the first period of leave proposed by the employee. This establishes a default position for when the shared parental leave can be taken if agreement cannot be reached between employer and employee.

*Paragraph (10)* provides that regulations made under *Article 107G* may enable an employee, subject to prescribed restrictions, to vary the period or periods of shared parental leave to be taken without varying the amount of leave, and to vary the amount of leave which the employee has notified an intention to exercise.

*Paragraph (11)* provides that variations to the period or periods may require the employer's consent in circumstances specified by regulations.

*Paragraph (12)* establishes that varying the amount of leave may require specified conditions to be met as to the giving of notice and securing the consent of the primary adopter or P.

*Paragraph (13)* specifies that notifications of variation of the amount of leave may need to include notice about the amount of shared parental leave the employee has taken or plans to take. Notifications may also be required to include the amount of shared parental leave or statutory shared parental pay that the other person, who may be entitled to such leave or pay in respect of the child, has taken or intends to take.

*Paragraph (14)* provides that regulations may specify the things which are and are not to be taken as done for the purpose of caring for the child; the minimum amount of shared parental leave that may be taken and provision about how this leave may be taken; the circumstances in which keeping in touch days may be taken; and the circumstances in which the employee may be absent on shared parental leave other than for the purpose of caring for a child without bringing entitlement to an end. The latter provision might be relevant to situations where an employee has an entitlement to shared parental leave but whose child subsequently dies. The regulations may also make provision to ensure that an employee cannot take more than one period of shared parental leave in circumstances where more than one child is placed for adoption as part of the same arrangement.

*Paragraph (16)* enables regulations to make provision in a case where the person who is taking adoption leave or is entitled to be paid statutory adoption pay dies

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before another person has become entitled to shared parental leave in respect of the relevant child. This is to enable the other person to be able to become entitled to shared parental leave after the death of the primary adopter.