

*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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Shared Rights to Leave and Pay

Section 3: Exclusion or curtailment of other statutory rights to leave

Section 3 amends the ERO to allow regulations to be made which will enable a birth mother or primary adopter to bring their ordinary maternity or adoption leave to an end early. This will allow the person and/or their partner to access the new system of shared parental leave and pay.

The section allows regulations to be made which will set out the circumstances in which the birth mother or adoptive parent can change their mind about a decision to end their ordinary maternity or adoption leave early. It is intended that the birth mother or adopter will be able to revoke a decision made before the birth or placement until a point to be specified in regulations. It is also intended that the birth mother or adopter will be able to revoke a decision if it becomes apparent (within a certain period of time) that the mother/primary adopter and the person with whom care of the child is shared do not meet the qualifying requirements to access shared parental leave and/or pay.

The section provides that these regulations may only allow a birth mother or adoptive parent to bring ordinary maternity or adoption leave to an end if the mother/primary adopter and the person with whom they share care of the child take certain steps in relation to the taking of shared parental leave or pay which will include giving notice to their employers where relevant.

The section also allows regulations to be made which will enable a birth mother or primary adopter to bring additional maternity or adoption leave to an end early. It mirrors the provisions for ordinary maternity leave which are described above.

Subsection (2) deals with ordinary maternity leave; *subsection (3)* with additional maternity leave; *subsection (4)* with ordinary adoption leave; and *subsection (5)* with additional adoption leave.

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Finally, regulations must be made which will provide that the taking of shared parental leave prevents an employee from exercising the right to take any remaining ordinary paternity leave. This applies in both birth (*subsection (6)*) and adoption (*subsection (7)*) cases.