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## EXPLANATORY NOTE

*(This note is not part of these Regulations)*

These Regulations introduce a new entitlement for employees who are mothers, fathers, adopters, or prospective adopters, or the partners of mothers or adopters, or prospective adopters, to take shared parental leave in the first year of their child's life or in the first year after the child's placement for adoption. The Regulations are made in exercise of powers inserted into the Employment Rights Act 1996 by the Children and Families Act 2014.

In Part 2, the Regulations confer the right to take shared parental leave (birth) where a mother who is entitled to statutory maternity leave, statutory maternity pay, or maternity allowance, curtails that leave, pay or allowance period; the balance of the leave, pay, or allowance period can be taken as shared parental leave if the other conditions for entitlement are satisfied.

For adoptions, Part 3 of the Regulations confers the right to take shared parental leave (adoption) where an adopter who is entitled to statutory adoption leave or statutory adoption pay curtails that leave or pay period; the balance of the leave or pay period can be taken as shared parental leave if the other conditions for entitlement are satisfied.

Regulation 4 sets out the conditions for entitlement for a mother and regulation 5 sets out the conditions for entitlement for a father or a spouse, civil partner, or partner of a mother. Regulations 20 and 21 set out the conditions for entitlement for an adopter and an adopter's partner, respectively.

Certain conditions apply to the person claiming the entitlement to shared parental leave and others apply to the person with whom the claimant will be caring for the child. The claimant must satisfy substantive requirements, such as continuous employment, as well as procedural requirements, such as giving appropriate notices to the claimant's employer. Regulations 8, 9 and 10 set out the notice and evidence requirements which need to be satisfied for shared parental leave (birth) and the equivalent provisions for shared parental leave (adoption) appear in regulations 24, 25 and 26.

Regulations 6 and 22 set out how many weeks of shared parental leave (birth) and shared parental leave (adoption), respectively, are available to a claimant or claimants.

The provisions on giving notices to request periods of leave, how those notices are to be treated, how they may be varied, and the limit on the number of notices are set out in regulations 12 to 16 for shared parental leave (birth) and in regulations 28 to 32 for shared parental leave (adoption).

Regulations 18 and 33 set out when an employer may require an employee to take a period of shared parental leave (birth) or shared parental leave (adoption), respectively, in the event of a change of circumstances.

Part 4 sets out the provisions on employment and earnings that must be satisfied by a claimant and the person with whom the claimant will be caring for the child.

Part 5 contains provisions applicable in relation to shared parental leave (birth and adoption). Those provisions include the ability to undertake work during a period of shared parental leave (regulation 37), additional redundancy protections (regulation 39), the right to return to work after a period of shared parental leave (regulation 40), and protections from detriment and dismissal attributable to the fact that a claimant took or sought to take shared parental leave (regulations 42 and 43).

The Schedule contains provisions modifying the regulations in various cases where a claimant, the person with whom the claimant was caring for the child, or the child, dies or an adoption placement is disrupted.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Shared Parental Leave Regulations 2014 No. 3050*

These Regulations are part of a package of legislative measures and the relevant impact assessment is the relevant impact assessment is the *Modern Workplaces: shared parental leave and pay administration consultation impact assessment* which was published in February 2013. A copy of that impact assessment can be obtained from the Department for Business, Innovation and Skills, Labour Market Directorate, 1 Victoria Street, London, SW1H 0ET. Copies have also been placed in the libraries of both Houses of Parliament.