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DRAFT STATUTORY INSTRUMENTS

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**2014 No.**

**The Shared Parental Leave Regulations 2014**

**PART 2**

**ENTITLEMENT TO SHARED PARENTAL LEAVE (BIRTH)**

**CHAPTER 2**

Entitlement to particular periods of leave

**Period of leave notice (birth)**

**12.**—(1) M may only be absent from work to take a period of shared parental leave if she gives her employer a written notice which sets out the start and end dates of each period of shared parental leave requested in that notice.

(2) P may only be absent from work to take a period of shared parental leave if P gives P's employer a written notice which sets out the start and end dates of each period of shared parental leave requested in that notice.

(3) A notice given under paragraph (1) or (2) must be given not less than eight weeks before the start date of the first period of shared parental leave requested in the notice.

(4) A notice under this regulation may—

- (a) be given at the same time as a notice under regulation 8, 9 or 11 is given to the employer;
- (b) provide notice of more than one period of leave;
- (c) if given before C is born—
  - (i) contain a start date for the leave which is the day on which C is born or which is expressed as a number of days following the date of C's birth;
  - (ii) contain an end date expressed as a number of days following the date of C's birth.

(5) A notice under this regulation may not—

- (a) be given before a notice is given to the employer under regulation 8 or 9, as the case may be;
- (b) request leave with a start or end date which is outside of the period in which shared parental leave may be taken (see regulation 7(1)).

**Continuous period of shared parental leave (birth)**

**13.** Where an employee gives a notice under regulation 12 which requests one continuous period of shared parental leave, the employee is entitled to take that period of leave.

**Discontinuous periods of shared parental leave (birth)**

**14.**—(1) This regulation applies where an employee gives a notice under regulation 12 which requests discontinuous periods of shared parental leave.

(2) In the two weeks beginning with the date the notice was given the employer who received the notice may—

- (a) consent to the periods of leave requested;
- (b) propose alternative dates for the periods of leave; or
- (c) refuse the periods of leave requested without proposing alternative dates.

(3) Where in the two weeks beginning with the date the notice was given the employer—

- (a) agrees to the periods of leave requested in that notice, or
- (b) agrees with the employee alternative dates for the periods of leave,

the employee is entitled to take the leave on the dates agreed.

(4) Where in the two weeks beginning with the date the notice was given no agreement has been reached, the employee is entitled to take the total amount of leave requested in the notice as a continuous period of leave.

(5) Where the employee is entitled to take a continuous period of leave under paragraph (4)—

- (a) the employee must choose a start date for that leave which is a date after the period of eight weeks beginning with the date on which the period of leave notice was given and must notify the employer of that date within 5 days of the end of the two week period referred to in paragraph (4); or
- (b) if the employee does not choose a start date under sub-paragraph (a), that leave must start on the start date of the first period of leave requested in the period of leave notice.

(6) An employee may withdraw a notice which requests discontinuous periods of shared parental leave on or before the 15th day after the notice was given unless the employee and employer have agreed to periods of leave.

#### **Variation of period of leave (birth)**

**15.—**(1) Where an employee is entitled to a period of leave under regulation 13 or 14, the employee may give a written notice to request a variation of that period of leave.

(2) A notice under paragraph (1) may—

- (a) vary the start date or the end date of any period of shared parental leave provided that the notice is given not less than eight weeks before both the date varied and the new date;
- (b) request that a single period of leave become discontinuous periods of leave or vice versa;
- (c) vary (including cancel) the amount of leave requested provided that the notice is given not less than eight weeks before any period of leave varied by the notice is due to commence.

(3) A notice under paragraph (1) must state what periods of shared parental leave the employee is entitled to under regulation 13 or 14.

(4) A notice under paragraph (1) may not request leave with a start or end date which is outside of the period in which shared parental leave may be taken (see regulation 7(1)).

(5) Regulations 13 and 14 apply to notices given under this regulation.

#### **Limit on number of period of leave notices or variations (birth)**

**16.—**(1) An employee may give a combined total of up to three notices under regulations 12 and 15.

(2) Any notice which is—

- (a) withdrawn under regulation 14(6),

- (b) given under regulation 15 as a result of C being born earlier or later than the expected week of birth, or
- (c) given under regulation 15 in response to a request from the employer that the employee vary a period of leave,

is to be disregarded for the purposes of paragraph (1).

(3) Where an employee has more than one employer, the limit in paragraph (1) applies in respect of each employer.

(4) The limit in paragraph (1) may be waived by agreement between the employee and the employer.

### **Modification of eight week requirement for notices where child born early**

17.—(1) This paragraph applies where—

- (a) M or P, as the case may be, is entitled to take a period of shared parental leave with a start date in the eight weeks following the expected week of birth;
- (b) C is born before the first day of the expected week of birth; and
- (c) M or P, as the case may be, gives a notice under regulation 15 to vary the start date of the period of leave referred to in sub-paragraph (a) so that the period starts the same length of time following C's date of birth as the period would have started after the first day of the expected week of birth.

(2) Where paragraph (1) applies—

- (a) the requirement in regulation 15(2)(a) to give not less than eight weeks' notice is satisfied if the notice is given as soon as reasonably practicable after C's date of birth; and
- (b) M or P, as the case may be, is entitled to the period of leave requested in the notice referred to in paragraph (1)(c) above (provided that the notice did not also request a variation of the length of the period of leave).

(3) This paragraph applies where—

- (a) M has given a notice under regulation 8, but not given a notice under regulation 12; and
- (b) C is born eight or more weeks before the first day of the expected week of birth.

(4) Where paragraph (3) applies—

- (a) in regulation 8(1) omit "not less than eight weeks";
- (b) the requirement in regulation 12 for a notice to be given not less than eight weeks before the start date of a period of leave is to be treated as satisfied if the notice requests a period of leave with a start date in the eight weeks beginning with the date on which C is born and the notice is given as soon as reasonably practicable after C's date of birth; and
- (c) where an employer—
  - (i) has made a request under regulation 10 and the 14 day period in paragraph (3), (4) or (5) has not ended, or
  - (ii) has not made a request under regulation 10, regulations 4(2)(f) and 10 do not apply to M.

(5) This paragraph applies where—

- (a) M has not given a notice under regulation 8; and
- (b) C is born eight or more weeks before the first day of the expected week of birth.

(6) Where paragraph (5) applies—

- (a) the requirement in regulation 8 for the notice to be given not less than eight weeks before the start date of a period of leave is to be treated as satisfied if the notice is given as soon as reasonably practicable after C's date of birth;
  - (b) the requirement in regulation 12 for a notice to be given not less than eight weeks before the start date of a period of leave is to be treated as satisfied if the notice requests a period of leave with a start date in the eight weeks beginning with the date on which C is born and the notice is given as soon as reasonably practicable after C's date of birth; and
  - (c) regulations 4(2)(f) and 10 do not apply to M.
- (7) This paragraph applies where—
- (a) P has given a notice under regulation 9, but not given a notice under regulation 12; and
  - (b) C is born eight or more weeks before the first day of the expected week of birth.
- (8) Where paragraph (7) applies—
- (a) in regulation 9(1) omit “not less than eight weeks”;
  - (b) the requirement in regulation 12 for a notice to be given not less than eight weeks before the start date of a period of leave is to be treated as satisfied if the notice requests a period of leave with a start date in the eight weeks beginning with the date on which C is born and the notice is given as soon as reasonably practicable after C's date of birth; and
  - (c) where an employer—
    - (i) has made a request under regulation 10 and the 14 day period in paragraph (3), (4) or (5) has not ended, or
    - (ii) has not made a request under regulation 10, regulations 5(2)(d) and 10 do not apply to P.
- (9) This paragraph applies where—
- (a) P has not given a notice under regulation 9; and
  - (b) C is born eight or more weeks before the first day of the expected week of birth.
- (10) Where paragraph (9) applies—
- (a) the requirement in regulation 9 for the notice to be given not less than eight weeks before the start date of a period of leave is to be treated as satisfied if the notice is given as soon as reasonably practicable after C's date of birth;
  - (b) the requirement in regulation 12 for a notice to be given not less than eight weeks before the start date of a period of leave is to be treated as satisfied if the notice requests a period of leave with a start date in the eight weeks beginning with the date on which C is born and the notice is given as soon as reasonably practicable after C's date of birth; and
  - (c) regulations 5(2)(d) and 10 do not apply to P.

### **Change of circumstances (birth)**

**18.—**(1) Where less than 8 weeks before M is due to take a period of shared parental leave or during a period of such leave—

- (a) M informs M's employer that M has ceased to care for C (and therefore M will not be absent from work on shared parental leave), and
- (b) it is not reasonably practicable for M's employer to accommodate the change in circumstances by allowing M to work during the planned period of shared parental leave, M's employer may require M to take a period of leave.

(2) Where less than 8 weeks before P is due to take a period of shared parental leave or during a period of such leave—

- (a) P informs P's employer that P has ceased to care for C or that M has informed P that M has ceased to satisfy the condition in regulation 5(3)(d) (and therefore P will not be absent from work on shared parental leave), and
- (b) it is not reasonably practicable for P's employer to accommodate the change in circumstances by allowing P to work during the planned period of shared parental leave,

P's employer may require P to take a period of leave.

(3) This regulation does not apply where regulation 19 applies.

(4) Leave that is required to be taken under paragraph (1) or (2) must be treated as shared parental leave for the purposes of these Regulations.

(5) Where M or P, as the case may be, is not on a period of shared parental leave at the time that the employer is informed of the change of circumstances, any leave that is required to be taken under paragraph (1) or (2) must—

- (a) start on the date on which the next period of shared parental leave was due to start; and
- (b) end as soon as it is reasonably practicable for the employer to accommodate the change in circumstances by allowing M or P, as the case may be, to work and, in any event, must end no later than—
  - (i) the date on which the next period of shared parental leave was due to end, or
  - (ii) eight weeks after the employer is informed of the change in circumstances,whichever is the earlier.

(6) Where M or P, as the case may be, is on a period of shared parental leave at the time that the employer is informed of the change of circumstances, any leave that is required to be taken under paragraph (1) or (2) must—

- (a) start on the date that the employer was informed of the change of circumstances; and
- (b) end as soon as it is reasonably practicable for the employer to accommodate the change in circumstances by allowing M or P, as the case may be, to work and, in any event, must end no later than—
  - (i) the date on which that period of shared parental leave was due to end, or
  - (ii) eight weeks after the employer is informed of the change in circumstances,whichever is the earlier.

#### **Entitlement to shared parental leave in the event of the death of mother, father or partner, or child**

**19.** Part 1 of the Schedule applies where M, P or C dies before the end of the period during which shared parental leave may be taken (see regulation 7(1)).