
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make changes to the way in which the statutory entitlement to paternity leave is exercised, by amending the Paternity and Adoption Leave Regulations 2002 (“the 2002 Regulations”); the Paternity and Adoption (Adoption from Overseas) Regulations 2003 (“the 2003 Regulations”); and the Paternity, Adoption and Shared Parental Leave (Parental Order Cases) Regulations 2014 (“the 2014 Regulations”).

The 2002 Regulations provide for paternity leave in ‘birth’ cases (where an employee qualifies for paternity leave by virtue of their relationship with the birth mother) and ‘adoption’ cases (where an employee qualifies by virtue of their relationship with someone who is adopting a child).

The 2003 Regulations apply, with modifications, the 2002 Regulations to ‘overseas adoption’ cases (where the employee has a qualifying relationship with someone who is adopting a child who enters Great Britain from outside the United Kingdom, but where there is no placement for adoption under the law of any part of the United Kingdom).

The 2014 Regulations apply, with modifications, the 2002 Regulations to ‘parental order’ cases (where the employee and their partner are the intended parents in surrogacy arrangements under the Human Fertilisation and Embryology Act 2008).

The amendments in these Regulations make changes to requirements relating to notice and evidence, the period within which paternity leave must be taken, and the existing requirement that paternity leave be taken in one continuous period. They come into force on 8th March 2024.

Regulation 5 provides for these amendments to take effect in relation to children whose expected week of childbirth is after 6th April 2024, and children whose expected date of placement for adoption, or expected date of entry into Great Britain for adoption, is on or after 6th April 2024.

Regulation 6 makes provision for situations where an employee has served a notice or provided information or a declaration under the provisions in force prior to the coming into force of these Regulations. The employee will be deemed to have complied with any requirement in the amendments in these regulations to provide that information, declaration or notice.

Part 2 of these Regulations amends the 2002 Regulations.

Regulation 9 amends regulation 5 of the 2002 Regulations to allow an employee to choose to take either two non-consecutive weeks’ paternity leave (birth), or a single period of either one week or two weeks. It also extends the period in which paternity leave (birth) must be taken from 56 days after the birth of the child, to 52 weeks after the birth. Regulation 12 makes similar amendments to regulation 9 of the 2002 Regulations in respect of paternity leave (adoption).

Regulation 10 substitutes regulation 6 of the 2002 Regulations. It sets out what notices and evidence of entitlement an employee must give to an employer in order to take paternity leave (birth). This includes provision for an employee to vary any leave dates notified previously. Similar provision is made in relation to paternity leave (adoption) in regulation 13.

Regulations 11 and 14 amend regulations 7 and 11, respectively, to make provision for when a period of paternity leave commences and ends.

Regulation 15 makes provision for entitlement to paternity leave where a child dies, is no longer to be placed for adoption, or is returned after being placed.

Part 3 amends the 2003 Regulations and makes similar provision to Part 2 in relation to cases of ‘adoptions from overseas’.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Paternity Leave (Amendment) Regulations 2024 No. 329

Part 4 amends the 2014 Regulations and makes similar provision to Part 2 in relation to 'parental order' cases.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary sector or community bodies is foreseen.