



# Employment Rights Act 1996

## 1996 CHAPTER 18

### [<sup>F1</sup>PART VIII

### [<sup>F2</sup>CHAPTER 1B

#### SHARED PARENTAL LEAVE

#### [<sup>F1</sup>[ <sup>F2</sup>75H] **Entitlement to leave under section 75G: further provision**

- (1) Regulations under section 75G are to include provision for determining—
  - (a) the amount of leave under section 75G(1) or (4) to which an employee is entitled in respect of a child;
  - (b) when leave under section 75G(1) or (4) may be taken.
- (2) Provision under subsection (1)(a) is to secure that the amount of leave to which an employee is entitled in respect of a child does not exceed—
  - (a) in a case where a person with whom the child is, or is expected to be, placed for adoption became entitled to adoption leave, the relevant amount of time reduced by—
    - (i) where the person's adoption leave ends without the person's ordinary or additional adoption leave period having been curtailed by virtue of section 75A(2A)(a) or 75B(3)(a), the amount of adoption leave taken by that person, or
    - (ii) except where sub-paragraph (i) applies, the amount of time between the beginning of the person's adoption leave and the time when the person's ordinary or additional adoption leave period, as curtailed by virtue of section 75A(2A)(a) or 75B(3)(a), comes to an end;
  - (b) in a case where a person with whom the child is, or is expected to be, placed for adoption became entitled to statutory adoption pay but not adoption leave, the relevant amount of time reduced by an amount determined in accordance with paragraph (a) or, as the case may be, paragraph (b) of section 171ZV(6) of the Social Security Contributions and Benefits Act 1992.

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*Status: Point in time view as at 03/01/2019.*

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- (3) In subsection (2) “ the relevant amount of time ” means an amount of time specified in or determined in accordance with regulations under section 75G.
- (4) Provision under subsection (1)(a) is to secure that the amount of leave that an employee is entitled to take in respect of a child takes into account—
  - (a) in a case where another person is entitled to leave under section 75G in respect of the child, the amount of such leave taken by the other person;
  - (b) in a case where another person is entitled to statutory shared parental pay in respect of the child but not leave under section 75G, the number of weeks in respect of which such pay is payable to the other person.
- (5) In reckoning for the purposes of subsection (2) the amount of adoption leave taken, a part of a week is to be treated as a full week.
- (6) In reckoning for the purposes of subsection (4) the amount of leave under section 75G taken during a period of such leave, a part of a week is to be treated as a full week.
- (7) Provision under subsection (1)(b) is to secure that leave under section 75G must be taken before the end of such period as may be prescribed by the regulations.
- (8) Regulations under section 75G are to provide for the taking of leave under section 75G in a single period or in non-consecutive periods.
- (9) Regulations under section 75G may—
  - (a) provide for an employer, subject to such restrictions as may be specified, to require an employee who proposes to take non-consecutive periods of leave under section 75G to take that amount of leave as a single period of leave, and
  - (b) provide for a single period of leave that is so imposed on an employee to 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.
- (10) Regulations under section 75G may provide for the variation, subject to such restrictions as may be specified, of—
  - (a) the period or periods during which an amount of leave under section 75G is to be taken;
  - (b) the amount of leave under section 75G that the employee previously specified in accordance with provision under section 75G(3)(b) or (6)(b) or subsection (13)(b) of this section.
- (11) Provision under subsection (10)(a) may provide for variation to be subject to the consent of an employer in circumstances specified by the regulations.
- (12) Provision under subsection (10)(b) may require an employee to satisfy specified conditions—
  - (a) as to giving notice of an intention to vary the amount of leave under section 75G to be taken by the employee;
  - (b) if the employee proposes to vary the amount of leave under section 75G(1) to be taken by the employee, as to the consent of P to that variation;
  - (c) if the employee proposes to vary the amount of leave under section 75G(4) to be taken by the employee, as to the consent of A to that variation.
- (13) Provision under subsection (12)(a) may require an employee to give notice to the employer about—

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- (a) the extent to which the employee has exercised an entitlement to leave under section 75G(1) or (4) in respect of the child;
  - (b) how much of the entitlement to leave the employee intends to exercise;
  - (c) the extent to which a person other than the employee has exercised an entitlement to leave under section 75G or to statutory shared parental pay in respect of the child;
  - (d) the extent to which a person other than the employee intends to exercise such an entitlement.
- (14) Regulations under section 75G may—
- (a) specify things which are, or are not, to be taken as done for the purpose of caring for a child;
  - (b) make provision excluding the right to be absent on leave under section 75G in respect of a child where more than one child is placed for adoption as part of the same arrangement;
  - (c) specify a minimum amount of leave under section 75G which may be taken;
  - (d) make provision about how leave under section 75G may be taken;
  - (e) specify circumstances in which an employee may work for the employer during a period of leave under section 75G without bringing the particular period of leave, or the employee's entitlement to leave under section 75G, to an end;
  - (f) specify circumstances in which an employee may be absent on leave under section 75G otherwise than for the purpose of caring for a child without bringing the person's entitlement to leave under section 75G to an end.
- (15) In this section “ week ” means any period of seven days.
- (16) The Secretary of State may by regulations provide that the following do not have effect, or have effect with modifications specified by the regulations, in a case where a person who is taking adoption leave or is entitled to be paid statutory adoption pay in respect of a child dies before another person has become entitled to leave under section 75G in respect of the child—
- (a) section 75G(4)(b), (c) and (e);
  - (b) section 75G(5);
  - (c) section 75G(6)(c);
  - (d) subsection (12)(c);
  - (e) subsection (13)(c) and (d).
- (17) The Secretary of State may by regulations provide for section 75G and this section to have effect in relation to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom, with such modifications as the regulations may prescribe.
- (18) The Secretary of State may by regulations provide for section 75G and this section to have effect in relation to cases which involve an employee who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order, with such modifications as the regulations may prescribe.]]

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#### Textual Amendments

- F1** Pt. 8 (ss. 71-80) substituted for Pt. 8 (ss. 71-85) (15.12.1999) by 1999 c. 26, s. 7, **Sch. 4 Pt. 1**; S.I. 1999/2830, art. 2(1)(2), **Sch. 1 Pt. 2** (with transitional provisions in Sch. 3 para. 10)
- F2** Pt. 8 Ch. 1B (ss. 75E-75K) inserted (30.6.2014) by Children and Families Act 2014 (c. 6), **ss. 117(1), 139(6)**; S.I. 2014/1640, **art. 3(1)(a)**
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#### Modifications etc. (not altering text)

- C1** S. 75H applied (with modifications) (25.11.2014) by The Employment Rights Act 1996 (Application of Sections 75A, 75B, 75G, 75H, 80A and 80B to Parental Order Cases) Regulations 2014 (S.I. 2014/3095), regs. 1(1), 3, **Sch. 1**
- C2** S. 75H modified (E.W.) (25.11.2014) by The Employment Rights Act 1996 (Application of Sections 75G and 75H to Adoptions from Overseas) Regulations 2014 (S.I. 2014/3091), regs. 1, 2, **Sch.**
- C3** S. 75H amendment to earlier affecting provision S.I. 2014/3095, reg. 3, Sch. 1 (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 8**

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