

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 - Statutory Rights to Leave and Pay

Shared parental leave

Section 117: Shared parental leave

Section 75E: Entitlement to shared parental leave: birth

477. Section 75E deals with entitlement to shared parental leave in relation to birth.
478. Subsections (1) and (4) confer powers on the Secretary of State to make regulations entitling employees to be absent from work for the purpose of caring for a child if they satisfy certain specified conditions.
479. Subsections (1) to (3) are about the conditions for eligibility of the mother of the child. The conditions that may be specified include conditions as to duration of employment, her relationship with the child and as to caring with another person (“P”) for the child. Subsection (1)(f) includes a condition relating to the giving of a notice of intention to take shared parental leave; and subsection (3) specifies what this notice may be about: it may be about the amount of leave available to the mother; the amount of leave the mother intends to take; and whether and to what extent P will take leave or statutory shared parental pay. Subsection (1)(g) specifies a condition relating to the consent of P to the amount of leave that the mother intends to take.
480. Subsection (2) provides that the conditions of entitlement of the mother can include P meeting conditions in respect of P’s employment or self-employment, P’s earnings, P’s relationship to the mother or the child and P’s intention to care, with the mother, for the child. The effect of this provision is that one of the conditions of entitlement to shared parental leave for the mother can relate to the mother’s sharing the care of the child with P and P satisfying conditions as to economic activity and relationship with the child or the mother.
481. Subsection (4) specifies conditions that may be included in regulations to give entitlement to shared parental leave for another employee (the father or the mother’s partner). These include certain conditions as to duration of employment, the employee’s relationship with the child or with the child’s mother and as to the employee caring, with the child’s mother, for the child. Subsection (4)(d) includes a condition relating to the giving of a notice of intention to take shared parental leave. Subsection (4)(e) specifies a condition relating to the child’s mother’s consent to the amount of shared parental leave the employee intends to take.
482. Subsection (5) provides that the conditions of entitlement for the employee can include the mother meeting conditions as to her employment or self-employment, her earnings, her caring with the employee for the child and her entitlement (or otherwise) to statutory maternity pay or maternity allowance and the exercise of these entitlements. The effect

*These notes refer to the Children and Families Act 2014
(c.6) which received Royal Assent on 13 March 2014*

of this provision is that one of the conditions of entitlement to shared parental leave for an employee (the father or the mother's partner) can relate to the employee sharing care of the child with the mother and to the mother satisfying conditions as to economic activity.

483. Subsection (6) specifies what the notice the employee is required to give under subsection (4) is about. It may be about the amount of leave available to the employee, the amount of leave the employee intends to take, and whether and to what extent the mother will take leave or shared parental pay.