

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 75I: Rights during and after shared parental leave

512. Section 75I deals with the rights of employees during and after shared parental leave.
513. Subsection (1) provides for regulations under section 75E or 75G to specify the rights and responsibilities of employees whilst on, and after shared parental leave. Subsection (1)(a) states that employees who are absent on shared parental leave will be entitled as far as prescribed, to the benefit of the same terms and conditions of employment which would have applied if the employee had not been absent.
514. Subsection (1)(b) further stipulates that whilst on shared parental leave the employee will continue to be bound, as far as prescribed, by the obligations that would arise from those terms and conditions, to the extent they are compatible with the taking of shared parental leave.
515. Subsection (1)(c) provides for an employee who has been absent on shared parental leave to have the right to return to a kind of job as specified in regulations. Subsection (5) provides for regulations to make provision about seniority, pension and other similar rights, and terms and conditions of employment on return.
516. Subsection (3) stipulates that, where appropriate, the type of absence that gives rise to the right to return referenced in subsection (1)(c) may be a continuous period of absence attributable to a combination of shared parental leave, maternity leave, paternity leave, adoption leave and parental leave.
517. Subsection (2)(b) specifies that “terms and conditions of employment” as referenced in subsection (1)(a) does not include remuneration. Subsection (4) provides that regulations may specify matters which are or are not to be treated as remuneration for the purpose of entitlement to shared parental leave (for birth and adoption).