

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 75K: Chapter 1B: supplemental

520. Section 75K allows regulations to be made about notices, evidence, procedures to be followed and other supplementary matters.
521. Subsection (1)(a) enables regulations to provide for notices to be given, evidence to be produced and other procedures to be followed by employers, employees and relevant persons. Subsection (2) defines “relevant person”. Subsection (1)(b) enables regulations to require such persons to keep records. Subsection (1)(c) enables regulations to provide for the consequences of failure to give notices, produce evidence, keep records or comply with other procedural requirements. Subsection (1)(d) enables regulations to make provision for the consequences of failure to act in accordance with such a notice. Subsection (1)(e) enables special provision for cases to be made where an employee has a right which corresponds to a right to shared parental leave and which arises under the employee’s contract of employment or otherwise. Subsection (1)(f) and (g) allows for regulations to make provision to modify provision in the ERA relating to the calculation of a week’s pay and to modify, apply or exclude enactments in relation to a person entitled to shared parental leave.
522. Subsections (3) to (5) ensure that the conditions of economic activity which may be specified under sections 75E(2) or (5) and 75G(2) or (5) in relation to the person with whom care of the child is shared can include conditions relating to that person being an employed earner or a self-employed earner. They also ensure that the power to make provision about procedures to be followed by an employer of that other person under section 75K includes, as far as concerns an employed earner, the secondary contributor (in relation to secondary Class I National Insurance contributions).
523. Subsection (6) allows for regulations under any of sections 75E to 75H to make different provision for different cases or circumstances.
524. Subsection (7) provides that the Secretary of State can prescribe that eligible intended parents in surrogacy arrangements who wish to take shared parental leave must make a statutory declaration as to their eligibility and intention to apply for a parental order.