

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 - Statutory Rights to Leave and Pay

Other statutory rights

Section 121: Statutory rights to leave and pay of prospective adopters with whom looked after children are placed

612. This section supports the changes being made by Part 1, which will provide swifter placement of looked after children in ‘Fostering for Adoption’ and ‘concurrent planning’ placements. It amends sections 75A and 80B of the ERA and sections 171ZB, 171ZE, 171ZJ 171ZL, 171ZN and 171ZS of the SSCBA, so that rights to adoption leave and pay and paternity leave and pay can apply to approved adopters who have looked after children placed with them as part of the ‘Fostering for Adoption’ or ‘concurrent planning’ processes under section 22C of the Children Act 1989.
613. *Subsection (1)* inserts a new provision into section 75A of the ERA which sets out conditions that may be prescribed for entitlement to ordinary adoption leave in cases relating to placement under section 22C of the Children Act 1989. These conditions are that the person must be a local authority foster parent, must be approved as a prospective adopter and must have been notified by a local authority in England that a child is to be, or is expected to be, placed with the employee under section 22C.
614. *Subsection (2)* inserts new provisions into section 80B of the ERA relating to entitlement to paternity leave. These new provisions enable regulations that are made under section 80(1) of the ERA to be revised so that paternity leave is available for the employed partners of adopters who have or expect to have a child placed with them under section 22C of the Children Act 1989. They also enable those regulations to make provision ensuring that the employee has no entitlement to take a subsequent period of paternity leave in respect of a child if they have already exercised their right to take paternity leave.
615. *Subsection (3)* inserts new subsections (8) and (9) into section 171ZB of the SSCBA, relating to entitlement to statutory paternity pay. New subsection (8) provides that the reference in subsection (2) to a child being placed for adoption is to be treated, where relevant, as including placement under section 22C of the Children Act 1989. This allows regulations setting out conditions of entitlement to paternity pay to include cases where children are placed with prospective adopters under section 22C of the Children Act 1989. Subsection (3) also makes related necessary changes to other references in subsections (3), (6) and (7) of section 171ZE of the SSCBA. New subsection (9) has the effect that a person has no further entitlement to statutory paternity pay in respect of the placement of a child for adoption if he or she has already become entitled to statutory paternity pay in respect of that child in connection with the placement of the child under section 22C.

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

616. *Subsection (4)* inserts a new subsection (12) into section 171ZE of the SSCBA relating to the rate and period of statutory paternity pay, so that references in section 171(3) (b) and (10) to being placed for adoption should be read, in relevant cases, as being references to being placed under section 22C of the Children Act 1989.
617. *Subsection (5)* inserts new subsections (9) and (10) into section 171ZL of the SSCBA (entitlement to statutory adoption pay). These have the effect that various references to placement for adoption in section 171ZL shall be treated in relevant cases as referring to the placement of a child under section 22C of the Children Act 1989. They also have the effect that a person who has become entitled to statutory adoption pay in respect of a child who is (or is expected to be) placed under section 22C will not be entitled to a further period of statutory adoption pay if he or she is subsequently notified that child will (or is expected to) be placed with him or her for adoption.