



# Children and Families Act 2014

## 2014 CHAPTER 6

### PART 7

#### STATUTORY RIGHTS TO LEAVE AND PAY

##### *Other statutory rights*

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

- (1) In section 75A of the Employment Rights Act 1996 (ordinary adoption leave), after subsection (1) there is inserted—

“(1A) The conditions that may be prescribed under subsection (1) include conditions as to—

- (a) being a local authority foster parent;
- (b) being approved as a prospective adopter;
- (c) being 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 of the Children Act 1989.”

- (2) In section 80B of the Employment Rights Act 1996 (entitlement to ordinary paternity leave: adoption)—

- (a) in subsection (5), after paragraph (a) there is inserted—

“(aa) make provision excluding the right to be absent on leave under this section in the case of an employee who, by virtue of provision under subsection (6A), has already exercised a right to be absent on leave under this section in connection with the same child;”;

- (b) after subsection (6) there is inserted—

“(6A) Regulations under subsection (1) shall include provision for leave in respect of a child placed, or expected to be placed, under section 22C of the Children Act 1989 by a local authority in England with a

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local authority foster parent who has been approved as a prospective adopter.

- (6B) This section has effect in relation to regulations made by virtue of subsection (6A) as if—
- (a) references to being placed for adoption were references to being placed under section 22C of the Children Act 1989 with a local authority foster parent who has been approved as a prospective adopter;
  - (b) references to placement for adoption were references to placement under section 22C with such a person;
  - (c) paragraph (aa) of subsection (5) were omitted.”
- (3) In section 171ZB of the Social Security Contributions and Benefits Act 1992 (entitlement to ordinary statutory paternity pay: adoption), after subsection (7) there is inserted—
- “(8) This section has effect in a case involving a child placed under section 22C of the Children Act 1989 by a local authority in England with a local authority foster parent who has been approved as a prospective adopter with the following modifications—
- (a) the references in subsection (2) to a child being placed for adoption under the law of any part of the United Kingdom are to be treated as references to a child being placed under section 22C in that manner;
  - (b) the reference in subsection (3) to the week in which the adopter is notified of being matched with the child for the purposes of adoption is to be treated as a reference to the week in which the prospective adopter is notified that the child is to be, or is expected to be, placed with the prospective adopter under section 22C;
  - (c) the reference in subsection (6) to placement for adoption is to be treated as a reference to placement under section 22C;
  - (d) the definition in subsection (7) is to be treated as if it were a definition of “prospective adopter”.
- (9) Where, by virtue of subsection (8), a person becomes entitled to statutory paternity pay in connection with the placement of a child under section 22C of the Children Act 1989, the person may not become entitled to payments of statutory paternity pay in connection with the placement of the child for adoption.”
- (4) In section 171ZE of the Social Security Contributions and Benefits Act 1992 (rate and period of pay), after subsection (11) there is inserted—
- “(12) Where statutory paternity pay is payable to a person by virtue of section 171ZB(8), this section has effect as if—
- (a) the references in subsections (3)(b) and (10) to placement for adoption were references to placement under section 22C of the Children Act 1989;
  - (b) the references in subsection (10) to being placed for adoption were references to being placed under section 22C.”
- (5) In section 171ZL of the Social Security Contributions and Benefits Act 1992 (entitlement to statutory adoption pay), after subsection (8) there is inserted—

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- “(9) This section has effect in a case involving a child who is, or is expected to be, placed under section 22C of the Children Act 1989 by a local authority in England with a local authority foster parent who has been approved as a prospective adopter with the following modifications—
- (a) the references in subsections (2)(a) and (4A)(a) to a child being placed for adoption under the law of any part of the United Kingdom are to be treated as references to a child being placed under section 22C in that manner;
  - (b) the reference in subsection (3) to the week in which the person is notified that he has been matched with the child for the purposes of adoption is to be treated as a reference to the week in which the person is notified that the child is to be, or is expected to be, placed with him under section 22C;
  - (c) the references in subsection (4B)(a) to adoption are to be treated as references to placement under section 22C;
  - (d) the reference in subsection (5) to placement, or expected placement, for adoption is to be treated as a reference to placement, or expected placement, under section 22C.
- (10) Where, by virtue of subsection (9), a person becomes entitled to statutory adoption pay in respect of a child who is, or is expected to be, placed under section 22C of the Children Act 1989, the person may not become entitled to payments of statutory adoption pay as a result of the child being, or being expected to be, placed for adoption.”
- (6) In section 171ZN of the Social Security Contributions and Benefits Act 1992 (rate and period of pay), after subsection (8) there is inserted—
- “(9) Where statutory adoption pay is payable to a person by virtue of section 171ZL(9), this section has effect as if the reference in subsection (2F) to the week in which the person is notified that he has been matched with a child for the purposes of adoption were a reference to the week in which the person is notified that a child is to be, or is expected to be, placed with him under section 22C of the Children Act 1989.”
- (7) In the Social Security Contributions and Benefits Act 1992—
- (a) in section 171ZJ(1), at the appropriate place there is inserted—
    - ““local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);”;
    - ““local authority foster parent” has the same meaning as in the Children Act 1989 (see section 22C(12) of that Act);”;
  - (b) in section 171ZS(1), at the appropriate place there is inserted—
    - ““local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);”;
    - ““local authority foster parent” has the same meaning as in the Children Act 1989 (see section 22C(12) of that Act);”.

## **122 Statutory rights to leave and pay of applicants for parental orders**

- (1) In section 75A of the Employment Rights Act 1996 (ordinary adoption leave), after subsection (7) there is inserted—

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- “(8) The Secretary of State may by regulations provide for 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.”
- (2) In section 75B of the Employment Rights Act 1996 (additional adoption leave), after subsection (8) there is inserted—
- “(9) The Secretary of State may by regulations provide for 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.”
- (3) In section 75D of the Employment Rights Act 1996 (supplemental provision about adoption leave), after subsection (1) there is inserted—
- “(1A) Where section 75A or 75B has effect in relation to such cases as are described in section 75A(8) or 75B(9), regulations under section 75A or 75B about evidence to be produced may require statutory declarations as to—
- (a) eligibility to apply for a parental order;
  - (b) intention to apply for such an order.”
- (4) In section 80B of the Employment Rights Act 1996 (entitlement to ordinary paternity leave: adoption), after subsection (8) there is inserted—
- “(9) The Secretary of State may by regulations provide for 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.”
- (5) In section 171ZK of the Social Security Contributions and Benefits Act 1992 (power to apply Part 12ZA, statutory paternity pay, to adoption cases not involving placement)—
- (a) in the title, the words “to adoption cases not involving placement” are repealed;
  - (b) the existing text becomes subsection (1);
  - (c) after that subsection there is inserted—
- “(2) The Secretary of State may by regulations provide for this Part to have effect in relation to cases which involve a person 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.”
- (6) In section 171ZT of the Social Security Contributions and Benefits Act 1992 (power to apply Part 12ZB, statutory adoption pay, to adoption cases not involving placement)—
- (a) in the title, the words “to adoption cases not involving placement” are repealed;

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- (b) the existing text becomes subsection (1);
- (c) after that subsection there is inserted—
  - “(2) The Secretary of State may by regulations provide for this Part to have effect in relation to cases which involve a person 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.
  - (3) Regulations under subsection (2) may modify section 171ZL(8)(c) so as to enable regulations to impose requirements to make statutory declarations as to—
    - (a) eligibility to apply for a parental order;
    - (b) intention to apply for such an order.”

### **123 Statutory paternity pay: notice requirement and period of payment**

- (1) The Social Security Contributions and Benefits Act 1992 is amended as follows.
- (2) In section 171ZC (further provision as to entitlement to statutory paternity pay)—
  - (a) in subsection (1) (requirement to give notice), for the words from “only if” to the end there is substituted “only if he gives the person who will be liable to pay it notice of the week or weeks in respect of which he expects there to be liability to pay him statutory paternity pay.”;
  - (b) after subsection (1) there is inserted—
    - “(1A) Regulations may provide for the time by which notice under subsection (1) is to be given.”
- (3) In section 171ZE (rate and period of statutory paternity pay)—
  - (a) in subsection (2) (period of pay), for the words from “be payable” to the end there is substituted “be payable in respect of—
    - (a) such week within the qualifying period, or
    - (b) such number of weeks, not exceeding the prescribed number of weeks, within the qualifying period,as he may choose in accordance with regulations.”;
  - (b) after subsection (2) there is inserted—
    - “(2A) Provision under subsection (2)(b) is to secure that the prescribed number of weeks is not less than two.”;
  - (c) after subsection (2A) (as inserted by paragraph (b)) there is inserted—
    - “(2B) Regulations under subsection (2) may permit a person entitled to receive statutory paternity pay to choose to receive such pay in respect of non-consecutive periods each of which is a week or a number of weeks.”
- (4) In section 176 (Parliamentary control of subordinate legislation), in subsection (1) (affirmative procedure), in paragraph (a), after “section 171ZE(1)” there is inserted “or (2)(b)”.

## **124 Rate of statutory adoption pay**

- (1) In section 171ZN of the Social Security Contributions and Benefits Act 1992 (rate and period of statutory adoption pay)—
- (a) subsection (1) is repealed;
  - (b) after subsection (2D) (as inserted by section 120(6)) there is inserted—
    - “(2E) Statutory adoption pay shall be payable to a person—
      - (a) at the earnings-related rate, in respect of the first 6 weeks in respect of which it is payable; and
      - (b) at whichever is the lower of the earnings-related rate and such weekly rate as may be prescribed, in respect of the remaining portion of the adoption pay period.
    - (2F) The earnings-related rate is a weekly rate equivalent to 90 per cent of a person’s normal weekly earnings for the period of 8 weeks ending with the week in which the person is notified that the person has been matched with a child for the purposes of adoption.
    - (2G) The weekly rate prescribed under subsection (2E)(b) must not be less than the weekly rate of statutory sick pay for the time being specified in section 157(1) or, if two or more such rates are for the time being so specified, the higher or highest of those rates.”;
    - (c) in subsection (7), for “subsection (2)” there is substituted “subsections (2) and (2E)”.
- (2) In section 176 of the Social Security Contributions and Benefits Act 1992 (Parliamentary control of subordinate legislation), in subsection (1) (affirmative procedure), in paragraph (a), the entry for section 171ZN(1) is repealed.

## **125 Abolition of additional paternity leave and additional statutory paternity pay**

- (1) In Part 8 of the Employment Rights Act 1996, sections 80AA and 80BB (entitlement to additional paternity leave: birth and adoption) are repealed.
- (2) In Part 12ZA of the Social Security Contributions and Benefits Act 1992, sections 171ZEA to 171ZEE (additional statutory paternity pay: birth and adoption) are repealed.