SCHEDULE

PARENTAL BEREAVEMENT LEAVE AND PAY

PART 1

PARENTAL BEREAVEMENT LEAVE

1 The Employment Rights Act 1996 is amended as follows.

Commencement Information
I1 Sch. para. 1 in force at 18.1.2020 by S.I. 2020/45, **reg. 2**

2 After section 80E insert—

"CHAPTER 4

PARENTAL BEREAVEMENT LEAVE

80EA Parental bereavement leave

(1) The Secretary of State must make regulations entitling an employee who is a bereaved parent to be absent from work on leave under this section.

(2) For the purposes of subsection (1) an employee is a "bereaved parent" if the employee satisfies conditions specified in the regulations as to relationship with a child who has died.

(3) The conditions specified under subsection (2) may be framed, in whole or in part, by reference to the employee's care of the child before the child's death.

(4) The regulations must include provision for determining—
  (a) the extent of an employee's entitlement to leave under this section in respect of a child;
  (b) when leave under this section may be taken.

(5) Provision under subsection (4)(a) must secure that where an employee is entitled to leave under this section in respect of a child the employee is entitled to at least two weeks' leave.

(6) Provision under subsection (4)(b) must secure that leave under this section must be taken before the end of a period of at least 56 days beginning with the date of the child's death.

(7) The regulations must secure that where a person is eligible under subsection (1) as the result of the death of more than one child, the person is entitled to leave in respect of each child.

(8) The regulations may make provision about how leave under this section is to be taken.

(9) In this section—

Changes to legislation: *There are currently no known outstanding effects for the Parental Bereavement (Leave and Pay) Act 2018, PART 1. (See end of Document for details)*

"child" means a person under the age of 18 (see also section 80EE for the application of this Chapter in relation to stillbirths);

"week" means any period of seven days.

80EB Rights during and after bereavement leave

(1) Regulations under section 80EA must provide—

(a) that an employee who is absent on leave under that section is entitled, for such purposes and to such extent as the regulations may prescribe, to the benefit of the terms and conditions of employment which would have applied but for the absence,

(b) that an employee who is absent on leave under that section is bound, for such purposes and to such extent as the regulations may prescribe, by obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1) of that section), and

(c) that an employee who is absent on leave under that section is entitled to return from leave to a job of a kind prescribed by regulations, subject to section 80EC(1).

(2) The reference in subsection (1)(c) to absence on leave under section 80EA includes, where appropriate, a reference to a continuous period of absence attributable partly to leave under that section and partly to any one or more of the following—

(a) maternity leave,

(b) paternity leave,

(c) adoption leave,

(d) shared parental leave, and

(e) parental leave.

(3) In subsection (1)(a), "terms and conditions of employment"—

(a) includes matters connected with an employee's employment whether or not they arise under the contract of employment, but

(b) does not include terms and conditions about remuneration.

(4) Regulations under section 80EA may specify matters which are, or are not, to be treated as remuneration for the purposes of this section.

(5) Regulations under section 80EA may make provision, in relation to the right to return mentioned in subsection (1)(c), about—

(a) seniority, pension rights and similar rights;

(b) terms and conditions of employment on return.

80EC Special cases

(1) Regulations under section 80EA may make provision about—

(a) redundancy, or

(b) dismissal (other than by reason of redundancy),

during a period of leave under that section.

(2) Provision by virtue of subsection (1) may include—

(a) provision requiring an employer to offer alternative employment;

(b) provision for the consequences of failure to comply with the regulations (which may include provision for a dismissal to be treated as unfair for the purposes of Part 10).

80ED Chapter 4: supplemental

Regulations under section 80EA may—

(a) make provision about notices to be given, evidence to be produced and other procedures to be followed by employees and employers;

(b) make provision requiring employers or employees to keep records;

(c) make provision for the consequences of failure to give notices, to produce evidence, to keep records or to comply with other procedural requirements;

(d) make provision for the consequences of failure to act in accordance with a notice given by virtue of paragraph (a);

(e) make special provision for cases where an employee has a right which corresponds to a right under section 80EA and which arises under the person's contract of employment or otherwise;

(f) make provision modifying the effect of Chapter 2 of Part 14 (calculation of a week's pay) in relation to an employee who is or has been absent from work on leave under section 80EA;

(g) make provision applying, modifying or excluding an enactment, in such circumstances as may be specified and subject to any conditions which may be specified, in relation to a person entitled to take leave under section 80EA;

(h) make different provision for different cases or circumstances;

(i) make consequential provision.

80EE Application in relation to stillbirths

In this Chapter—

(a) references to a child include a child stillborn after twenty-four weeks of pregnancy, and

(b) references to the death of a child are to be read, in relation to a stillborn child, as references to the birth of the child.”

Commencement Information

I2 Sch. para. 2 in force at 18.1.2020 by S.I. 2020/45, **reg. 2**

3 In section 236(3) (orders and regulations subject to affirmative procedure), after “80B” insert “ , 80EA ”.

Commencement Information

I3 Sch. para. 3 in force at 18.1.2020 by S.I. 2020/45, **reg. 2**

Changes to legislation:
There are currently no known outstanding effects for the Parental Bereavement (Leave and Pay) Act 2018, PART 1.