
STATUTORY INSTRUMENTS

2002 No. 2789

**The Maternity and Parental Leave
(Amendment) Regulations 2002**

Amendments to the Principal Regulations

12. For regulation 18 substitute—

“Right to return after maternity or parental leave

18.—(1) An employee who returns to work after a period of ordinary maternity leave, or a period of parental leave of four weeks or less, which was—

- (a) an isolated period of leave, or
- (b) the last of two or more consecutive periods of statutory leave which did not include any period of additional maternity leave or additional adoption leave, or a period of parental leave of more than four weeks,

is entitled to return to the job in which she was employed before her absence.

(2) An employee who returns to work after—

- (a) a period of additional maternity leave, or a period of parental leave of more than four weeks, whether or not preceded by another period of statutory leave, or
- (b) a period of ordinary maternity leave, or a period of parental leave of four weeks or less, not falling within the description in paragraph (1)(a) or (b) above,

is entitled to return from leave to the job in which she was employed before her absence or, if it is not reasonably practicable for the employer to permit her to return to that job, to another job which is both suitable for her and appropriate for her to do in the circumstances.

(3) The reference in paragraphs (1) and (2) to the job in which an employee was employed before her absence is a reference to the job in which she was employed—

- (a) if her return is from an isolated period of statutory leave, immediately before that period began;
- (b) if her return is from consecutive periods of statutory leave, immediately before the first such period.

(4) This regulation does not apply where regulation 10 applies.

Incidents of the right to return

18A.—(1) An employee’s right to return under regulation 18(1) or (2) is a right to return—

- (a) with her seniority, pension rights and similar rights—
 - (i) in a case where the employee is returning from additional maternity leave, or consecutive periods of statutory leave which included a period of additional maternity leave or additional adoption leave, as they would have been if the period or periods of her employment prior to her additional maternity leave

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or (as the case may be) additional adoption leave were continuous with the period of employment following it;

- (ii) in any other case, as they would have been if she had not been absent, and
- (b) on terms and conditions not less favourable than those which would have applied if she had not been absent.

(2) The provision in paragraph (1)(a)(i) concerning the treatment of periods of additional maternity leave or additional adoption leave is subject to the requirements of paragraphs 5 and 6 of Schedule 5 to the Social Security Act 1989⁽¹⁾ (equal treatment under pension schemes: maternity absence and family leave).

(3) The provisions in paragraph (1)(a)(ii) and (b) for an employee to be treated as if she had not been absent refer to her absence—

- (a) if her return is from an isolated period of statutory leave, since the beginning of that period;
- (b) if her return is from consecutive periods of statutory leave, since the beginning of the first such period.”

⁽¹⁾ 1989 c. 24.