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STATUTORY INSTRUMENTS

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**2010 No. 1055**

**The Additional Paternity Leave Regulations 2010**

**PART 2**

**ADDITIONAL PATERNITY LEAVE (BIRTH)**

**Notice and evidential requirements for leave under regulation 4 in the event of the mother's death**

**12.**—(1) As soon as reasonably practicable after the date of M's death, and in any event, on or before the relevant date, P must give P's employer ("E"), in writing—

- (a) a leave notice; and
- (b) an employee declaration.

(2) In this regulation—

- (a) "a leave notice" means a written notice specifying—
  - (i) the week which was C's expected week of birth;
  - (ii) C's date of birth;
  - (iii) the dates P has chosen in accordance with regulation 11 as the start date and end date for the period of leave.
- (b) "an employee declaration" means a written declaration signed by P, stating—
  - (i) that the purpose of the period of leave will be to care for C;
  - (ii) that P satisfies the conditions in regulation 4(2)(c) and (d), as modified by regulation 10;
  - (iii) M's name and last address;
  - (iv) the date of M's death; and
  - (v) M's National Insurance number.
- (c) "the relevant date" is eight weeks after the date of M's death.

(3) Where E makes a request within 28 days of receiving P's leave notice, P must, within 28 days of E's request, give E such of the following as E may request—

- (a) a copy of C's birth certificate; and
- (b) the name and address of M's employer (or, if M was self-employed, M's business address).

(4) If P takes leave before the relevant date, P shall be taken to have complied with the requirements of paragraph (1), if P, as soon as reasonably practicable, informs E that M has died and, before the relevant date, gives leave notice and the employee declaration.

(5) Notwithstanding paragraph (1), P may give E leave notice and the employee declaration after the relevant date, provided that P gives E written notice at least six weeks before the start date chosen by P for the period of leave.

(6) If P, after giving leave notice, no longer satisfies the conditions in regulation 4(2)(c) or (d) as modified by regulation 10, P must give E written notice (withdrawal notice) as soon as reasonably practicable.

(7) E may require that P take a period of leave where—

(a) P has given E withdrawal notice—

(i) less than six weeks before the start date specified in P's leave notice, or, where applicable, last varied in accordance with regulation 13, and

(ii) after the relevant date, and

(b) it is not reasonably practicable for E to accommodate the change in P's arrangements.

(8) Leave that E may require P to take under paragraph (7)—

(a) shall be treated as additional paternity leave for the purpose of these Regulations;

(b) shall start on the start date specified in P's leave notice, or, where applicable, last varied in accordance with regulation 13; and

(c) shall end no later than—

(i) six weeks after the date on which withdrawal notice was given to E, or

(ii) the end date specified in P's leave notice, or, where applicable, last varied in accordance with regulation 13,

whichever is the earlier.

(9) E may require P to remain on leave where—

(a) P has given E withdrawal notice—

(i) after P's period of additional paternity leave has begun, and

(ii) after the relevant date, and

(b) it is not reasonably practicable for E to accommodate the change in P's arrangements.

(10) The period for which E may require P to remain on leave under regulation (9)—

(a) shall end no later than the earlier of—

(i) six weeks after the date on which P gave E withdrawal notice, or

(ii) the end date specified in P's leave notice, or, where applicable, last varied in accordance with regulation 13; and

(b) shall be treated as additional paternity leave for the purpose of these Regulations.