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STATUTORY INSTRUMENTS

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**2024 No. 329**

**The Paternity Leave (Amendment) Regulations 2024**

**PART 4**

**Amendments to the Paternity, Adoption and Shared Parental Leave (Parental Order Cases) Regulations 2014**

- 21.** The Paternity, Adoption and Shared Parental Leave (Parental Order Cases) Regulations 2014<sup>(1)</sup> are amended in accordance with regulations 22 to 25.
- 22.** In regulation 10 (modifications to regulation 9), for paragraph (a) substitute—
- “(a) paragraph (2) shall read as if the words of that paragraph were—
- “The leave may only be taken during the period which begins on the date on which the child was born and ends—
- (a) except in the case referred to in sub-paragraph (b), 52 weeks after that date;
- (b) in a case where the child is born before the first day of the expected week of its birth, 52 weeks after that day.”;”.
- 23.** For regulation 11 (modifications to regulation 10) substitute—
- “**11.** Regulation 10 (notice and evidential requirements for leave under regulation 8) of the Leave Regulations as they apply to section 54 parental order parents shall read as if the words of that regulation were—
- “**10.**—(1) An employee must give their employer—
- (a) notice of their entitlement to take leave in respect of a child under regulation 8 which specifies the expected week of the child’s birth, and
- (b) a declaration in writing that—
- (i) the employee satisfies the conditions in regulation 8(2)(b) and(c), and
- (ii) the employee and Parent A are section 54 parental order parents of the child.
- (2) The employee must also give their employer, on each occasion that a period of leave is chosen in accordance with regulation 9—
- (a) a notice that specifies the start day and date of the period of leave and its duration, and
- (b) a declaration in writing that the purpose of that period of leave will be that specified in regulation 8(1).

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<sup>(1)</sup> S.I. 2014/3096, which applies the Paternity and Adoption Leave Regulations 2002, with modifications, to parental order cases.

(3) The notice and declaration in paragraph (1) must be given in or before the 15th week before the expected week of the child's birth or, if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(4) The notice and declaration in paragraph (2) must be given at least 28 days before—

- (a) the first day of the expected week of the child's birth, where the option in regulation 9(3)(a) is chosen;
  - (b) the date falling the specified number of days after the first day of the expected week of the child's birth, where the option in regulation 9(3)(b) is chosen;
  - (c) the predetermined date, where the option in regulation 9(3)(b) is chosen;
- or, if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(5) An employee who has previously given notice under paragraph (2)(a) or (8) or this paragraph may—

- (a) vary the day or date chosen as the day or date on which a period of leave will begin or end, or
- (b) cancel the period of leave chosen,

provided that notice of the variation or cancellation is given to the employer in accordance with paragraph (6).

(6) A notice under paragraph (5) must be given by whichever is the earlier of at least 28 days before—

- (a) the original day or date referred to in paragraph (7)(a), or
- (b) the new day or date referred to in paragraph (7)(b),

or, if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(7) For the purposes of—

- (a) paragraph (6)(a), where a notice has previously been given under either paragraph (2)(a), (5) or (8), the original day or date is—
  - (i) the first day of the expected week of the child's birth, where the option in regulation 9(3)(a) was chosen in that notice;
  - (ii) the date falling the specified number of days after the first day of the expected week of the child's birth, where the option in regulation 9(3)(b) was chosen in that notice;
  - (iii) the predetermined date specified in that notice, where the option in regulation 9(3)(c) was chosen;
- (b) paragraph (6)(b), the new day or date is—
  - (i) the first day of the expected week of the child's birth, where the option in regulation 9(3)(a) is chosen in the notice of variation;
  - (ii) the date falling the specified number of days after the first day of the expected week of the child's birth, where the option in regulation 9(3)(c) is chosen in the notice of variation;
  - (iii) the predetermined date specified in the notice of variation, where the option in regulation 9(3)(c) is chosen.

(8) In a case where—

- (a) the employee has chosen to begin a period of leave on a particular predetermined date, and

(b) the child is not born on or before that date,

the employee must vary the choice of date by substituting a later predetermined date or exercising an alternative option under regulation 9(3) and must give the employer notice of the variation as soon as is reasonably practicable.

(9) Where a notice is given under paragraph (5) or (8) which varies the days or dates of a period of leave, a declaration under paragraph (2)(b) in relation to that period must be given at the same time as that notice.

(10) An employee must give their employer a further notice, as soon as reasonably practicable after the child's birth, of the date on which the child was born.

(11) Any notice under paragraph (1)(a), (2)(a), (5), (8) or (10) must be given in writing, if the employer so requests.””

**24.** In regulation 12 (modifications to regulation 11), in the modification to paragraph (1) of regulation 11, for “10(4) or (6)” substitute “10(5) or (8)”.

**25.** After regulation 12, insert—

“**12A.** In regulation 11A (change in circumstances) of the Leave Regulations as they apply to section 54 parental order parents—

(a) in paragraph (2), for sub-paragraphs (a), (b) and (c) substitute—

“(a) the employee does not apply for an order under section 54 of the Human Fertilisation and Embryology Act 2008 within the time limit set by subsection (3) of that section,

(b) the employee's application for an order under that section for the child is refused, withdrawn or otherwise terminated without the order being granted and any time for an appeal or a new application has expired, or

(c) the child dies.”;

(b) in paragraph (4), for sub-paragraphs (a), (b) and (c) substitute—

“(a) in a case falling within paragraph (2)(a), the week during which the time limit in section 54(3) of the Human Fertilisation and Embryology Act 2008 for an application for an order under that section for the child expires;

(b) in a case falling within paragraph (2)(b), the week in which the employee's application for an order under that section is refused, withdrawn or otherwise terminated without the order being granted;

(c) in a case falling within paragraph (2)(c), the week during which the child dies.”;

(c) in paragraph (6), for “10(4)(b)” substitute “10(5)(b)”.”.