



Work and Families Act (Northern Ireland) 2015

2015 CHAPTER 1

An Act to make provision about shared rights to leave from work and statutory pay in connection with caring for children; time off work to accompany to ante-natal appointments or to attend adoption appointments; to make provision about the right to request flexible working; and for connected purposes. [8th January 2015]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

PART 1

DEFINED EXPRESSIONS IN THIS ACT

Defined expressions in this Act

1 In this Act—

“the Employment Rights Order” means the Employment Rights (Northern Ireland) Order 1996,

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Commencement Information

II S. 1 in operation at 15.3.2015 by S.R. 2015/86, art. 3(1)(a)

PART 2**SHARED RIGHTS TO LEAVE AND PAY***Shared parental leave***Shared parental leave**

2.—(1) The Employment Rights Order is amended as follows.

(2) In Part 9, after Article 107D insert—

“CHAPTER 1B**SHARED PARENTAL LEAVE****Entitlement to shared parental leave: birth**

107E.—(1) The Department may make regulations entitling an employee who satisfies specified conditions—

- (a) as to duration of employment,
- (b) as to being, or expecting to be, the mother of a child,
- (c) as to caring or intending to care, with another person (“P”), for the child,
- (d) as to entitlement to maternity leave,
- (e) as to the exercise of that entitlement and the extent of any such exercise,
- (f) as to giving notice of an intention to exercise an entitlement to leave under this paragraph, and
- (g) as to the consent of P to the amount of leave under this paragraph that the employee intends to take,

to be absent from work on leave under this paragraph for the purpose of caring for the child.

(2) Regulations under paragraph (1) may provide that the employee's entitlement is subject to the satisfaction by P of specified conditions—

- (a) as to employment or self-employment,
- (b) as to having earnings of a specified amount for a specified period,
- (c) as to caring or intending to care, with the employee, for the child, and

(d) as to relationship with the child or the employee.

(3) Provision under paragraph (1)(f) may require the employee to give notice to the employer about—

(a) the amount of leave to which the employee would be entitled if the entitlement were fully exercised (disregarding for these purposes any intention of P to exercise an entitlement to leave under paragraph (4) or to statutory shared parental pay),

(b) how much of the entitlement to leave the employee intends to exercise,

(c) the extent to which P intends to exercise an entitlement to leave under paragraph (4) or to statutory shared parental pay.

(4) The Department may make regulations entitling an employee who satisfies specified conditions—

(a) as to duration of employment,

(b) as to relationship with a child or expected child or with the child's mother,

(c) as to caring or intending to care, with the child's mother, for the child,

(d) as to giving notice of an intention to exercise an entitlement to leave under this paragraph, and

(e) as to the consent of the child's mother to the amount of leave under this paragraph that the employee intends to take,

to be absent from work on leave under this paragraph for the purpose of caring for the child.

(5) Regulations under paragraph (4) may provide that the employee's entitlement is subject to the satisfaction by the child's mother of specified conditions—

(a) as to employment or self-employment,

(b) as to having earnings of a specified amount for a specified period,

(c) as to caring or intending to care, with the employee, for the child,

(d) as to entitlement (or lack of entitlement) to maternity leave, statutory maternity pay or maternity allowance, and

(e) as to the exercise of any such entitlement and the extent of any such exercise.

(6) Provision under paragraph (4)(d) may require the employee to give notice to the employer about—

(a) the amount of leave to which the employee would be entitled if the entitlement were fully exercised (disregarding for these purposes any

intention of the child's mother to exercise an entitlement to leave under paragraph (1) or to statutory shared parental pay),

- (b) how much of the entitlement to leave the employee intends to exercise,
- (c) the extent to which the child's mother intends to exercise an entitlement to leave under paragraph (1) or to statutory shared parental pay.

(7) In this Article and Articles 107F to 107K and 107M, “specified” means specified for the time being in regulations made under the Article concerned.

Entitlement to leave under Article 107E: further provision

107F.—(1) Regulations under Article 107E are to include provision for determining—

- (a) the amount of leave under Article 107E(1) or (4) to which an employee is entitled in respect of a child,
- (b) when leave under Article 107E(1) or (4) may be taken.

(2) Provision under paragraph (1)(a) is to secure that the amount of leave to which an employee is entitled in respect of a child does not exceed—

- (a) in a case where the child's mother became entitled to maternity leave, the relevant amount of time reduced by—
 - (i) where her maternity leave ends without her ordinary or additional maternity leave period having been curtailed by virtue of Article 103(3)(ba) or 105(3)(a), the amount of maternity leave taken by the child's mother, or
 - (ii) except where sub-paragraph (a)(i) applies, the amount of time between the beginning of her maternity leave and the time when her ordinary or additional maternity leave period, as curtailed by virtue of Article 103(3)(ba) or 105(3)(a), comes to an end,
- (b) in a case where the child's mother became entitled to statutory maternity pay or maternity allowance but not maternity leave, the relevant amount of time reduced by an amount determined in accordance with paragraph (a) or, as the case may be, paragraph (b) of section 167ZV(2) of the Contributions and Benefits Act 1992.

(3) In paragraph (2) “the relevant amount of time” means an amount of time specified in or determined in accordance with regulations under Article 107E.

(4) Provision under paragraph (1)(a) is to secure that the amount of leave that an employee is entitled to take in respect of a child takes into account—

- (a) in a case where another person is entitled to leave under Article 107E in respect of the child, the amount of such leave taken by the other person,

- (b) in a case where another person is entitled to statutory shared parental pay in respect of the child but not leave under Article 107E, the number of weeks in respect of which such pay is payable to the other person.
- (5) In reckoning for the purposes of paragraph (2) the amount of maternity leave taken, a part of a week is to be treated as a full week.
- (6) In reckoning for the purposes of paragraph (4) the amount of leave under Article 107E taken during a period of such leave, a part of a week is to be treated as a full week.
- (7) Provision under paragraph (1)(b) is to secure that leave under Article 107E must be taken before the end of such period as may be specified.
- (8) Regulations under Article 107E are to provide for the taking of leave under that Article in a single period or in non-consecutive periods.
- (9) Regulations under that Article may—
- (a) provide for an employer, subject to such restrictions as may be specified, to require an employee who proposes to take non-consecutive periods of leave under that Article to take that amount of leave as a single period of leave,
 - (b) provide for a single period of leave that is so imposed on an employee to start with a day proposed by the employee or, if no day is proposed, with the first day of the first period of leave proposed by the employee.
- (10) Regulations under Article 107E may provide for the variation, subject to such restrictions as may be specified, of—
- (a) the period or periods during which an amount of leave under Article 107E may be taken,
 - (b) the amount of leave under Article 107E that the employee previously specified in accordance with provision by virtue of—
 - (i) Article 107E(3)(b) or (6)(b), or
 - (ii) paragraph (13)(b).
- (11) Provision under paragraph (10)(a) may provide for variation to be subject to the consent of an employer in specified circumstances.
- (12) Provision under paragraph (10)(b) may require an employee to satisfy specified conditions—
- (a) as to giving notice of an intention to vary the amount of leave under Article 107E to be taken by the employee,
 - (b) if the employee proposes to vary the amount of leave under Article 107E(1) to be taken by the employee, as to the consent of P to that variation,