STATUTORY INSTRUMENTS

2026 No. 237

TERMS AND CONDITIONS OF EMPLOYMENT

The Bereaved Partner's Paternity Leave Regulations 2026

Made - - - -	*10th March 2026*
Coming into force - -	*6th April 2026*

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The Secretary of State makes these Regulations in exercise of the powers conferred by sections 47C(1), (2)(ca) and (4), 80A(1) to (5) and (6A), 80B(1) to (4), (5), (6A) and (6C), 80C(1), (3), (6) and (7), 80D, 80E and 99 of the Employment Rights Act 1996(**a**).

In accordance with section 236(3) of the Employment Rights Act 1996(**b**), a draft of the instrument was laid before Parliament and approved by a resolution of each House of Parliament.

PART 1
GENERAL

Citation, commencement and extent

1. These Regulations—

(a) may be cited as the Bereaved Partner's Paternity Leave Regulations 2026,

(b) come into force on 6th April 2026, and

(c) extend to England and Wales and Scotland.

Application

2.—(1) Part 2 (bereaved partner's paternity leave) applies only in relation to a child whose primary carer dies on or after the date these Regulations come into force.

(2) Regulation 15 (protection from detriment) applies only in relation to an act or failure to act which takes place on or after the date these Regulations come into force.

(3) For the purposes of paragraph (2)—

(a) where an act extends over a period, the act takes place on the final day of that period, and

(b) a failure to act is to be treated as done when it was decided on.

(4) For the purposes of paragraph (3)(b), in the absence of evidence establishing the contrary, an employer is to be taken to decide on a failure to act—

(a) when the employer does an act inconsistent with doing the failed act, or

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(**a**) 1996 c. 18. Section 47C was inserted by paragraph 8 of Part III of Schedule 4 to the Employment Relations Act 1999 (c. 26) ("the 1999 Act") and amended by paragraph 30 of Schedule 1 to the Work and Families Act 2006 (c. 18) ("the 2006 Act") and by paragraph 31(b) of Schedule 7 to the Children and Families Act 2014 (c. 6) ("the 2014 Act"). Sections 80A, 80B, 80C, 80D and 80E were inserted by section 1 of the Employment Act 2002 (c. 22). Section 80A was amended by section 118(6) of, and paragraph 32 of Schedule 7 to, the 2014 Act, by section 1(2) of the Paternity Leave (Bereavement) Act 2024 (c. 17) ("the 2024 Act") and by sections 16(1) and 17(1) of the Employment Rights Act 2025 (c. 36) ("the 2025 Act") and applied with modifications by S.I. 2014/3095 (amended by S.I. 2018/1413 and 2026/236) to cases which involve an employee who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 (c. 22) and a child who is, or will be, the subject of the order ("parental order cases"). Section 80B was amended by sections 118(7), 121(2), 122(4), 128(2)(b) of, and paragraph 33 of Schedule 7 to, the 2014 Act, by section 1(3) of the 2024 Act, by sections 16(2) and 17(2) of the 2025 Act and by S.I. 2016/413 (W. 131), and applied with modifications by S.I. 2003/920 (amended by S.I. 2026/238) to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom, and by S.I. 2014/3095 to parental order cases. Section 80C was amended by paragraph 34 of Schedule 7 to the 2014 Act and by paragraph 24 of the Schedule to the Parental Bereavement (Leave and Pay) Act 2018 (c. 24). Section 80D was amended by paragraph 37 of Schedule 1 to the 2006 Act, by paragraph 35 of Schedule 7 to the 2014 Act, by section 1(4) of the 2024 Act and by section 27(5) of the 2025 Act. Section 80E was amended by paragraph 36 of Schedule 7 to the 2014 Act. Section 99 was substituted by paragraph 16 of Part III of Schedule 4 to the 1999 Act and amended by paragraph 39(b) of Schedule 7 to the 2014 Act. There are other amendments but none is relevant to this instrument.

(**b**) Section 236(3) was amended by paragraph 42(3) of Schedule 4 to the Employment Relations Act 1999 (c. 26), paragraph 49(3) of Schedule 7 to the Employment Act 2002 (c. 22) and paragraph 44 of Schedule 1 to the Work and Families Act 2006 (c. 18). There are other amendments but none is relevant to this instrument.

(b) if the employer has done no such inconsistent act, when the period expires within which the employer might reasonably have been expected to do the failed act if it were to be done.

(5) Regulation 16 (unfair dismissal) applies only in relation to dismissals where the effective date of termination (within the meaning of section 97 of the 1996 Act) falls on or after the date these Regulations come into force.

Interpretation

3.—(1) In these Regulations—

"the 1996 Act" means the Employment Rights Act 1996;

"adopter"—

(a) in relation to a child placed for adoption under the law of any part of the United Kingdom, means the person with whom the child has been or is expected to be placed for adoption, or, in a case where the child has been or is expected to be placed for adoption with two people jointly, whichever of those two people has elected to be the child's adopter for the purposes of regulations made under section 80B of the 1996 Act (see paragraph (2)(a));

(b) in relation to a child who is the subject of an adoption from overseas, means a person by whom the child has been or is to be adopted or, in a case where the child has been or is to be adopted by two people jointly, whichever of them has elected to be the child's adopter for the purposes of regulations made under section 80B of the 1996 Act (see paragraph (2)(b));

"adoption agency" has the meaning given, in relation to England and Wales, by section 2(1) of the Adoption and Children Act 2002(**a**) and, in relation to Scotland, by section 119(1) of the Adoption and Children (Scotland) Act 2007(**b**);

"adoption from overseas" means the adoption of a child who enters Great Britain from outside the United Kingdom in connection with or for the purposes of adoption which does not involve the placement of the child for adoption under the law of any part of the United Kingdom;

"bereaved partner's paternity leave" means leave under regulation 4(1);

"bereavement date" means the date on which the child's primary carer dies;

"birth case" means a case where the mother of a child dies;

"child" means a person who—

(a) is under the age of 18,

(b) in a domestic adoption case, was under the age of 18 when placed for adoption with the adopter, or

(c) in an overseas adoption case, was under the age of 18 when that person entered Great Britain;

"domestic adoption case" means a case where the adopter of a child placed or expected to be placed for adoption under the law of any part of the United Kingdom dies;

(**a**) 2002 c. 38. Section 2 was amended by S.I. 2016/413 (W. 131) and S.I. 2019/772 (W. 146).
(**b**) 2007 asp 4. Section 119 was amended by S.S.I. 2013/211 and paragraph 11(6) of Schedule 5 to the Children and Young People (Scotland) Act 2014 (asp 8).

"intended return date" means the date on which the employee intends to return to work following the period of bereaved partner's paternity leave;

"isolated period of leave" means a period of bereaved partner's paternity leave that is neither immediately preceded nor immediately succeeded by another period of statutory leave;

"leave start date" means the date on which the employee chooses the period of bereaved partner's paternity leave to begin;

"official notification" means written notification, issued by or on behalf of the relevant domestic authority (see paragraph (5)), that it is prepared to issue a certificate to the overseas authority concerned with the adoption of the child, or has issued a certificate and sent it to that authority, confirming, in either case, that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent;

"overseas adoption case" means a case where the adopter of a child who is the subject of an adoption from overseas dies;

"parental order case" means a case where the primary parental order parent of a child dies;

"partner", in relation to a child's primary carer, means a person (whether of a different sex or the same sex) who lives with the child's primary carer in an enduring family relationship but is not a relative of the child's primary carer (see paragraph (5)).

"paternity leave eligibility period" has the meaning given in regulation 5(5) and (6);

"placed for adoption" means—

(a) placed for adoption under the Adoption and Children Act 2002 or the Adoption and Children (Scotland) Act 2007, or

(b) placed—

(i) under section 22C of the Children Act 1989(**a**) by a local authority in England, or

(ii) under section 81 of the Social Services and Well-being (Wales) Act 2014(**b**) by a local authority in Wales,

with a local authority foster parent who has been approved as a prospective adopter (see paragraph (5)),

and related expressions are to be construed accordingly;

"primary carer", in relation to a child, means—

(a) in a birth case, the child's mother;

(b) in a domestic adoption case or overseas adoption case, the child's adopter;

(c) in a parental order case, the child's primary parental order parent;

"primary parental order parent", in relation to a child, means the person who elects to be the child's primary carer (see paragraph (3))—

(a) on whose application the court has made an order under section 54 of the Human Fertilisation and Embryology Act 2008(**c**) in respect of the child, or

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(**a**) 1989 c. 41. Section 22C was inserted by section 8(1) of the Children and Young Persons Act 2008 (c. 23) and amended by section 2(2) and (3) of, and paragraph 29(a) and (b) of Schedule 2 to, the Children and Families Act 2014 (c. 6), S.I. 2016/413 (W. 131) and S.I. 2018/195 (W. 44).

(**b**) 2014 anaw 4. Section 81 was amended by section 21(3) of the Health and Social Care (Wales) Act 2025 (asc 1) and S.I. 2017/1025 (W. 263).

(**c**) 2008 c. 22. Section 54 was amended by paragraph 206 of Schedule 11 to the Crime and Courts Act 2013 (c. 22), Part 1 of Schedule 9 to the Justice Act (Northern Ireland) 2015 (c. 9) and S.I. 2018/1413.

(b) who applies, or intends to apply, during the period of 6 months beginning with the day of the child's birth, with another person for such an order in respect of the child, and expects the court to make that order;

"statutory leave" means leave provided for in Part 8 of the 1996 Act.

(2) For the purposes of the definition of "adopter" in paragraph (1), in a case where a child is adopted by two people jointly, one of those persons ("A") elects to be the child's adopter if A and the other person ("B") agree that A, and not B, will be the child's adopter—

(a) in relation to an adoption under the law of any part of the United Kingdom, at the time when A and B are matched with the child for adoption (see paragraph (4)), or

(b) in relation to an adoption from overseas, at the time when the official notification is received by A and B.

(3) For the purposes of the definition of "primary parental order parent" in paragraph (1), a person ("A") elects to be a child's primary carer if A and the person ("B") with whom A has applied, or intends to apply, for an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of the child agree that A, and not B, will be the child's primary carer.

(4) For the purposes of paragraph (2)(a)—

(a) a person is matched with a child for adoption, and a child is matched for adoption with a person, when an adoption agency decides that the person would be a suitable adoptive parent for the child either individually or jointly with another person;

(b) in a case where sub-paragraph (a) applies, a person is notified of having been matched with a child on the date on which the person receives notification of the agency's decision, under regulation 33(3)(a) of the Adoption Agencies Regulations 2005(**a**), regulation 34(3) of the Adoption Agencies (Wales) Regulations 2005(**b**), or regulation 8(5) of the Adoption Agencies (Scotland) Regulations 2009(**c**);

(c) a person is also matched with a child for adoption, and a child is matched for adoption with a person, when a decision has been made in accordance with regulation 22A of the Care Planning, Placement and Case Review (England) Regulations 2010(**d**) and an adoption agency has identified that person as the person with whom the child is to be placed for adoption in accordance with regulation 12B of the Adoption Agencies Regulations 2005;

(d) in a case where sub-paragraph (c) applies, a person is notified of having been matched with a child on the date on which that person receives notification in accordance with regulation 12B(2)(a) of the Adoption Agencies Regulations 2005 of the decision to place for adoption the child with that person.

(5) In this regulation—

"parental order" means an order made by the court under section 54 or 54A of the Human Fertilisation and Embryology Act 2008(**e**) providing for a child to be treated in law as the child of the applicants or applicant (as the case may be);

"prospective adopter" means a person who has been approved as suitable to adopt a child and has been notified of that decision in accordance with regulation 30B(4) of the Adoption

(**a**) S.I. 2005/389, amended by S.I. 2013/985 and 2014/1556; there are other amending instruments not relevant to these Regulations. Regulation 33 is applied with modifications by S.I. 2005/392 in relation to adoptions with a foreign element.
(**b**) S.I. 2005/1313 (W. 95), amended by S.I. 2020/163. There are other amending instruments not relevant to these Regulations.
(**c**) S.S.I. 2009/154, to which there are amendments not relevant to these Regulations.
(**d**) S.I. 2010/959, amended by S.I. 2014/1556 and 2020/445; there are other amending instruments but none is relevant.
(**e**) Section 54A was inserted by S.I. 2018/1413.

Agencies Regulations 2005 or regulation 30B(4) of the Adoption Agencies (Wales) Regulations 2005;

"relative of the child's primary carer" means the child, parent, grandparent, sibling, aunt, uncle, niece or nephew of the child's primary carer where the relationship is—

(a) of the full blood or half blood or, in the case of an adopted person or a person who is the subject of a parental order, that would exist but for the adoption or parental order, or

(b) with the adoptive, or former adoptive, parents of the child's primary carer, or with the child's primary carer's parents by virtue of a parental order (but is not any other adoptive relationship, or relationship by virtue of a parental order, that is not a relationship of the full blood or half blood);

"relevant domestic authority" means—

(a) in the case of an adopter to whom the Adoptions with a Foreign Element Regulations 2005(**a**) apply and who is habitually resident in Wales, the Welsh Ministers;

(b) in the case of an adopter to whom the Adoptions with a Foreign Element (Scotland) Regulations 2009(**b**) apply and who is habitually resident in Scotland, the Scottish Ministers;

(c) in any other case, the Secretary of State.

PART 2

BEREAVED PARTNER'S PATERNITY LEAVE

Entitlement to bereaved partner's paternity leave

4.—(1) An employee is entitled to be absent from work on bereaved partner's paternity leave for the purpose of caring for a child where—

(a) the child's primary carer dies, and

(b) the employee satisfies the relationship conditions specified in—

(i) paragraph (2),

(ii) paragraph (3), and

(iii) in a parental order case, paragraph (4).

(2) The relationship condition referred to in paragraph (1)(b)(i) is that the employee—

(a) in a birth case—

(i) is the child's father, or

(ii) is not the child's father but, immediately before the death of the child's mother, was married to, or was the civil partner or the partner of, the child's mother;

(b) in a domestic adoption case, was married to, or was the civil partner or the partner of, the child's adopter—

(i) on the date on which the child was placed for adoption, or

(ii) immediately before the death of the child's adopter;

(**a**) S.I. 2005/392, amended by S.I. 2005/3482, 2009/2563, 2010/1172, 2012/1410, 2013/235, 2013/985, 2014/2103, 2020/163, 2022/634 and 2023/1071.

(**b**) S.S.I. 2009/182, amended by S.S.I. 2010/173, 2010/421 and 2011/159.

(c) in an overseas adoption case, was married to, or was the civil partner or the partner of, the child's adopter—

(i) on the date on which the child's adopter received the official notification, or

(ii) immediately before the death of the child's adopter;

(d) in a parental order case, was married to, or was the civil partner or the partner of, the child's primary parental order parent—

(i) on the date on which the child was born, or

(ii) immediately before the death of the child's primary parental order parent.

(3) The relationship condition referred to in paragraph (1)(b)(ii) is that the employee has the main responsibility for the upbringing of the child.

(4) The relationship condition referred to in paragraph (1)(b)(iii) is that the employee—

(a) has been granted an order in respect of the child under section 54 of the Human Fertilisation and Embryology Act 2008, or

(b) has applied, or intends to apply for such an order in respect of the child within the time limit set by subsection (3) of that section, and expects the court to make that order.

(5) An employee's entitlement to bereaved partner's paternity leave is not affected by—

(a) in a birth case or parental order case, the birth of more than one child as a result of the same pregnancy;

(b) in a domestic adoption case, the placement for adoption of more than one child as part of the same arrangement;

(c) in an overseas adoption case, the adoption from overseas of more than one child as part of the same arrangement.

Extent of entitlement

5.—(1) An employee who is entitled to take bereaved partner's paternity leave in respect of a child may take a single period of bereaved partner's paternity leave of up to 52 weeks in accordance with this regulation.

(2) An employee may only be absent from work on bereaved partner's paternity leave—

(a) during the paternity leave eligibility period, and

(b) after the bereavement date.

(3) A period of bereaved partner's paternity leave—

(a) begins with the leave start date specified in a notice under regulation 6(2) (notice requirements), or the last notified leave start date if the employee has varied that date under regulation 7(1) (notice requirements: variation and cancellation), and

(b) subject to paragraph (4), ends on the date immediately before the intended return date specified in a notice under regulation 6(2) or (4) (as the case may be), or the last notified intended return date if the employee has varied that date under regulation 7(6).

(4) Where the employee is dismissed after a period of bereaved partner's paternity leave has begun but before the time when, apart from this paragraph, that period would end, the period of bereaved partner's paternity leave ends at the time of the dismissal.

(5) Subject to paragraph (6), in this regulation, the "paternity leave eligibility period"—

(a) in a birth case or parental order case, begins with the day after the day on which the child is born and ends 52 weeks after that day;

(b) in a domestic adoption case, begins with the day after the day on which the child is placed for adoption and ends 52 weeks after that day;

(c) in an overseas adoption case, begins with the day after the day on which the child enters Great Britain and ends 52 weeks after that day.

(6) Where the bereavement date is no more than 13 days before the final day of the paternity leave eligibility period set out in paragraph (5), the paternity leave eligibility period ends 14 days after the bereavement date.

Notice requirements

6.—(1) An employee who wishes to exercise an entitlement to take bereaved partner's paternity leave in respect of a child must comply with the notice requirements of this regulation.

(2) The employee must give the employer notice of the employee's intention to take bereaved partner's paternity leave in accordance with paragraph (3)—

(a) specifying the dates set out in paragraph (6)(a) and (b), and in paragraph (6)(c)(i), (ii) or (iii) (as the case may be), and

(b) where the employee chooses the period of bereaved partner's paternity leave to begin more than eight weeks after the bereavement date, specifying the date and making the declarations set out in paragraph (7).

(3) The employee must give the notice in paragraph (2)—

(a) where the employee chooses the period of bereaved partner's paternity leave to begin no more than eight weeks after the bereavement date—

(i) orally or in writing, and

(ii) before the employee is due to start work on the employee's first day of absence from work on bereaved partner's paternity leave;

(b) where the employee chooses the period of bereaved partner's paternity leave to begin more than eight weeks after the bereavement date—

(i) in writing, and

(ii) at least one week before the employee's first day of absence from work on bereaved partner's paternity leave.

(4) Where the employee begins a period of bereaved partner's paternity leave no more than eight weeks after the bereavement date, the employee must give the employer notice in accordance with paragraph (5) of the length of time the employee intends to be absent from work on bereaved partner's paternity leave—

(a) specifying the date set out in paragraph (7)(a), and

(b) where the employee's intended return date is more than eight weeks after the bereavement date—

(i) confirming the date set out in paragraph (6)(c)(i), (ii) or (iii) (as the case may be), and

(ii) making the declarations set out in paragraph (7)(b) and (c).

(5) The employee must give the employer the notice in paragraph (4)—

(a) in writing,

(b) no more than eight weeks after the bereavement date, and

(c) at least one week before the intended return date.

(6) The dates referred to in paragraphs (2)(a) and (4)(b)(i) are—

(a) the bereavement date;

(b) the leave start date;

(c) the date on which—

(i) in a birth case or parental order case, the child was born;

(ii) in a domestic adoption case, the child was placed for adoption with the adopter;

(iii) in an overseas adoption case, the child entered Great Britain.

(7) The date and declarations referred to in paragraphs (2)(b), (4)(a) and (4)(b)(ii) are—

(a) the intended return date, such date being no later than the day immediately following the final day of the paternity leave eligibility period;

(b) a declaration that the purpose of the period of leave will be that specified in regulation 4(1) (entitlement to bereaved partner's paternity leave);

(c) a declaration that the employee satisfies the relationship conditions specified in regulation 4(2), (3) and, in a parental order case, (4).

Notice requirements: variation and cancellation

7.—(1) An employee may vary the leave start date that has been notified under regulation 6(2) (notice requirements) or varied under this paragraph, by giving notice to the employer of the new leave start date in accordance with paragraphs (2) and (3).

(2) Notice under paragraph (1) must be given—

(a) where the new leave start date is no more than eight weeks after the bereavement date, orally or in writing;

(b) where the new leave start date is more than eight weeks after the bereavement date, in writing.

(3) Notice under paragraph (1) must be given—

(a) where the last notified leave start date is no more than eight weeks after the bereavement date—

(i) before that last notified leave start date, and

(ii) where—

(aa) the new leave start date is no more than eight weeks after the bereavement date, before the new leave start date;

(bb) the new leave start date is more than eight weeks after the bereavement date, at least one week before the new leave start date;

(b) where the last notified leave start date is more than eight weeks after the bereavement date—

(i) at least one week before that last notified leave start date, and

(ii) at least one week before the new leave start date.

(4) An employee may cancel a period of bereaved partner's paternity leave that has been notified under regulation 6(2) or varied under paragraph (1), by giving written notice to the employer of the cancellation in accordance with paragraph (5).

(5) Notice under paragraph (4) must be given—

(a) where the last notified leave start date is no more than eight weeks after the bereavement date, before that last notified leave start date;

(b) where the last notified leave start date is more than eight weeks after the bereavement date, at least one week before that last notified leave start date.

(6) An employee may vary the intended return date that has been notified under regulation 6(2)(b) or (4) or varied under this paragraph, by giving written notice to the employer of the new intended return date in accordance with paragraph (7).

(7) Notice under paragraph (6) must be given—

(a) where the last notified intended return date is no more than eight weeks after the bereavement date—

(i) at least one week before that last notified intended return date, and

(ii) at least one week before the new intended return date;

(b) where the last notified intended return date is more than eight weeks after the bereavement date—

(i) at least eight weeks before the last notified intended return date, and

(ii) at least eight weeks before the new intended return date.

Notice requirements: supplementary

8.—(1) If an employee attempts to return to work without having notified the employer of the intended return date in accordance with regulation 6 (notice requirements) or varied the intended return date in accordance with regulation 7(6) (notice requirements: variation and cancellation), the employer may postpone the employee's return to a date such as will secure, subject to paragraph (3), that the employer has the notice required by regulation 6 or regulation 7(7) (as the case may be) of the employee's return.

(2) An employer wishing to postpone an employee's return to work under paragraph (1) must give the employee written notice of the postponement.

(3) An employer is not entitled under paragraph (1) to postpone the employee's return to work to a date after the day immediately following the final day of the paternity leave eligibility period.

(4) An employer who postpones an employee's return to work under paragraph (1) is under no contractual obligation to pay the employee remuneration until the date specified in a notice of postponement referred to in paragraph (2) if the employee returns to work before that date unless the employer has revoked the notice of postponement in writing.

Entitlement where the purpose cannot be met

9.—(1) An employee who would satisfy the requirements of regulation 4 (entitlement to bereaved partner's paternity leave) in respect of a child but for the occurrence of one of the events referred to in paragraph (2) ("the relevant event"), is entitled to be absent from work on bereaved partner's paternity leave until the earliest of—

(a) the end of a period of eight weeks following the end of the week in which the relevant event occurs, and

(b) the end of the paternity leave eligibility period.

(2) The relevant events are—

(a) the child dies;

(b) in a domestic adoption case, the child is returned after being placed for adoption;

(c) in an overseas adoption case, the child ceases to live with the employee;

(d) in a parental order case—

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

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

(3) In addition to complying with the notice requirements set out in regulation 6 (notice requirements) and, where relevant, regulation 7 (notice requirements: variation and cancellation), an employee wishing to exercise an entitlement to bereaved partner's paternity leave by virtue of this regulation must inform the employer of the date and nature of the relevant event—

(a) orally or in writing, and

(b) before the employee's first day of absence from work on bereaved partner's paternity leave following the relevant event.

(4) Entitlement to bereaved partner's paternity leave by virtue of this regulation does not entitle an employee to be absent from work on bereaved partner's paternity leave in respect of a child if the employee has already returned to work following a period of bereaved partner's paternity leave in respect of the child.

(5) In this regulation—

(a) "returned after being placed for adoption" means—

(i) returned under sections 31 to 35 of the Adoption and Children Act 2002(**a**),

(ii) in Scotland, returned to the adoption agency, adoption society or nominated person in accordance with section 25(6) of the Adoption and Children (Scotland) Act 2007(**b**), or

(iii) where the child is placed for adoption in accordance with section 22C of the Children Act 1989, returned to the adoption agency following a termination of the placement for adoption;

(b) "week" means a period of seven days beginning with Sunday;

(c) references to the death of a child are to be read, in relation to a child stillborn after twenty-four weeks of pregnancy, as references to the birth of the child.

PART 3

EMPLOYMENT PROTECTION

Application of terms and conditions during a period of bereaved partner's paternity leave

10.—(1) An employee who takes bereaved partner's paternity leave is, during the period of leave—

(a) entitled to the benefit of all of the terms and conditions of employment(**c**) which would have applied if the employee had not been absent on bereaved partner's paternity leave, and

(**a**) Section 32 was amended by paragraph 63(2) and (3) of Schedule 2 to the Children and Families Act 2014 (c. 6). Section 34 was amended by S.I. 2016/413 (W. 131). Section 35 was amended by paragraph 64(2) and (3) of Schedule 2 to the Children and Families Act 2014.

(**b**) Section 25 was applied, with modifications, and disapplied in certain circumstances by S.S.I. 2009/182.

(**c**) "Terms and conditions of employment" has the meaning given by section 80C(5) of the 1996 Act and accordingly does not include terms and conditions about remuneration.

(b) bound by any obligations arising under those terms and conditions of employment, subject only to the exception in section 80C(1)(b) of the 1996 Act (rights during and after paternity leave).

(2) For the purposes of section 80C of the 1996 Act, only sums payable to an employee by way of wages or salary are to be treated as remuneration.

(3) In the case of accrual of rights under an employment-related benefit scheme within the meaning given by paragraph 7(a) of Schedule 5 to the Social Security Act 1989(**a**), nothing in paragraph (1)(a) imposes a requirement which exceeds the requirements of paragraph 5A of that Schedule(**b**).

Work during a period of bereaved partner's paternity leave

11.—(1) An employee may carry out up to ten days' work for the employer during a period of bereaved partner's paternity leave without bringing that period of bereaved partner's paternity leave to an end.

(2) For the purposes of this regulation, any work carried out on any day will constitute a day's work.

(3) Subject to paragraph (4), for the purposes of this regulation, "work" means any work done under the employee's contract of employment with the employer and includes training or any activity undertaken for the purposes of keeping in touch with the workplace.

(4) Contact to discuss the employee's return to work or any other reasonable contact from time to time between the employee and the employer during the period of bereaved partner's paternity leave does not constitute work for the purposes of this regulation.

(5) This regulation does not confer any right on the employer to require any work to be carried out during the period of bereaved partner's paternity leave, nor any right on the employee to work during the period of bereaved partner's paternity leave.

(6) Any day's work carried out under this regulation will not have the effect of extending the total duration of the period of bereaved partner's paternity leave.

Right to return: entitlement

12.—(1) An employee who returns to work following a period of bereaved partner's paternity leave of 26 weeks or less that was—

(a) an isolated period of leave, or

(b) the last of two or more consecutive periods of statutory leave that did not include any period of—

(i) parental leave of more than four weeks, or

(ii) statutory leave which, when added to any other periods of statutory leave, excluding parental leave, taken in relation to the same child as the period of bereaved partner's paternity leave from which the employee is returning, means that the total amount of statutory leave taken in relation to that child is more than 26 weeks,

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

(2) An employee who returns to work following a period of bereaved partner's paternity leave not falling within the description in paragraph (1)(a) or (b) is entitled to return to the job in which the employee was employed before the absence, or, if it is not reasonably practicable for the

(**a**) 1989 c. 24.

(**b**) Paragraph 5A of Schedule 5 was inserted by section 265(1) of the Pensions Act 2004 (c. 35) and amended by paragraph 1(3)(a) of Schedule 1 to the Work and Families Act 2006 (c. 18), paragraph 2 of Schedule 7 to the Children and Families Act 2014 (c. 6) and S.I. 2016/413 (W. 131).

employer to permit the employee to return to that job, to another job which is both suitable and appropriate for the employee to do in the circumstances.

(3) In this regulation—

(a) "the job in which the employee was employed before the absence" means the job in which the employee was employed—

(i) where the return is from an isolated period of leave, immediately before that period;

(ii) where the return is from consecutive periods of statutory leave, immediately before the first such period;

(b) "parental leave" means leave provided for in section 76 of the 1996 Act(**a**).

(4) This regulation does not apply where regulation 14 (redundancy) applies.

Right to return: supplementary

13.—(1) An employee's right to return under regulation 12 (right to return: entitlement) is a right to return—

(a) with the employee's seniority, pension and similar rights as they would have been if the employee had not been absent, and

(b) on terms and conditions not less favourable than those which would have applied if the employee had not been absent.

(2) In the case of accrual of rights under an employment-related benefit scheme within the meaning given by paragraph 7(a) of Schedule 5 to the Social Security Act 1989, nothing in paragraph (1)(a) imposes a requirement which exceeds the requirements of paragraph 5A of that Schedule.

(3) The provisions in paragraph (1) providing for an employee to be treated as if the employee had not been absent refer to the employee's absence—

(a) if the employee's return is from an isolated period of leave, since the beginning of that period;

(b) if the employee's return is from consecutive periods of statutory leave, since the beginning of the first such period.

Redundancy

14.—(1) This regulation applies where it is not practicable by reason of redundancy for an employer to continue to employ an employee under the employee's existing contract of employment during—

(a) the period during which the employee is taking bereaved partner's paternity leave, or

(b) where the period of bereaved partner's paternity leave referred to in sub-paragraph (a) is six weeks or longer, the post-leave protected period.

(2) For the purposes of paragraph (1)(b), the post-leave protected period—

(a) begins with the day immediately following the final day of the employee's period of bereaved partner's paternity leave,

(b) continues during any period of continuous employment that includes the period of bereaved partner's paternity leave referred to in sub-paragraph (a), and

(c) ends immediately before the relevant day.

(**a**) Section 76 was substituted by section 7 and Part I of Schedule 4 to the Employment Relations Act 1999 (c. 26).

(3) The relevant day referred to in paragraph (2)(c) is the day after the end of a period of 18 months beginning with the day on which the child—

(a) in a birth case or parental order case, was born;

(b) in a domestic adoption case, was placed for adoption;

(c) in an overseas adoption case, entered Great Britain.

(4) Where there is a suitable available vacancy, the employee is entitled to be offered, before the end of the employee's employment under the existing contract of employment, alternative employment with the employer, the employer's successor, or an associated employer, under a new contract of employment which—

(a) complies with paragraph (5), and

(b) takes effect immediately on the ending of the employee's employment under the previous contract.

(5) The new contract of employment must be such that—

(a) the work to be done under it is of a kind which is both suitable in relation to the employee and appropriate for the employee to do in the circumstances, and

(b) its provisions as to the capacity and place in which the employee is to be employed, and as to the other terms and conditions of the employee's employment, are not substantially less favourable to the employee than if the employee had continued to be employed under the previous contract.

Protection from detriment

15.—(1) An employee is entitled under section 47C(2)(ca) of the 1996 Act not to be subjected to any detriment by any act, or any deliberate failure to act, by the employer because—

(a) the employee took, sought to take, or made use of the benefits of, bereaved partner's paternity leave,

(b) the employer believed that the employee was likely to take bereaved partner's paternity leave, or

(c) the employee undertook, considered undertaking or refused to undertake work in accordance with regulation 11 (work during a period of bereaved partner's paternity leave).

(2) For the purposes of paragraph (1)(a), an employee makes use of the benefits of bereaved partner's paternity leave if, during a period of bereaved partner's paternity leave, the employee benefits from any of the terms and conditions of employment preserved by regulation 10 (application of terms and conditions during a period of bereaved partner's paternity leave) during that period.

(3) Paragraph (1) does not apply where the detriment in question amounts to a dismissal within the meaning of Part 10 of the 1996 Act.

Unfair dismissal

16.—(1) An employee who is dismissed is entitled under section 99 of the 1996 Act to be regarded for the purposes of Part 10 of that Act as unfairly dismissed if the reason or principal reason for the dismissal is—

(a) of a kind specified in paragraph (3), or

(b) that the employee is redundant and the employer did not comply with regulation 14 (redundancy).

(2) An employee who is dismissed is also to be regarded for the purposes of Part 10 of the 1996 Act as unfairly dismissed if—

(a) the reason or principal reason for the dismissal is that the employee was redundant,

(b) it is shown that the circumstances constituting the redundancy applied equally to one or more employees in the same undertaking who held positions similar to that held by the employee and who have not been dismissed by the employer, and

(c) it is shown that the reason or principal reason for which the employee was selected for dismissal was of a kind specified in paragraph (3).

(3) The reasons referred to in paragraphs (1) and (2) are reasons connected with any of the following facts—

(a) that the employee took, sought to take, or made use of the benefits of bereaved partner's paternity leave,

(b) that the employer believed that the employee was likely to take bereaved partner's paternity leave, or

(c) that the employee undertook, considered undertaking or refused to undertake work in accordance with regulation 11 (work during a period of bereaved partner's paternity leave).

(4) For the purposes of paragraph (3)(a), an employee makes use of the benefits of bereaved partner's paternity leave if, during a period of bereaved partner's paternity leave, the employee benefits from any of the terms and conditions of employment preserved by regulation 10 (application of terms and conditions during a period of bereaved partner's paternity leave) during that period.

(5) Paragraph (1) does not apply in relation to an employee if—

(a) it is not practicable for a reason other than redundancy for the employer (who may be the same employer or a successor of that employer) to permit the employee to return to a job which is both suitable for the employee and appropriate for the employee to do in the circumstances,

(b) an associated employer offers the employee a job of that kind, and

(c) the employee accepts or unreasonably refuses that offer.

(6) Where, on a complaint of unfair dismissal, any question arises as to whether the operation of paragraph (1) is excluded by the provisions of paragraph (5), it is for the employer to show that the provisions in question were satisfied in relation to the complainant.

Calculation of a week's pay

17. Where—

(a) under Chapter 2 of Part 14 of the 1996 Act, the amount of a week's pay in respect of an employee falls to be calculated by reference to the average rate of remuneration, or the average amount of remuneration, payable to the employee in respect of a period of 12 weeks ending on a particular date (referred to as the "calculation date"),

(b) during a week or part of a week in that period, the employee was absent from work on bereaved partner's paternity leave, and

(c) remuneration is payable to the employee in respect of that week under the employee's contract of employment, but the amount payable is less than the amount that would be payable if the employee were working,

that week must be disregarded for the purpose of the calculation and account must be taken of remuneration in earlier weeks so as to bring up to 12 the number of weeks of which account is taken.

PART 4

CORRESPONDING CONTRACTUAL RIGHTS

Corresponding contractual rights

18.—(1) This paragraph applies where an employee is entitled to bereaved partner's paternity leave and also to a right which corresponds to that right and which arises under the employee's contract of employment or otherwise.

(2) Where paragraph (1) applies—

(a) the employee may not exercise the right to bereaved partner's paternity leave and the corresponding right separately but may, in taking the leave for which the two rights provide, take advantage of whichever right is, in any particular respect, the more favourable, and

(b) the provisions of the 1996 Act and of these Regulations relating to bereaved partner's paternity leave apply, subject to any modifications necessary to give effect to any more favourable contractual terms, to the exercise of the composite right described in sub-paragraph (a) as they apply to the exercise of the right to bereaved partner's paternity leave.

Kate Dearden
Parliamentary Under-Secretary of State
Department for Business and Trade

10th March 2026

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations introduce a new statutory entitlement for an employee to be absent from work to care for a child during the first year following the child's birth, placement for adoption, or entry into Great Britain in connection with or for the purposes of an adoption from overseas, in the event that the child's primary carer dies ("bereaved partner's paternity leave").

Part 1 makes general provision.

Part 2 makes provision in relation to an employee's entitlement to bereaved partner's paternity leave.

- Regulation 4 provides that an employee who is the father of a child whose mother has died, or who was the spouse, civil partner or partner of a child's deceased primary carer, may take a period of bereaved partner's paternity leave to care for the child.
- Regulation 5 makes provision as to when the employee may be absent from work on bereaved partner's paternity leave.
- Regulation 6 provides for the notice requirements with which an employee must comply, in relation to starting the period of leave and returning to work following the period of leave.
- Regulation 7 provides that an employee may vary the leave start date of, or cancel, a period of bereaved partner's paternity leave. It also makes provision for an employee to vary the date the employee intends to return to work following the period of bereaved partner's paternity leave.
- Regulation 8 provides that the employer may postpone the employee's return to work where the employee does not give the employer the required notice of the intended return date.
- Regulation 9 provides that an employee is entitled to be absent from work on bereaved partner's paternity leave for up to eight weeks following the occurrence of a specified event that would otherwise make an employee ineligible for bereaved partner's paternity leave.

Part 3 makes provision in relation to employment protection.

- Regulation 10 provides for the continuance of an employee's terms and conditions of employment during a period of bereaved partner's paternity leave.
- Regulation 11 provides that an employee may work for up to ten days for the employer during a period of bereaved partner's paternity leave without bringing that period of leave to an end.
- Regulations 12 and 13 provide for an employee's right to return to work after a period of bereaved partner's paternity leave.
- Regulation 14 makes provision in relation to protection from redundancy during a period of bereaved partner's paternity leave and, where the period of bereaved partner's paternity leave is six weeks or longer, for a period of time following that leave.
- Regulations 15 and 16 make provision in relation to protection from detriment and unfair dismissal attributable to an employee's right to take bereaved partner's paternity leave.
- Regulation 17 specifies how a week's pay must be calculated.

Part 4 (regulation 18) allows an employee to choose whether to take bereaved partner's paternity leave or contractual leave.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary sector or community bodies is foreseen.

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