Draft Regulations laid before Parliament under section 236(3) of the Employment Rights Act 1996, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. XXXX

TERMS AND CONDITIONS OF EMPLOYMENT

The Paternity and Adoption Leave (Amendment) Regulations 2014

Made - - - -	*****
Coming into force	
for the purpose of regulations 1, 2, 10, 12 and 14(1) and (3)	*1st October 2014*
for the purpose of regulations 3, 4, 5(a), 5(b) (partially), 6, 8 and 9	*1st December 2014*
for all other purposes	*5th April 2015*

The Secretary of State, in exercise of the powers conferred by sections 47C(2)(aa) and (ab), 75A(1), and (3)(c), 75D(2), 80A(4A), 80B(4A), and (5)(ba), 80C(1)(c), 80D(1) and 99(1), (2) and (3)(aa) and (ab) of the Employment Rights Act 1996(**1**), makes the following Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Paternity and Adoption Leave (Amendment) Regulations 2014.

(2) This regulation and regulations 2, 10, 12 and 14(1) and (3) come into force on 1st October 2014.

(3) Regulations 3, 4, 5(a), 5(b) (so far as it relates to new sub-paragraph (a) of new paragraph(1A), 6, 8 and 9 come into force on 1st December 2014.

(**1**) 1996 c. 18. Section 47C was inserted by the Employment Relations Act 1999 (c. 26), Schedule 4, Part 3, paragraphs 5 and 8. Paragraphs (aa) and (ab) were inserted into section 47C(2) by the Children and Families Act 2014 (c. 6), sections 127(2)(a) and 128(2)(a). Sections 75A and 75D were inserted by the Employment Act 2002 (c. 22), section 3.. Sections 80A to 80D were inserted by the Employment Act 2002, section 1. Section 80A(4A) was inserted by the Children and Families Act 2014, section 118(6). Section 80B(4A) was inserted by the Children and Families Act 2014, section 118(7). Section 80B(5)(ba) was inserted by the Children and Families Act 2014, section 128(2)(b). Section 99 was substituted by the Employment Relations Act 1999, Schedule 4, Part 3, paragraphs 5 and 16. Subsection (3)(aa) was inserted by the Children and Families Act 2014, section 127(2)(b) and subsection (3)(ab) was inserted by the Children and Families Act 2014, section 128(2)(c).

(4) Regulations 5(b) (so far as it relates to new sub-paragraph (b) of new paragraph (1A)), 7, 11, 13 and 14(2) and (4) come into force on 5th April 2015.

Amendments to the Paternity and Adoption Leave Regulations 2002

2. The Paternity and Adoption Leave Regulations 2002(**2**) are amended as follows.

3. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) in the definition of "adoption agency", for "section 1(4) of the Adoption Act 1976(**3**)" substitute "section 2(1) of the Adoption and Children Act 2002(**4**)";

(ii) after the definition of "paternity leave" insert—

""shared parental leave" means leave under section 75E or 75G of the 1996 Act(**5**)

(b) in paragraph (4)(b), for "regulation 11(2) of the Adoption Agencies Regulations 1983(**6**)" substitute "regulation 33(3)(a) of the Adoption Agencies Regulations 2005, regulation 28(3) of the Adoption Agencies (Wales) Regulations 2005(**7**)".

4. In regulation 4 (entitlement to paternity leave: birth)—

(a) in paragraph (1), for "An" substitute "Subject to paragraph (1A), an";

(b) after paragraph (1) insert—

"(1A) An employee is not entitled to be absent from work under paragraph (1) if the employee has taken any shared parental leave in respect of the child.".

5. In regulation 8 (entitlement to paternity leave: adoption)—

(a) in paragraph (1), for "An" substitute "Subject to paragraph (1A), an";

(b) after paragraph (1) insert—

"(1A) An employee is not entitled to be absent from work under paragraph (1) if the employee–

(a) has taken any shared parental leave in respect of the child; or

(b) has exercised a right to take time off under section 57ZJ of the 1996 Act in respect of the child.".

6. In paragraph (1) of regulation 13 (right to return after paternity leave), for sub-paragraph (b) substitute—

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

(i) period of parental leave of more than four weeks; or

(ii) period of statutory leave which when added to any other periods of statutory leave (excluding parental leave) taken in relation to the same child means that the total amount of statutory leave taken in relation to that child totals more than 26 weeks,".

7. In regulation 15 (entitlement to ordinary adoption leave)—

(**2**) 2002/2788.
(**3**) 1976 c. 36. The Adoption Act 1976 was repealed by the Adoption and Children Act 2002 (c. 38), section 139(3), Schedule 5, paragraph 1.
(**4**) 2002 c. 38.
(**5**) Sections 75E and 75G were inserted by the Children and Families Act 2014, section 117.
(**6**) S.I. 1983/1964.
(**7**) S.I. 2005/1313.