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. 0000

TERMS AND CONDITIONS OF EMPLOYMENT

The Shared Parental Leave and Paternity and Adoption Leave (Adoptions from Overseas) Regulations 2014

Made - - - -	*****
Coming into force - -	*5th April 2015*

A draft of these Regulations was laid before Parliament in accordance with section 236(3) of the Employment Rights Act 1996(**1**) and approved by a resolution of each House of Parliament.

The Secretary of State, in exercise of the powers conferred by sections 47C(2), 75A(1), (2A) and (2B), 75B(3)(a) and (aa), and (3A), 75D(1)(a) and (2), 75G(1) to (6), 75H(1), (4), (7) to (14), (16), and (17), 75I(1), (4), and (5), 75J, 75K(1) and (6), 80B(2) and (4A), and 99 of the Employment Rights Act 1996(**2**), makes the following Regulations.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Shared Parental Leave and Paternity and Adoption Leave (Adoptions from Overseas) Regulations 2014 and come into force on 5th April 2015.

(**1**) 1996 c. 18. Section 236(3) was amended by the Children and Families Act 2014 (c. 6), section 117(2); there are other amending instruments but none is relevant.

(**2**) Section 47C was inserted by the Employment Relations Act 1999 (c. 26), Schedule 4, Part 3, paragraphs 5 and 8, and amended by the Children and Families Act 2014, Schedule 7, paragraphs 29 and 31; there are other amending instruments but none is relevant. Sections 75A and 75B were inserted by the Employment Act 2002 (c. 22), section 3, and amended by the Children and Families Act 2014, section 118(4) and (5) respectively. Section 75D was inserted by the Employment Act 2002, section 3; there are amending instruments but none are relevant. Sections 75G to 75K were inserted by the Children and Families Act 2014, section 117(1). Sections 75G and 75H were modified by S.I. 2014/XXXX. Section 80B was inserted by the Employment Act 2002, section 1, and subsection (4A) was inserted by the Children and Families Act 2014, section 118(7); there are other amending instruments but none is relevant. Section 99 was substituted by the Employment Relations Act 1999, Schedule 4, Part 3, paragraphs 5 and 16, and amended by the Children and Families Act 2014, Schedule 7, paragraphs 29 and 39; there are other amending instruments but none is relevant.

Interpretation

2. In these Regulations—

"the Application Regulations" means the Employment Rights Act 1996 (Application of Sections 75G and 75H to Adoptions from Overseas) Regulations 2014(**3**);

"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, and references to a child adopted from overseas shall be construed accordingly;

"enter Great Britain" means enter Great Britain from outside the United Kingdom in connection with or for the purposes of adoption.

PART 2

Application of the Maternity and Adoption Leave (Curtailment) Regulations 2014

Application of the Maternity and Adoption Leave (Curtailment) Regulations 2014 to adoptions from overseas

3.—(1) The provisions of the Maternity and Adoption Leave (Curtailment) Regulations 2014(**4**), insofar as they provide for the curtailment of statutory adoption leave, apply to adoptions from overseas, subject to the modifications set out in paragraph (2) and regulations 4 to 6 below.

(2) Any references in the provisions of the Maternity and Adoption Leave (Curtailment) Regulations 2014 to the provisions in Chapter 1B of Part 8 of the Employment Rights Act 1996 Act must be construed as references to the provisions of Chapter 1B as modified by the Application Regulations.

Modifications to the Maternity and Adoption Leave (Curtailment) Regulations 2014

4. The Maternity and Adoption Leave (Curtailment) Regulations 2014 are modified as follows.

5. In regulation 2 (application) for paragraph (2) substitute—

"(2) Part 3 of these Regulations has effect only in relation to children who enter Great Britain on or after 5th April 2015.".

6.—(1) Regulation 3 (interpretation) is modified as follows.

(2) In paragraph (1)—

(a) for the definition of "A" substitute—

""A", in relation to C, means the person by whom C has been or is to be adopted, or, in a case where two people have adopted C jointly, whichever of them has elected to be the adopter for the purposes of the Parental and Adoption Leave Regulations 2002(**5**);";

(b) for the definition of "AP" substitute—

""AP" means the person who at the date on which C enters Great Britain is married to, or the civil partner or the partner of, A;"; and

(c) after the definition of "declaration of consent and entitlement", insert—

(**3**) S.I. 2014/XXXX.
(**4**) S.I. 2014/XXXX.
(**5**) S.I. 2002/2788.

""enter Great Britain" means enter Great Britain from outside the United Kingdom in connection with or for the purposes of adoption;".

PART 3

Application of the Shared Parental Leave Regulations 2014

Application of the Shared Parental Leave Regulations 2014 to adoptions from overseas

7.—(1) The provisions of the Shared Parental Leave Regulations 2014 mentioned in paragraph (2), insofar as they apply to shared parental leave (adoption), apply to adoptions from overseas, subject to the modifications set out in paragraphs (3) and (4) and regulations 8 to 21 below.

(2) The relevant provisions are—

(a) regulation 2;

(b) regulation 3;

(c) Parts 3 to 6;

(d) Part 2 of the Schedule.

(3) Any references in the provisions of the Shared Parental Leave Regulations 2014 mentioned in paragraph (2) to the provisions in Chapter 1B of Part 8 of the Employment Rights Act 1996 Act must be construed as references to the provisions of Chapter 1B as modified by the Application Regulations.

(4) Any references in the provisions of the Shared Parental Leave Regulations 2014 mentioned in paragraph (2) to other provisions of those Regulations must be construed as references to those provisions as modified by these Regulations.

Modifications to the Shared Parental Leave Regulations 2014 for the purposes of adoptions from overseas

8. The Shared Parental Leave Regulations 2014 are modified as follows.

9. In regulation 2 (application) for paragraph (2) substitute—

"(2) The provisions relating to shared parental leave in Part 3 have effect only in relation to children who enter Great Britain on or after 5th April 2015.".

10.—(1) Regulation 3 (interpretation) is modified as follows.

(2) In paragraph (1)—

(a) for the definition of "A" substitute—

""A", in relation to C, means the person by whom C has been or is to be adopted, or, in a case where two people have adopted C jointly, whichever of them has elected to be the adopter for the purposes of the Parental and Adoption Leave Regulations 2002;";

(b) for the definition of "AP" substitute—

""AP" means the person who at the date on which C enters Great Britain is married to, or the civil partner or the partner of, A;"; and

(c) insert the following definitions in the appropriate places alphabetically—

""enter Great Britain" means enter Great Britain from outside the United Kingdom in connection with or for the purposes of adoption;

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

"relevant central authority" means—

(a) where Part 3 of the Adoptions with a Foreign Element Regulations 2005(**6**) applies to A and A is habitually resident in Wales, the Welsh Ministers;

(b) where the Adoptions with a Foreign Element (Scotland) Regulations 2009(**7**) apply to A and A is habitually resident in Scotland, the Scottish Ministers; and

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

11.—(1) Regulation 20 (adopter's entitlement to shared parental leave) is modified as follows.

(2) In paragraphs (2)(b) and (3)(b) for "of the placement for adoption of C" substitute "on which C enters Great Britain".

(3) In paragraph (4) for "placed for adoption through a single placement" substitute "adopted as part of the same arrangement".

12.—(1) Regulation 21 (adopter's partner's entitlement to shared parental leave) is modified as follows.

(2) In paragraphs (2)(b) and (3)(b) for "of the placement for adoption of C" substitute "on which C enters Great Britain".

(3) In paragraph (4) for "placed for adoption through a single placement" substitute "adopted as part of the same arrangement".

13. In regulation 23 (periods when shared parental leave may be taken), for paragraph (1) substitute—

"(1) Shared parental leave may be taken at any time within the period which begins on the date on which C enters Great Britain (or where more than one child is adopted as a result of the same arrangement, the date on which the first child entered Great Britain) and ends on the day before the first anniversary of that date.".

14.—(1) Regulation 24 (adopter's notice of entitlement) is modified as follows.

(2) For sub-paragraph (c) in paragraph (2) substitute—

"(c) the date that A received the official notification;".

(3) For sub-paragraph (d) in paragraph (2) substitute—

"(d) the date on which C is expected to enter Great Britain (except as provided for in paragraph (5));".

(4) For paragraph (5) substitute—

"(5) Where a notice is given under paragraph (1) before the date that C enters Great Britain and C enters Great Britain less than eight weeks before the start of the first period of shared parental leave, A must give the date of C's entry into Great Britain to A's employer as soon as reasonably practicable and, in any event, before the first period of shared parental leave to be taken by A.".

(**6**) S.I. 2005/392.
(**7**) S.I. 2009/182.