STATUTORY RULES OF NORTHERN IRELAND

# 2002 No. 135

# EMPLOYMENT

## Maternity and Parental Leave etc. (Amendment No. 2) Regulations (Northern Ireland) 2002

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| *Made - - - -* | *5th April 2002* |
| *Approved by resolution of the Assembly - - - -* | *22nd April 2002* |
| *Coming into operation* | *21st April 2002* |

The Department for Employment and Learning(**1**), in exercise of the powers conferred on it by Article 108(1), (2) and (5) of the Employment Rights (Northern Ireland) Order 1996(**2**), and of every other power enabling it in that behalf, hereby makes the following Regulations—

### Citation and commencement

**1.** These Regulations may be cited as the Maternity and Parental Leave etc. (Amendment No. 2) Regulations (Northern Ireland) 2002 and shall come into operation on 21st April 2002.

### Interpretation

**2.** In these Regulations, "the principal Regulations" means the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999(**3**).

### Revocation

**3.** The Maternity and Parental Leave etc. (Amendment) Regulations (Northern Ireland) 2002(**4**) are hereby revoked.

### Amendment of the principal Regulations

**4.** The principal Regulations shall be amended in accordance with regulations 5 to 8.

**5.** In regulation 13 (entitlement to parental leave)—

(**1**) Formerly known as the Department of Higher and Further Education, Training and Employment; renamed the Department for Employment and Learning by the Department for Employment and Learning Act (Northern Ireland) 2001 c. 15
(**2**) S.I.1996/1919 (N.I. 16); Article 108 was substituted by, and Article 251(1A) was inserted by, Schedule 4 to the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9))
(**3**) S.R. 1999 No. 471
(**4**) S.R. 2002 No. 110

(a) in paragraph (1)(*a*), after the words "employed for a period of not less than a year", insert "or is to be treated as having been so employed by virtue of paragraph (1A)";

(b) after paragraph (1), insert—

"(1A) If, in a case where regulation 15(2) or (3) applies—

(a) the employee was employed, during the period between 15th December 1998 and 20th April 2002 both dates inclusive, by a person other than the person who was his employer on 21st April 2002, and

(b) the period of his employment by that person (or, if he was employed by more than one person during that period, any such person) was not less than a year,

then, for the purposes of paragraph (1), he shall be treated as having been continuously employed for a period of not less than a year.";

(c) omit regulation 13(3).

**6.** In regulation 14 (extent of entitlement)—

(a) in paragraph (1) for "An employee is entitled" substitute "Except in the case referred to in paragraph (1A), an employee is entitled";

(b) after paragraph (1), insert—

"(1A) An employee is entitled to eighteen weeks' leave in respect of a child who is entitled to a disability living allowance.".

**7.** For regulation 15 (when parental leave may be taken) substitute—

"**15.**—(1) Except in the cases referred to in paragraphs (2) to (4), an employee may not exercise any entitlement to parental leave in respect of a child after the date of the child's fifth birthday or, in the case of a child placed with the employee for adoption by him, after—

(a) the fifth anniversary of the date on which the placement began, or

(b) the date of the child's eighteenth birthday,

whichever is the earlier.

(2) In the case of a child—

(a) born before 15th December 1999, whose fifth birthday was or is on or after that date, or

(b) placed with the employee for adoption by him before 15th December 1999, the fifth anniversary of whose placement was or is on or after that date,

not being a case to which paragraph (3) or (4) applies, any entitlement to parental leave may not be exercised after 20th July 2005.

(3) In the case of a child who is entitled to a disability living allowance, any entitlement to parental leave may not be exercised after the date of the child's eighteenth birthday.

(4) In a case where—

(a) the provisions set out in Schedule 2 apply, and

(b) the employee was unable to take leave in respect of a child within the time permitted in the case of that child under paragraphs (1) or (2) because the employer postponed the period of leave under paragraph 6 of that Schedule,

the entitlement to leave is exercisable until the end of the period to which the leave was postponed.".

**8.** In Schedule 2 (default provisions in respect of parental leave)—

(a) after paragraph 2, insert—