

Parental Bereavement Leave (Statutory Entitlement) Bill

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B I L L

TO

Make provision for statutory entitlement to leave of absence from employment for bereaved parents; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Parental bereavement leave

- (1) The Employment Rights Act 1996 is amended as follows.
- (2) In Part 8 of the Employment Rights Act, after Chapter III there is inserted—

“CHAPTER IV**PARENTAL BEREAVEMENT LEAVE**

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80E1 Entitlement to parental bereavement leave

- (1) The Secretary of State must make regulations entitling an employee who satisfies specified conditions—

- (a) as to duration of employment, and
- (b) as to their relationship with the deceased child

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to be absent from work on leave under this section for the purpose of grieving for a deceased child and supporting the other parent or parents.

- (2) The regulations must include provision for determining the persons entitled to claim parental bereavement leave and must include, but not be limited to—

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- (a) the mother as identified on the child's birth certificate,
- (b) the father as identified on the child's birth certificate or by subsequent agreement or court order made prior to the death of the child,
- (c) another person on the basis of marriage to, or civil partnership with, the mother or father at the time of birth or subsequent

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- parental, or step parental, responsibility agreement or court order made prior to the death of the child,
- (d) persons with whom the child was placed for adoption or fostering, or
- (e) other categories of persons with relevant care or guardianship responsibilities designated by order under subsection (3). 5
- (3) The Secretary of State may by order designate other categories of persons with relevant care or guardianship responsibilities as entitled to claim parental bereavement leave.
- (4) Regulations under subsection (2) may provide entitlement to leave under subsection (1) – 10
- (a) in relation to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom, with such modifications as the regulations may prescribe, and 15
- (b) for more than two persons in relation to the death of one child.
- (5) The regulations must include provision for determining –
- (a) the extent of an employee’s entitlement to leave under this section in respect of the death of a child;
- (b) the evidence that an employer may request of an employee for the purposes of verifying entitlement under this section; and 20
- (c) when leave under this section may be taken.
- (6) Provision under this section shall secure that, where an employee is entitled to leave under this section in respect of the death of a child, that employee is entitled to at least two weeks’ leave. 25
- (7) Provision under this section shall secure that, where an employee is entitled to leave under this section in respect of the death of a child, that employee is entitled to be paid during that period of leave –
- (a) at a rate not less than 90 per cent of the employee’s average weekly earnings, or 30
- (b) £139.58 per week,
- whichever is the lower.
- (8) Nothing in this section is to be interpreted as preventing an employee entitled to leave under this section being paid more than the minimum rate set under subsection (7). 35
- (9) Provision under subsection (5)(b) shall secure that leave under this section is only available for a child’s death occurring more than 56 days after the date of the child’s birth.
- (10) Regulations under subsection (1) may –
- (a) make provision excluding the right to be absent on leave under this section in respect of a child where more than one child has died at the same time; and 40
- (b) make provision about how leave under this section may be taken.
- (11) In this section “week” means any period of seven days. 45
- (12) In this section a “child” means a person –

- (a) under the age of 18,
- (b) in compulsory full-time education, or
- (c) both.

80E2 Rights during and after parental bereavement leave

- (1) Regulations under section 80E1 shall provide— 5
 - (a) that an employee who is absent on leave under that section is entitled, for such purposes and to such extent as the regulations may prescribe, to the benefit of the terms and conditions of employment which would have applied if he had not been absent; 10
 - (b) that an employee who is absent on leave under that section is bound, for such purposes and to such extent as the regulations may prescribe, by obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1) of that section), and 15
 - (c) that an employee who is absent on leave under that section is entitled to return from leave to a job of a kind prescribed by regulations, subject to section 80E3(1).
- (2) In subsection (1)(a), “terms and conditions of employment” — 20
 - (a) includes matters connected with an employee’s employment whether or not they arise under his contract of employment, but
 - (b) does not include terms and conditions about remuneration.
- (3) Regulations under section 80E1 may specify matters which are, or are not, to be treated as remuneration for the purposes of this section.
- (4) Regulations under section 80E1 may make provision, in relation to the right to return mentioned in subsection (1)(c), about — 25
 - (a) seniority, pension rights and similar rights; and
 - (b) terms and conditions of employment on return.

80E3 Special cases

- (1) Regulations under this chapter may make provision about — 30
 - (a) redundancy, or
 - (b) dismissal (other than by reason of redundancy),

during a period of parental bereavement leave.
- (2) Provision by virtue of subsection (1) may include — 35
 - (a) provision requiring an employer to offer alternative employment; and
 - (b) provision for the consequences of failure to comply with the regulations (which may include provision for a dismissal to be treated as unfair for the purposes of Part 10).

80E4 Chapter III: supplemental

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- (1) Regulations under section 80E1 may —
 - (a) make provision about notices to be given, evidence to be produced and other procedures to be followed by employees and employers;

- (b) make provision requiring employers or employees to keep records;
 - (c) make provision for the consequences of failure to give notices, to produce evidence, to keep records or to comply with other procedural requirements; 5
 - (d) make provision for the consequences of failure to act in accordance with a notice given by virtue of paragraph (a);
 - (e) make special provision for cases where an employee has a right which corresponds to a right under section 80E1 and which arises under his contract of employment or otherwise; 10
 - (f) make provision modifying the effect of Chapter 2 of Part 14 (calculation of a week's pay) in relation to an employee who is or has been absent from work on leave under section 80E1;
 - (g) make provision applying, modifying or excluding an enactment, in such circumstances as may be specified and subject to any conditions which may be specified, in relation to a person entitled to take leave under section 80E1; and 15
 - (h) make different provision for different cases or circumstances.
- (2) Any power to make orders or regulations under this chapter is exercisable by statutory instrument. 20
 - (3) Any regulations under this chapter shall not be made until a draft of the regulations have been laid before, and approved by, each House of Parliament.
 - (4) An order under section 80E1(3) may be made subject to annulment in pursuance of a resolution of either House of Parliament." 25

2 Statutory parental bereavement pay: rates of pay

- (1) The Social Security Contributions and Benefits Act 1992 is amended as follows.
- (2) The amendment to another Act can also be sub-sections, paragraphs etc. That would look like this –
 - “(1A) Statutory parental bereavement pay shall be payable at such fixed or earnings-related weekly rate as may be prescribed by regulations, which may prescribe different kinds of rate for different cases.” 30

3 Extent, commencement and citation

- (1) This Act extends to England, Wales and Scotland.
- (2) This Act shall come into force on a day the Secretary of State may by regulations made by statutory instrument appoint, subject to subsection (4). 35
- (3) Regulations under this section may appoint different days for different purposes or areas, subject to subsection (4).
- (4) Regulations under this section necessary to bring the whole of this Act into force in every area must be made before the elapse of a period of 12 months beginning on the day this Act receives Royal Assent. 40
- (5) This Act may be cited as the Parental Bereavement Leave (Statutory Entitlement) Act 2017.

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To make provision for statutory entitlement to leave of absence from employment for bereaved parents; and for connected purposes.

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