

Parental Leave and Pay Arrangements (Publication) Bill

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Require employers with more than 250 employees to publish information about parental leave, and pay in the course of such leave; 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 Amendment of the Employment Rights Act 1996

- (1) The Employment Rights Act 1996 is amended as follows.
- (2) After section 80EE (inserted by the Parental Bereavement (Leave and Pay) Act 2018), insert—

“CHAPTER 5

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PARENTAL LEAVE AND PAY ARRANGEMENTS (PUBLICATION)**80EF Requirements in respect of parental leave policy**

- (1) A relevant employer must publish a statement of that employer’s policy on the entitlements of relevant employees to—
 - (a) parental leave, 10
 - (b) statutory pay in respect of parental leave, and
 - (c) pay and benefits in the course of parental leave.
- (2) A statement of policy under subsection (1) must state—
 - (a) any qualifying conditions for the policy to apply to an employee, 15
 - (b) whether and, if so, how the employer provides support to employees who are parents in connection with parenthood in relation to a child under the age of 18 in addition to arrangements relating to leave and pay (including flexible working arrangements). 20

- (3) The statement of policy under subsection (1) must be accompanied by a written statement which—
- (a) confirms that the statement of policy is accurate; and
 - (b) is signed in accordance with the requirements of regulation 14(2) of the Gender Pay Gap Information Regulations. 5
- (4) The requirement in subsection (1) to publish a statement of policy, and the requirement under subsection (3) that the statement of policy must be accompanied by a written statement, are requirements that those statements be published on the employer’s website in a manner that is accessible to all its employees and to the public. 10
- (5) A relevant employer must also publish on the website designated by the Secretary of State for the purposes of regulation 15(2) of the Gender Pay Gap Information Regulations—
- (a) the statement of policy; and
 - (b) the name and job title of the person who signed the statement required under subsection (3). 15

80EG When a parental leave policy must be published

- (1) This section makes provision about when a statement of policy under section 80EF(1) must be published in accordance with the requirements of subsections (4) and (5) of that section. 20
- (2) The first annual statement must be published within two months of this Act being passed.
- (3) A new statement of policy must also be published in any case where the policy to which the statement relates is the subject of a material change.
- (4) A new statement of policy under subsection (3) must be published within two months of the material change having effect. 25
- (5) Any change in statutory pay in respect of parental leave is not a “material change” for the purposes of this section.
- (6) Subsequent annual statements must be published within twelve months of the snapshot date unless a new statement of policy under subsection (3) has been published during the period of two months ending with the snapshot date. 30
- (7) But the requirement of subsection (6) is met by a notification to the Secretary of State to be published on the website designated by the Secretary of State for the purposes of regulation 15(2) of the Gender Pay Gap Information Regulations that the policy has not been the subject of a material change since the last time a policy statement was published. 35

80EH Enforcement

- (1) It shall be the duty of Her Majesty’s Commissioners of Revenue and Customs to— 40
- (a) designate officers of those Commissioners to act as officers for the purposes of this Chapter,
 - (b) take such steps as they consider appropriate to enable relevant employees and others to report possible instances of a relevant employer failing to comply with a relevant requirement, and 45

- (c) *take such steps as they consider appropriate to investigate possible instances of a relevant employer failing to comply with a relevant requirement, whether reported to them or otherwise, and take subsequent steps in accordance with provisions of this section.*
- (2) Where an officer acting for the purposes of this Chapter is of the opinion that an employer has not complied with a relevant requirement, the officer shall serve a notice on the employer requiring them to do so (a “notice of non-compliance”). 5
- (3) A notice of non-compliance must specify – 10
- (a) the date of issue of the notice,
 - (b) the relevant requirement that the officer acting for the purposes of this Chapter considers has not been complied with,
 - (c) the reasons why the officer acting for the purposes of the Chapter has come to that opinion, and
 - (d) the period, which shall not be less than 28 days and not be more than 60 days, within which the employer must comply with the relevant requirement. 15
- (4) Where an officer acting for the purposes of this Chapter is of the opinion that an employer has not complied with a relevant requirement which has been the subject of a notice of non-compliance within the period specified in that notice, the officer shall serve a notice on the employer requiring them to pay a financial penalty (a “penalty notice”). 20
- (5) The penalty shall be such amount, not less than £500 and not exceeding £5,000, as an officer acting for the purposes of this Chapter shall determine. 25
- (6) Her Majesty’s Commissioners of Revenue and Customs must issue guidance on the determination of a penalty under subsection (5) having regard to – 30
- (a) the number of employees of an employer, and
 - (b) the nature of the non-compliance with a relevant requirement.
- (7) A penalty notice must specify – 35
- (a) the date of issue of the notice,
 - (b) the relevant requirement specified in a notice of non-compliance that the officer acting for the purposes of this Chapter considers has not been complied with within the period specified in that notice,
 - (c) the reasons why the officer acting for the purposes of the Chapter has come to that opinion,
 - (d) the amount of the financial penalty, and
 - (e) the period, which shall not be less than 28 days and not be more than 60 days, within which the employer must pay the financial penalty. 40
- (8) *A financial penalty paid to Her Majesty’s Commissioners of Revenue and Customs pursuant to this section shall be paid by Her Majesty’s Commissioners of Revenue and Customs into the Consolidated Fund.* 45

80EI Appeals

- (1) An employer upon whom a notice of non-compliance or a penalty notice is served may in accordance with this section appeal against any one or more of the following –
- (a) the decision to serve the notice, 5
 - (b) any requirement imposed by a penalty notice to pay a financial penalty, and
 - (c) the amount of that penalty.
- (2) An appeal under this section lies to an employment tribunal.
- (3) An appeal under this section must be made within 28 days of the date of issue of the notice. 10
- (4) Where the employment tribunal allows an appeal under this section it must –
- (a) rescind the notice, or
 - (b) vary the terms of the notice. 15

80EJ Interpretation

- (1) In this Chapter –
- “the Gender Pay Gap Information Regulations” means the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 (SI 2017/172); 20
 - “notice of non-compliance” has the meaning given in section 80EH(2);
 - “other pay and benefits in respect of parental leave” means any pay or benefits provided by a relevant employer to a relevant employee in addition to that employee’s statutory pay in respect of parental leave; 25
 - “parental leave” means –
 - (a) maternity leave (within the meanings given by sections 71 to 73),
 - (b) paternity leave (within the meanings given under or by virtue of sections 80A and 80B), 30
 - (c) adoption leave (within the meanings given under or by virtue of sections 75A and 75B),
 - (d) parental leave (within the meanings given under or by virtue of section 76), 35
 - (e) shared parental leave (within the meanings given under or by virtue of sections 75E and 75G),
 - (f) parental bereavement leave (within the meaning given under or by virtue of section 80EA), and
 - (g) any additional discretionary leave granted by the relevant employer to a relevant employee in connection with parenthood in relation to a child under the age of 18; 40
 - “penalty notice” has the meaning given in section 80EH(4);
 - “qualifying conditions” includes – 45
 - (a) any period for which an employee must have worked for the employer;

- (b) any clawback arrangements that affect entitlement to leave or pay for employees that leave employment within a period of time;
- (c) any requirements that affect some employees, but not others; 5
- “relevant requirement” means a requirement under section 80EF or 80EH;
- “statutory pay in respect of parental leave” means any pay to which a relevant employee is entitled in respect of parental leave under or by virtue of the Social Security Contributions and Benefits Act 1992. 10
- (2) Expressions used in this Chapter and in the Gender Pay Gap Information Regulations have the same meaning in this Chapter as in those Regulations.”
- 2 Amendment of the Employment Tribunals Act 1996** 15
- (1) The Employment Tribunals Act 1996 is amended as follows.
- (2) In section 4 (composition of employment tribunal) in subsection (3) (which specifies proceedings to be heard by the chair alone) after paragraph (ch) insert –
- “(ci) proceedings on a complaint under section 80EI of the Employment Rights Act 1996;”. 20
- 3 Extent, commencement and short title**
- (1) An amendment made by this Act has the same extent as the provision to which it relates.
- (2) This Act shall come into force on the day on which it receives Royal Assent. 25
- (3) This Act may be cited as the Parental Leave and Pay Arrangements (Publication) Act 2018.

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To require employers with more than 250 employees to publish information about parental leave, and pay in the course of such leave; and for connected purposes.

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