

EXPLANATORY MEMORANDUM TO
**THE SHARED PARENTAL LEAVE AND STATUTORY SHARED PARENTAL PAY
(CONSEQUENTIAL AMENDMENTS TO SUBORDINATE LEGISLATION) ORDER**
2014
2014 No. 3255

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This order amends various pieces of secondary legislation to reflect the introduction of shared parental leave and pay and the abolition of additional paternity leave and pay by Part 7 of the Children and Families Act 2014.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative context

4.1 This instrument makes consequential amendments arising from Part 7 of the Children and Families Act 2014. Part 7 makes provision for new entitlements to shared parental leave and statutory shared parental pay and abolishes additional paternity leave and additional statutory parental pay.

4.2 Specifically, the order amends existing secondary legislation to:

- (i) omit references to “ordinary” where that word occurs before “paternity leave” or “statutory paternity pay”;
- (ii) omit references to “additional paternity leave” and “additional statutory paternity pay”;
- (iii) insert references to “shared parental leave” and “statutory shared paternity pay”.

5. Territorial extent and application

5.1 This instrument extends to the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 In November 2012, the Government announced in the Government Response to the flexible parental leave part of the Modern Workplaces consultation in 2011 its intention to introduce a system of shared parental leave and pay for qualifying parents. The policy objective is to create choice for families in how they look after their children, and to create more equity in the workplace and reduce the gender penalty resulting from women taking long periods of time out of the workplace on maternity leave. It is also designed to encourage shared parenting as evidence has shown that where fathers are involved in parenting at any early stage they are more likely to stay involved with their children in later years, leading to a basket of positive outcomes for children.

7.2 The three sets of regulations which create the framework for shared parental leave and pay for eligible birth parents and adoptive parents who are matched with a child for adoption and lead to the abolition of additional paternity leave and pay came into force on 1 December 2014 and apply in respect of children whose expected week of birth begins on or after 5th April 2015 or who are placed for adoption on or after 5th April 2015.

8. Consultation outcome

8.1 The Modern Workplaces Consultation was published on the 16 May 2011 and ran for 12 weeks. It sought views on a radical new system whereby maternity leave would be reduced to 18 weeks and then 34 weeks of leave and 21 weeks of statutory pay to be available for the parents to share on a flexible basis allowing the parents to be absent from work at the same time, with some leave being reserved for the exclusive use of each parent on a “use it or lose it”, non-transferable basis. The consultation document can be found at: <https://www.gov.uk/government/consultations/consultation-on-modern-workplaces>.

8.2 In light of consultation responses, the Government announced a revised proposal for shared parental leave and pay in November 2012. The Government response is available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82969/12-1267-modern-workplaces-response-flexible-parental-leave.pdf. It sets out the proposal for new statutory rights to shared parental leave and pay for employees with a partner who is working, or has recently been working (whether employed or self-employed). The new system would allow a woman to curtail her maternity leave period or reduce her maternity pay/maternity allowance period to create an entitlement to shared parental leave and/or pay that could be shared with her partner. Adopters would curtail their adoption leave/adoption pay period to create shared parental leave and /or pay. Eligible employees would be able to share up to 50 weeks of shared parental leave and up to 37 weeks of statutory shared parental pay.

8.3 A further consultation on the administrative elements of the system was launched on in February 2013 and the Government response was published in November 2013. The consultation document and full Government response can be accessed at:

[https://www.gov.uk/government/consultations/consultation-on-the-administration-of-shared-parental-leave-and-pay.](https://www.gov.uk/government/consultations/consultation-on-the-administration-of-shared-parental-leave-and-pay)

9. Guidance

9.1 The changes brought about by these Regulations and the other elements of the package will be publicised widely so that all who may be affected may be made aware of their effects. The Department will use appropriate communication channels and press avenues to publicise the changes.

10. Impact

10.1 These Regulations are part of a package of legislative measures required to implement the Government's policy on shared parental leave and pay, and other changes to statutory family related leave and pay. A single Impact Assessment was prepared for these changes as a whole and is available online at
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/110692/13-651-modern-workplaces-shared-parental-leave-and-pay-impact-assessment2.pdf.

10.2 The equivalent annual net cost to business was revised in March 2014 to reflect the Better Regulation Executive's updated inflation assumptions and is available at
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290066/bis-14-657-modern-workplaces-shared-parental-leave-impact-assessment.pdf

10.3 A separate impact assessment has not been prepared for this order.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 No special measures apply to small businesses.

12. Monitoring & review

12.1 The Government has committed to a review of shared parental leave and pay. This review will take place after 2018 to allow time for the policy to bed in and to collect data on the impact of these changes on employers and parents.

13. Contact

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