

2015 No. 86 (C. 7)

EMPLOYMENT

WORK AND FAMILIES

**The Work and Families Act (Northern Ireland) 2015
(Commencement, Transitional Provisions and Savings) Order
(Northern Ireland) 2015**

Made - - - -

2nd March 2015

The Department for Employment and Learning, in exercise of the powers conferred by section 23(1) and (2) of the Work and Families Act (Northern Ireland) 2015^(a), makes the following Order.

Citation

1. This Order may be cited as the Work and Families Act (Northern Ireland) 2015 (Commencement, Transitional Provisions and Savings) Order (Northern Ireland) 2015.

Interpretation

2. In this Order—

“the 1992 Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992^(b);

“the 2015 Act” means the Work and Families Act (Northern Ireland) 2015; and

“expected week of birth” means the week, beginning with midnight between Saturday and Sunday, in which it is expected that a child will be born.

Provisions coming into operation on 15th March 2015

3.—(1) The following provisions of the 2015 Act come into operation on 15th March 2015—

- (a) section 1 (defined expressions in the Act);
- (b) section 2 (shared parental leave);
- (c) section 3 (exclusion or curtailment of other statutory rights to leave);
- (d) section 5 (statutory shared parental pay);
- (e) section 6 (exclusion or curtailment of other statutory rights to pay);
- (f) section 8 (other statutory rights to leave of prospective adopters);
- (g) section 9 (other statutory rights to pay of prospective adopters);

(a) 2015 c. 1 (N.I.).

(b) 1992 c. 7.

- (h) section 10 (other statutory rights to leave of applicants for parental orders);
- (i) section 11 (other statutory rights to pay of applicants for parental orders);
- (j) section 12(1) and (2) (statutory paternity pay: notice requirement);
- (k) section 14(1) (in so far as it relates to the provisions listed in paragraph (2));
- (l) section 15 (time off work to accompany to ante-natal appointments);
- (m) section 16 (time off work for ante-natal care: increased amount of award);
- (n) section 17(4) to (6) (time off to attend adoption appointments);
- (o) section 18(1), (2) (so far as it relates to sub-paragraphs (a) and (b) of new paragraph (4), and new paragraphs (5) and (6)), (3) and (4) (right not to be subjected to detriment: agency workers);
- (p) section 20 (procedure for regulations as to prescribed amount of annual leave);
- (q) section 22 (in so far as it relates to the repeals listed in paragraph (3)).

(2) The following provisions of Schedule 1 (minor and consequential amendments) to the 2015 Act come into operation on 15th March 2015—

- (a) paragraph 1(1), (2)(b)(i) (save that the substitution shall be for sub-paragraph (7) only), (c), (d) and (e) (so far as it relates to new sub-paragraphs (7B) and (7C)), (3)(a) and (b) (so far as it relates to new sub-paragraph (8)) and (4);
- (b) paragraph 2(1) and (5);
- (c) paragraph 3(1);
- (d) paragraph 4(1), (2)(b) and (c), (3), (4)(b), (5)(a), (6) to (8), (9)(b), (11)(b), (c), (d)(iii) and (iv) and (f)(iii), (14)(a)(i) and (b)(ii), (15)(a)(i) and (b)(ii), (16)(a), (17), (18) and (19)(b) to (d);
- (e) paragraph 5(1) and (2)(a)(ii);
- (f) paragraph 6(1), (2)(c)(ii) and (6)(b) and (d);
- (g) paragraph 7(a) and (b);
- (h) paragraph 8(b);
- (i) the paragraphs listed in article 5 (save, in each case, the substitution of reference to statutory paternity pay for reference to ordinary statutory paternity pay and additional statutory paternity pay).

(3) In Schedule 2 to the 2015 Act, the repeal of the word “and” following Article 112C(2)(b) of the Employment Rights (Northern Ireland) Order 1996(a) has effect on 15th March 2015.

(4) Paragraphs (1) and (2) are subject to the transitional and saving provisions in article 6.

Provisions coming into operation on 5th April 2015

4.—(1) The following provisions of the 2015 Act come into operation on 5th April 2015—

- (a) section 4 (abolition of additional paternity leave);
- (b) section 7 (abolition of additional statutory paternity pay);
- (c) section 13 (rate of statutory adoption pay);
- (d) section 14(1) (in so far as it relates to the provisions listed in paragraph (2) below) and (2) to (5);
- (e) section 17(1) to (3) (time off to attend adoption appointments);
- (f) section 18(2) (so far as it relates to sub-paragraphs (c) and (d) of new paragraph (4)) (right not to be subjected to detriment: agency workers);
- (g) section 19 (right to request flexible working: removal of requirement to be a carer);

(a) S.I. 1996/1919 (N.I. 16).

(h) section 22 (in so far as it relates to the repeals in paragraph (3)).

(2) The following provisions of Schedule 1 to the 2015 Act come into operation on 5th April 2015 subject to the transitional and saving provisions in article 7—

- (a) paragraph 1(2)(a), (b)(i) (to the extent that it is not already in operation) and (ii), (e) (so far as it relates to new sub-paragraph (7A)) and (f) and (3)(b) (so far as it relates to new sub-paragraph (7));
- (b) paragraph 2(6) to (19);
- (c) paragraph 4(2)(a), (4)(a), (5)(b), (9)(a), (10), (11)(a), (d)(i) and (ii), (e), (f)(i), (ii) and (iv), (g) and (h), (12), (13), (14)(a)(ii) and (b)(i), (15)(a)(ii) and (b)(i), (16)(b) and (19)(a);
- (d) paragraph 5(2) to (4);
- (e) paragraph 6(6)(a), (c) and (e);
- (f) paragraph 7(c);
- (g) paragraph 8(a);
- (h) the paragraphs listed in article 5 (to the extent not already in operation).

(3) The repeals in Schedule 2 to the 2015 Act not already listed in article 3(3) have effect on 5th April 2015.

(4) Paragraphs (1) and (2) are subject to the transitional and saving provisions in article 7.

Saving provisions: additional statutory paternity pay

5. The paragraphs of Schedule 1 to the 2015 Act referred to in articles 3(2)(i) and 4(2)(h) are—

- (a) paragraph 2(2) to (4);
- (b) paragraph 3(2) to (5);
- (c) paragraph 5(2)(a)(i), (iii) and (iv) and (b), (3) and (4);
- (d) paragraph 6(2)(a), (b) and (c)(i) and (3) to (5).

Transitional and saving provisions: provisions coming into operation on 15th March 2015

6.—(1) The amendments made by section 12(1) and (2) of and paragraphs 4(17), 6(2)(c)(ii) and (6)(b) and (d) and 7(a) and (b) of Schedule 1 to the 2015 Act do not have effect in relation to—

- (a) children whose expected week of birth ends on or before 4th April 2015;
- (b) children placed for adoption on or before 4th April 2015.

(2) The amendments made by section 16 of the 2015 Act have effect only in relation to any refusal to permit time off which is made on or after 15th March 2015.

Transitional and saving provisions: provisions coming into operation on 5th April 2015

7.—(1) The amendments made by section 13(1) and (2) of the 2015 Act have effect only in relation to any adoption pay period (within the meaning given in section 167ZN(2) of the 1992 Act) which begins on or after 5th April 2015.

(2) Sections 4, 7 and 14(2) to (4) of the 2015 Act, and the amendments and repeals made by the provisions of Schedules 1 and 2 to that Act listed in article 4, do not have effect in relation to—

- (a) children whose expected week of birth ends on or before 4th April 2015;
- (b) children placed for adoption on or before 4th April 2015.

(3) In relation to any application for a change in terms and conditions which is made on or before 4th April 2015, the following amendments and repeals do not have effect—

- (a) the amendments made by section 19; and
- (b) the following repeals in Schedule 2—

- (i) in Article 112F(1) of the Employment Rights (Northern Ireland) Order 1996, the word “and” following sub-paragraph (a) and sub-paragraph (b); and
- (ii) in Article 112F(2) of that Order, the word “and” following sub-paragraph (c) and sub-paragraph (d).

Sealed with the Official Seal of the Department for Employment and Learning on 2nd March 2015.



Dr Stephen Farry
Minister for Employment and Learning

EXPLANATORY NOTE

(This note is not part of the Order)

This Order commences the majority of provisions of the Work and Families Act (Northern Ireland) 2015.

Article 3 specifies the provisions coming into operation on 15th March 2015. These are commenced for the purposes of making regulations and enabling the parents of children expected to be born or placed for adoption from 5th April 2015 to avail of shared parental leave and pay and associated entitlements for working parents.

Article 4 establishes the operational date for most remaining provisions of the Act as 5th April 2015.

Articles 5 to 7 set out transitional and saving provisions applicable to the provisions in articles 3 and 4.

An impact assessment has not been prepared for this Commencement Order. It commences measures in respect of which impacts were assessed in the document ‘Sharing parental rights, extending flexibility at work – public consultation’, published in May 2013 (www.delni.gov.uk/index/consultation-zone/archived-consultations/archived-consultations-2013/working-parents-rights.htm), and supplemented by a further publication in April 2014 (www.delni.gov.uk/index/publications/equality-good-relations/shared-parental-leave-and-pay.htm).

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