

Employment Act 2002

2002 CHAPTER 22

Note: The material reproduced below is limited to what is relevant to this volume. An abridged version of the Contents below lists the sections and Schedules that have been reproduced in whole or part.

CONTENTS

PART I

STATUTORY LEAVE AND PAY

CHAPTER 1

PATERNITY AND ADOPTION

Rights to leave and pay

Section

.....

2. Statutory paternity pay

.....

4. Statutory adoption pay

Administration and enforcement: pay

.....

6. Financial arrangements

.....

9. Decisions and appeals

.....

CHAPTER 2

MATERNITY

.....

18. Maternity pay period

19. Rate of statutory maternity pay

20. Entitlement to statutory maternity pay

21. Funding of employers' liabilities: statutory maternity pay

.....

PART 4
MISCELLANEOUS AND GENERAL

Miscellaneous

.....

- 48. Rate of maternity allowance
- 49. Work-focused interviews for partners
- 50. Use of information for, or relating to, employment and training

General

- 51. Orders and regulations
- 52. Financial provisions
- 53. Minor and consequential amendments
- 54. Repeals and revocations
- 55. Short title etc.

.....

- Schedule 3— Tribunal jurisdictions to which section 31 applies [part]
- Schedule 4— Tribunal jurisdictions to which section 32 applies [part]
- Schedule 5 — Tribunal jurisdictions to which section 38 applies [part]
- Schedule 6 — Use of information for, or relating to, employment and training [part]
- Schedule 7— Minor and consequential amendments [part]
- Schedule 8— Repeals and revocations [part]

An Act to make provision for statutory rights to paternity and adoption leave and pay; to amend the law relating to statutory maternity leave and pay; to amend the Employment Tribunals Act 1996; to make provision for the use of statutory procedures in relation to employment disputes; to amend the law relating to particulars of employment; to make provision about compromise agreements; to make provision for questionnaires in relation to equal pay; to make provision in connection with trade union learning representatives; to amend section 110 of the Employment Rights Act 1996; to make provision about fixed-term work; to make provision about flexible working; to amend the law relating to maternity allowance; to make provision for work-focused interviews for partners of benefit claimants; to make provision about the use of information for, or relating to, employment and training; and for connected purposes.

[8th July 2002]

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:-

PART 1
STATUTORY LEAVE AND PAY

CHAPTER 1
PATERNITY AND ADOPTION

Rights to leave and pay

...

2. & 4.amends 1992 (c. 4), see Annex 1, page 1.4312

...

Administration and enforcement: pay

...

6.amends 1992 (c. 5), see Annex 1, page 1.4312

(2)(a) [...¹]

...

9.amends 1999 (c. 2), see Annex 1, page 1.4312

...

18. [...¹]

...

19. - 21.amends 1992 (c. 4), see Annex 1, page 1.4312

PART 4
MISCELLANEOUS AND GENERAL

Miscellaneous

...

48 Rate of maternity allowance

(1)amends 1992 (c. 4), see Annex 1, page 1.4312

(2) In relation to any time before the coming into force of section 19, the reference to section 166(1)(b) of the Social Security Contributions and Benefits Act 1992 (c. 4) in section 35A(5)(c)(i) of that Act (as amended by subsection (1)(b) above) is a reference to section 166(3) of that Act.

¹ Ss. 6(2)(a) & 18 repealed (6.4.10) by the Work and Families Act 2006 (c. 18), Sch. 2.

49. amends 1992 (c. 4), see Annex 1, page 1.4312.

50 Use of information for, or relating to, employment and training

Schedule 6 (which contains provisions for the use of information for, or relating to, employment and training) has effect.

General

51 Orders and regulations

(1) Any power of the Secretary of State to make orders or regulations under this Act includes power—

- (a) to make different provision for different cases or circumstances;
- (b) to make such incidental, supplementary, consequential or transitional provision as the Secretary of State thinks fit.

(2) Any power of the Secretary of State to make orders or regulations under this Act is exercisable by statutory instrument.

(3) No order may be made under this Act unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

(4) No regulations may be made under section 30, 31, 32, 33 or 45 unless a draft of the regulations has been laid before and approved by resolution of each House of Parliament.

(5) A statutory instrument containing regulations under any other provision of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) This section does not apply to orders under section 55(2).

52 Financial provisions

(1) There shall be paid out of money provided by Parliament—

- (a) any expenses incurred by a Minister of the Crown or government department in consequence of this Act, and
- (b) any increase attributable to this Act in the sums so provided under any other Act.

(2) There shall be paid into the Consolidated Fund any increase attributable to this Act in the sums payable into that Fund under any other Act.

53 Minor and consequential amendments

Schedule 7 (which makes minor and consequential amendments) has effect.

54 Repeals and revocations

The enactments and instruments specified in Schedule 8 are hereby repealed or revoked to the extent specified there.

55 Short title etc.

(1) This Act may be cited as the Employment Act 2002.

(2) This Act, except sections 45, 46, 51 and 52 and this section, shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different purposes.

(3) An order under subsection (2) may contain such transitional provisions and savings as the Secretary of State considers necessary or expedient in connection with the coming into force of any of the provisions of this Act.

(4) The Secretary of State may by regulations make such transitional provisions and savings as he considers necessary or expedient for the purposes of or in connection with—

- (a) the coming into force of section 19 or 48, or Schedule 7 so far as relating to any amendment made in consequence of either of those sections; or
- (b) the operation of any enactment amended by any of those provisions during any period when the amendment is not wholly in force.

(5) Subject to subsections (6) and (7), this Act extends to England and Wales and Scotland only.

(6) The following provisions also extend to Northern Ireland—

- (a) section 5;
- (b) sections 13 to 15, and section 16 so far as relating thereto;
- (c) paragraphs 1, 4, 9 and 10 of Schedule 6, and section 50 so far as relating thereto;
- (d) sections 51 and 52;
- (e) paragraphs 1, 50, 52 and 53 of Schedule 7, and section 53 so far as relating thereto;
- (f) Schedule 8, so far as relating to the repeal of section 3(3) of the Social Security Act 1998 (c. 14), and section 54 so far as relating thereto;
- (g) this section.

(7) The following provisions extend to Northern Ireland only—

- (a) sections 21(2) and 46;
- (b) paragraphs 7, 8, 12 and 14 of Schedule 6, and section 50 so far as relating thereto;
- (c) paragraph 17 of Schedule 7, and section 53 so far as relating thereto;
- (d) Schedule 8, so far as relating to—
 - (i) the repeal in the Social Security Administration (Northern Ireland) Act 1992 (c. 8), and
 - (ii) the revocations in the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11)) and the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671),

and section 54 so far as relating thereto.

(8) In sections 5 and 13 to 15 and paragraph 53 of Schedule 7, references to [ordinary statutory paternity pay, additional statutory paternity pay] or statutory adoption pay include statutory pay under Northern Ireland legislation corresponding to Part 12ZA or Part 12ZB of the Social Security Contributions and Benefits Act 1992 (c. 4).

¹ Words in s. 55(8) substituted (6.4.10) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 58.

SCHEDULES

.....

SCHEDULE 3

TRIBUNAL JURISDICTIONS TO WHICH SECTION 31 APPLIES

Section 2 of the Equal Pay Act 1970 (c. 41) (equality clauses)

...

[¹Section 17A of the Disability Discrimination Act 1995] (c. 50) (discrimination in the employment field)

...

[²Regulation 36 of the Employment Equality (Age) Regulations 2006 (discrimination in the employment field)]

SCHEDULE 4

TRIBUNAL JURISDICTIONS TO WHICH SECTION 32 APPLIES

Section 2 of the Equal Pay Act 1970 (c. 41) (equality clauses)

...

[¹Section 17A of the Disability Discrimination Act 1995] (c. 50) (discrimination in the employment field)

...

[²Regulation 36 of the Employment Equality (Age) Regulations 2006 (discrimination in the employment field)]

SCHEDULE 5

TRIBUNAL JURISDICTIONS TO WHICH SECTION 38 APPLIES

Section 2 of the Equal Pay Act 1970 (equality clauses)

...

[¹Section 17A of the Disability Discrimination Act 1995] (c. 50) (discrimination in the employment field)

...

[²Regulation 36 of the Employment Equality (Age) Regulations 2006 (discrimination in the employment field)]

¹ Words substituted (1.10.04) by S.I. 2003/1673, reg. 31(3).

² Words inserted in Schs. 3-5 by Sch. 8, para. 36(2)(a)-(c) of S.I. 2006/1031 as from 1.12.08.

SCHEDULE 6

USE OF INFORMATION FOR, OR RELATING TO, EMPLOYMENT AND TRAINING

..... *makes various amends, see Annex 1, page 1.4315*

SCHEDULE 7

MINOR AND CONSEQUENTIAL AMENDMENTS

...

Social Security Contributions and Benefits Act 1992 (c. 4)

2. *makes various amends, see Annex 1, page 1.4315*

3. [...¹]

4. - 7. *amends 1992 (c. 4), see Annex 1, at page 1.4315.*

Social Security Administration Act 1992 (c. 5)

8. - 16. *amends 1992 (c. 5), see Annex 1, page 1.4312.*

...

Social Security Act 1998 (c. 14)

51. *amends 1998 (c. 14), see Annex 1, page 1.4312.*

...

Welfare Reform and Pensions Act 1999 (c. 30)

55. *amends 1999 (c. 30), see Annex 1, page 1.4312.*

¹ Sch. 7, para. 3 repealed (6.4.10) by the Work and Families Act 2006 (c. 18), Sch. 2.

SCHEDULE 8

REPEALS AND REVOCATIONS

(1) REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Social Security Contributions and Benefits Act 1992 (c. 4).	In section 164(2)(a), the words “, wholly or partly because of pregnancy or confinement”.
Social Security Administration Act 1992 (c. 5).	In section 2B(9), the words from “the following” to the first “and”. In section 122(2), the word “or” before paragraph (b).
...	...
Social Security Administration (Fraud) Act 1997 (c. 47).	In Schedule 1, paragraph 12(3).
...	...
Social Security Act 1998 (c. 14).	Section 3(3).
Social Security Contributions (Transfer of Functions, Etc.) Act 1999 (c. 2).	In Schedule 1, paragraph 13.
...	...
Welfare Reform and Pensions Act 1999 (c. 30).	Section 53(2)(b).
...	...
...	...

EMPLOYMENT ACT 2002
ANNEX 1
LIST OF OMISSIONS

The following have been omitted from the text for the reasons stated:-

- S. 1 relates to Employment Rights outside the scope of these volumes
- S. 2 inserts Part 12ZA into the Contributions and Benefits Act 1992 (c. 4)
- S. 3 relates to Employment Rights outside the scope of these volumes
- S. 4 inserts Part 12ZB into the Contributions and Benefits Act 1992 (c. 4)
- S. 5 relates to Inland Revenue matters outside the scope of these volumes
- S. 6 makes amendments to Ss. 163 & 165 of the Contributions and Benefits Act 1992 (c. 4) and S. 1 of the Administration Act 1992 (c. 5)
- Ss. 7 & 8 relates to Inland Revenue matters outside the scope of these volumes
- S. 9 makes amendments to Ss. 8, 11 & 14 of the Transfer of Functions Act 1999 (c. 2)
- Ss. 10 - 16 relates to Inland Revenue matters outside the scope of these volumes
- S. 17 relates to Employment Rights outside the scope of these volumes
- Ss. 18 - 21 makes amendments to Ss. 164 - 167 of the Contributions and Benefits Act 1992 (c. 4)
- Ss. 22 - 47 relates to matters outside the scope of these volumes
- S. 48(1)... .. makes amendments to S. 35A of the Contributions and Benefits Act 1992 (c. 4)
- S. 49 inserts s. 2AA into the Administration Act 1992 (c. 5)
- Schs. 1 & 2... .. relates to matters outside the scope of these volumes
- Sch. 6... .. makes various amendments to Social Security Act 1998 (c. 14) and the Administration Act 1992 (c. 5)
- Sch. 7, para. 1 relates to matters outside the scope of these volumes
- paras. 2 - 7... .. makes various amendments to the Contributions and Benefits Act 1992 (c. 4)
- paras. 8 - 16 makes various amendments to the Administration Act 1992 (c. 5)
- paras. 17 - 50 relates to matters outside the scope of these volumes
- para. 51 makes amendment to Social Security Act 1998 (c. 14)
- paras. 52 - 54 relates to matters outside the scope of these volumes
- para. 55 makes amendments to Welfare Reform and Pensions Act 1999 (c. 30)
- Sch. 8, parts relates to matters outside the scope of these volumes

EMPLOYMENT ACT 2002
ANNEX 2
COMMENCEMENT DATES

(a) List of Commencement Orders

<i>S.I. No.</i>	<i>Title of Order</i>	<i>Page no. (if reproduced in these volumes)</i>
2002/1989 (c. 62)	The Employment Act 2002 (Commencement No. 1) Order 2002	N/A
2002/2256(c. 73)	The Employment Act 2002 (Commencement No. 2) Order 2002	1.5941
2002/2866 (c. 91)	The Employment Act 2002 (Commencement No. 3 and Transitional and Saving Provisions) Order 2002	1.5943
2003/1190	The Employment Act 2002 (Commencement No. 4) and Transitional Provisions) Order 2003	N/A
2003/1666	The Employment Act 2002 (Commencement No. 5) Order 2003	1.5949
2004/1717 (c. 66)	The Employment Act 2002 (Commencement No. 6) and Transitional Provision) Order 2004	N/A
2004/2185 (c. 96)	The Employment Act 2002 (Commencement No. 7) Order 2004	N/A
2004/2822 (c. 117)	The Employment Act 2002 (Commencement No. 8) Order 2004	N/A

(b) Dates on which provisions of the Employment Act 2002 came into force. [Note: In the list below only those sections reproduced in this volume and commenced will be included.]

<i>Section etc. of Employment Act 2002</i>	<i>Date of commencement</i>	<i>Commencing authority</i>
Sections 2, 4, 6 & 9	8th December 2002	2002/2866
Section 18	24th November 2002	2002/2866
Section 19	6th April 2003	2002/2866

<i>Section etc. of Employment Act 2002</i>	<i>Date of commencement</i>	<i>Commencing authority</i>
Section 20	24th November 2002	2002/2866
Section 21	6th April 2003	2002/2866
Section 48(1)(b) & (2)	24th November 2002	2002/2866
Section 48(1)(a) & (c)	6th April 2003	2002/2866
Section 49	5th July 2003	2003/1666
Section 50	9th September 2002	2002/2256
Sections 51 & 52	Royal Assent	
Section 53 (partially)	9th September 2002	2002/2256
	24th November 2002	2002/2866
	6th April 2003	2002/2866
	27th April 2003	2003/1190
	5th July 2003	2003/1666
Section 54 (partially)	9th September 2002	2002/2256
	24th November 2002	2002/2866
	8th December 2002	2002/2866
	6th April 2003	2002/2866
Section 55	Royal Assent	
Schedules 3-5	1st October 2004	2003/1666
Schedule 6	9th September 2002	2002/2256
Schedule 7		
para. 2 (partially)	8th December 2002	2002/2866
para. 3	8th December 2002	2002/2866
paras. 4 - 6	6th April 2003	2002/2866
para. 7	8th December 2002	2002/2866
para. 8 (partially)	9th September 2002	2002/2256
	24th November 2002	2002/2866
	8th December 2002	2002/2866
	6th April 2003	2002/2866
paras. 9 & 10	5th July 2003	2003/1666
para. 11	8th December 2002	2002/2866
para. 12	24th November 2002	2002/2866
para. 13	8th December 2002	2002/2866
para. 14	6th April 2003	2002/2866
para. 15	5th July 2003	2003/1666
para. 16	9th September 2002	2002/2256
para. 51	5th July 2003	2003/1666
para. 55	5th July 2003	2003/1666
Schedule 8 (partially)	9th September 2002	2002/2256
	24th November 2002	2002/2866
	6th April 2003	2002/2866

EMPLOYMENT ACT 2002 (c. 22)