

STATUTORY INSTRUMENT

S.I. No. 667 of 2004

Adoptive Leave Act 1995 (Extension of Periods of Leave) Order 2004

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WHEREAS it is enacted by sections 6 and 9(1) of the Adoptive Leave Act 1995 (No.2 of 1995)(“the Act”) that the Minister for Justice, Equality and Law Reform may, with the consent of the Minister for Social and Family Affairs and the Minister for Finance, by order prescribe a period of adoptive leave other than the period specified in each of those provisions:

AND WHEREAS it is further enacted by section 3(3) of the Act that where an order is proposed to be made under the Act (other than an order under section 1(2)) a draft of the order shall be laid before both Houses of the Oireachtas and that the order shall not be made until a resolution approving of the draft has been passed by each such House:

AND WHEREAS a draft of the following Order has been laid before both Houses of the Oireachtas and a resolution approving of the draft has been passed by each such House:

AND WHEREAS the Minister for Justice, Equality and Law Reform, in accordance with section 3(4) of the Act, has consulted such organisations or other bodies of persons representative of employers and such organisations or other bodies of persons representative of trades unions or bodies analogous to trades unions as he considers appropriate:

NOW THEREFORE the Minister for Justice, Equality and Law Reform, in exercise of the powers conferred on him by the aforesaid sections 6 and 9 (1) and with the consent of the Minister for Social and Family Affairs and the Minister for Finance, orders as follows:

1. (1) This Order may be cited as the Adoptive Leave Act 1995 (Extension of Periods of Leave) Order 2004.

(2) This Order and the Adoptive Leave Act 1995 (Extension of Periods of Leave) Order 2001 (S.I. No.30 of 2001) (the “2001 Order”) may be cited together as the Adoptive Leave Act 1995 (Extension of Periods of Leave) Orders 2001 and 2004.

2. Articles 4, 6 and 8 of the 2001 Order are revoked.

3. (1) Subject to paragraph (2) of this Article, this Order shall come into operation on the 19th day of November, 2004.

(2) (a) Article 4 of this Order applies in respect of an employed adopting mother or a sole male adopter who commences adoptive leave at any time not less than 4 weeks after the commencement of this Order.

(b) Article 5 of this Order applies in respect of an adopting father who commences adoptive leave under section 9(1) of the Act at any time after such commencement.

(c) Article 6 of this Order applies in respect of a placement of a child with an adopting parent at any time after such commencement.

4. A minimum period of adoptive leave of not less than 16 consecutive weeks is prescribed for the purposes of section 6 of the Act.

5. A period of adoptive leave of 16 weeks or, where the adopting mother dies on or after the day of placement, a period of 16 weeks less a period equivalent to the period beginning on the day of placement and ending on the date of her death is prescribed for the purposes of section 9(1) of the Act.

6. The reference in section 12(1) of the Act, as modified by the 2001 Order, to a period of placement with an adopting parent of less than 14 weeks (in the context of the termination of the placement other than as a result of the death of the child concerned) is accordingly to be construed as a reference to-

- (a) in case the adopting parent is entitled under Part II of the Act, as so modified, to a period of 14 weeks' leave from the employment, a period of less than 14 weeks,
- (b) in case the period of leave from the employment to which he or she is so entitled is 16 weeks, a period of less than 16 weeks,
- (c) in case the period of such leave is 22 weeks, a period of less than 22 weeks, and
- (d) in case the period of such leave is 24 weeks, a period of less than 24 weeks.

GIVEN under my Official Seal,

22 October, 2004.

L.S

Michael McDowell

Minister for Justice, Equality
and Law Reform

The Minister for Social and Family Affairs consents to the making of this Order.

22 October, 2004.

Seamus Brennan

Minister for Social and Family
Affairs

The Minister for Finance consents to the making of this Order.

22 October, 2004.

Brian Cowen

Minister for Finance

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This Order extends the periods of adoptive leave under the Adoptive Leave Act 1995.