



PUMP COURT

CHAMBERS

“HEAVEN NEEDED YOU MORE”

Miscarriage, pregnancy loss, bereavement leave and employment law

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The Pre-ERB Position

- Section 80EA of the Employment Rights Act 1996 (“ERA”) gave legislative authority for regulations entitling an employee who is a “bereaved parent” of a child under 18 to take up to two weeks’ off work within 56 weeks.
- Section 80EE ERA extended this right to children who were still born after 24 weeks of pregnancy.
- The right did not include miscarriage or pregnancy loss pre-24 weeks.
- The right was restricted to bereavement related to the loss of a child.

The Pledge

- Ahead of the 2025 election, Labour introduced its “Plan to Make Work Pay” which included the following:
- Bereavement leave: “Going through the loss of a loved one can be one of the hardest things a person must go through. While the vast majority of employers give their workers the time off that they need, the law remains outdated and ill-defined. Labour will clarify the law and entitlement, introducing the right to bereavement leave for all workers”



Widening the Scope of the Right

- Section 18 of the ERB amended section 80EA beyond parental bereavement leave to a more general day one right to bereavement leave. Regulations will need to be made to specify the eligible relationships. The ERB did not, though, originally extend to pre-24 week-pregnancy loss.
- Sarah Owen MP, Chair of Women and Equalities Select Committee advocated for the right to parental bereavement to be extended to pregnancy loss pre-24 weeks.
- On 7th July 2025 the government announced amendments to the Employment Rights Bill to extend statutory bereavement leave to parents who experience miscarriage or other pregnancy loss before 24 weeks. Angela Rayner described the move as aiming to “end the stigma of miscarriage”.
- The ERB sets out a minimum leave period of one week and a window of at least 56 days within which the employee can take that leave.
- Not yet clear whether this will be paid or unpaid.
- The ERB also includes a right for bereaved fathers and partners to take 52 weeks of paternity leave if the mother or primary adopter dies within the first year of the child’s life. Will take effect on 6th April 2026.

Consultation

- Consultation on parental bereavement leave has just closed. The Government was considering:
- The total duration of leave;
- The window in which leave can be taken;
- The types of pregnancy loss to be included;
- Regulations to address notice and evidence required

What can be done now?

- Ahead of legislative changes due to take effect in 2027, employers could do the follow to ensure preparedness and certainty:
- Align policies for bereavement leave to include baby/pregnancy loss;
- Amend policies to include extended paternity leave in the event of the death of the mother;
- Include set periods of leave for all loss;
- Include terms on whether the same will be paid or unpaid to ensure certainty.