
STATUTORY INSTRUMENTS

2024 No. 121

The Statutory Paternity Pay (Amendment) Regulations 2024

PART 2

**Amendments to the Statutory Paternity Pay and
Statutory Adoption Pay (General) Regulations 2002**

7. The Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002 are amended as set out in regulations 8 to 16.

8. In paragraph (1) of regulation 2, at the appropriate place insert—

““returned after being placed for adoption” means—

- (a) returned under sections 31 to 35 of the Adoption and Children Act 2002(1);
- (b) in Scotland, returned to the adoption agency, adoption society or nominated person in accordance with section 25(6) of the Adoption and Children (Scotland) Act 2007(2);
or
- (c) where the child is placed in accordance with section 22C of the Children Act 1989(3), returned to the adoption agency following a termination of the placement;”.

9. For regulations 5A to 9 substitute—

“Options in respect of periods of payment of statutory paternity pay (birth)

6.—(1) Within the qualifying period set out in regulation 6A, a person entitled to statutory paternity pay (birth) may choose a period of payment of statutory paternity pay to begin on—

- (a) the date on which the child is born or, where the person is at work on that day, the following day;
 - (b) the date falling such number of days after the date on which the child is born as the person may specify;
 - (c) a predetermined date, specified by the person, which is later than the first day of the expected week of the child’s birth.
- (2) A person may choose for statutory paternity pay (birth) to be paid in respect of—
- (a) a single period of either one week or two weeks, or
 - (b) two non-consecutive periods of a week each.

(1) 2002 c. 38. Sections 32, 34 and 35 were amended by the Children and Families Act 2014 (c. 6), Schedule 2, Part 2, paragraphs 63 and 64 and by S.I. 2016/413 and S.I. 2018/195 and applied, with modifications, by S.I. 2005/392.

(2) 2007 asp 4. Section 25 was applied, with modifications, and disappplied in certain circumstances, by S.S.I. 2009/182.

(3) 1989 c. 41. Section 22C was inserted by the Children and Young Persons Act 2008 (c. 23), section 8 and amended by the Children and Families Act 2014 (c. 6), section 2 and Schedule 2, Part 1, paragraph 29, S.I. 2016/413 and S.I. 2018/195, and disappplied in certain circumstances by S.I. 2012/2813.

Qualifying period for statutory paternity pay (birth)

6A. Subject to regulation 16A, the qualifying period for the purposes of section 171ZE(3) of the Act (period within which a period of payment of statutory paternity pay must occur) is a period which begins on the date of the child's birth and ends—

- (a) except in the case referred to in sub-paragraph (b), 52 weeks after that date, or
- (b) in a case where the child is born before the first day of the expected week of its birth, 52 weeks after that day.

Notice and evidence requirements for statutory paternity pay (birth)

6B.—(1) A person must provide evidence of entitlement to statutory paternity pay (birth) by providing in writing to whoever will be liable to pay it—

- (a) the information specified in paragraph (2), and
 - (b) the declarations specified in paragraph (3).
- (2) The information referred to in paragraph (1)(a) is as follows—
- (a) the name of the person claiming statutory paternity pay (birth);
 - (b) the expected week of the child's birth.
- (3) The declarations referred to in paragraph (1)(b) are—
- (a) a declaration that the person satisfies the conditions prescribed in regulation 4, and
 - (b) a declaration that section 171ZE(4) of the Act does not apply.
- (4) The information referred to in paragraph (2) and the declaration referred to in paragraph (3)(a) must be provided—
- (a) in or before the 15th week before the expected week of the child's birth, or
 - (b) in a case where it was not reasonably practicable for the person to provide it in that period, as soon as is reasonably practicable.
- (5) The notice provided for in section 171ZC(1) of the Act (notice to be given stating the week or weeks in respect of which payments are to be made) must be given to whoever will be liable to pay statutory paternity pay (birth) at least 28 days before—
- (a) the first day of the expected week of the child's birth, where the option in regulation 6(1)(a) is chosen;
 - (b) the date falling the specified number of days after the first day of the expected week of the child's birth, where the option in regulation 6(1)(b) is chosen;
 - (c) the predetermined date, where the option in regulation 6(1)(c) is chosen;
- or, if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- (6) On each occasion that a notice is given under paragraph (5), the declaration referred to in paragraph (3)(b) must be provided at the same time.
- (7) Where a notice has previously been given under paragraph (5) or this paragraph, or under regulation 7(2), a notice of variation in writing may be given to the person who will be liable to pay statutory paternity pay which—
- (a) cancels the period of payment of statutory paternity pay specified in that notice, or
 - (b) varies that period by choosing an option under regulation 6.
- (8) Where the notice under paragraph (5) specifies a period of two weeks in respect of which statutory paternity pay is to be paid, notice of variation may be given in relation to either one or both of those weeks, regardless of whether those weeks are consecutive or non-consecutive.

(9) A notice of variation under paragraph (7) must be given by whichever is the earlier of at least 28 days before—

- (a) the original day or date referred to in paragraph (10)(a), or
- (b) the new day or date referred to in paragraph (10)(b),

or, if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(10) For the purposes of—

(a) paragraph (9)(a), where a notice has previously been given under either paragraph (5) or (7), the original day or date is—

- (i) the first day of the expected week of the child's birth, where the option in regulation 6(1)(a) was chosen in that notice;
- (ii) the specified number of days after the first day of the expected week of the child's birth, where the option in regulation 6(1)(b) was chosen in that notice;
- (iii) the predetermined date specified in that notice, where the option in regulation 6(1)(c) was chosen;

(b) paragraph (9)(b), the new day or date is—

- (i) the first day of the expected week of the child's birth, where the option in regulation 6(1)(a) is chosen in the notice of variation;
- (ii) the date falling the specified number of days after the first day of the expected week of the child's birth, where the option in regulation 6(1)(b) is chosen in the notice of variation;
- (iii) the predetermined date specified in that notice, where the option in regulation 6(1)(c) is chosen in the notice of variation.

(11) The person who is entitled to statutory paternity pay (birth) must inform the person who is liable to pay it of the date of the child's birth if—

- (a) that person so requests, and
- (b) that date has not previously been provided to that person,

within 28 days of the request, or as soon as is reasonably practicable thereafter.

Additional notice requirements for statutory paternity pay (birth)

7.—(1) Where a person has given notice in accordance with regulation 6B(5)(a) or (b), the person must give further notice to the person liable to pay statutory paternity pay, as soon as is reasonably practicable after the child's birth, of the date the child was born.

(2) In a case where—

- (a) a person has given notice in accordance with regulation 6B(5)(c), and
- (b) the date of the child's birth is later than the date specified in that notice as the date on which a period of payment is to begin,

the person must vary the date on which the period of payment is to begin by giving notice to the person liable to pay statutory paternity pay (birth), as soon as is reasonably practicable, that the period in respect of which statutory paternity pay is to be paid will begin on a date different from that originally chosen.

(3) That date may be any date chosen in accordance with paragraph (1) of regulation 6.

(4) Where a notice is given under regulation 6B(7) or paragraph (2) above which varies the dates of a period of payment, a declaration under regulation 6B(3)(b) in relation to that period must be given at the same time as that notice.

(5) Paragraph (2) does not apply in circumstances where regulation 16A(5) applies.”.

10. For regulations 11A to 15 substitute—

“Options in respect of periods of payment of statutory paternity pay (adoption)

12.—(1) Within the qualifying period set out in regulation 12A, a person entitled to statutory paternity pay (adoption) may choose a period of payment of statutory paternity pay to begin on—

- (a) the date on which the child is placed with the adopter or, where the person is at work on that day, the following day;
 - (b) the date falling such number of days after the date on which the child is placed with the adopter as the person may specify;
 - (c) a predetermined date, specified by the person, which is later than the date on which the child is expected to be placed with the adopter.
- (2) A person may choose for statutory paternity pay (adoption) to be paid in respect of—
- (a) a single period of either one week or two weeks, or
 - (b) two non-consecutive periods of a week each.

Qualifying period for statutory paternity pay (adoption)

12A. Subject to regulation 16A, the qualifying period for the purposes of section 171ZE(3) of the Act (period within which a period of payment of statutory paternity pay must occur) is a period of 52 weeks beginning with the date of the child’s placement for adoption.

Notice and evidence requirements for statutory paternity pay (adoption)

12B.—(1) A person must provide evidence of entitlement to statutory paternity pay (adoption) by providing in writing to whoever will be liable to pay it—

- (a) the information specified in paragraph (2), and
 - (b) the declarations specified in paragraph (3).
- (2) The information referred to in paragraph (1)(a) is as follows—
- (a) the name of the person claiming statutory paternity pay (adoption);
 - (b) the date the adopter was notified of having been matched with the child for the purposes of adoption;
 - (c) the date on which the child is expected to be placed for adoption or, where the child has already been placed for adoption, the date of placement of the child.
- (3) The declarations referred to in paragraph (1)(b) are—
- (a) a declaration that the person satisfies the conditions prescribed in regulation 11(1);
 - (b) a declaration that the person has elected to receive statutory paternity pay (adoption), and not statutory adoption pay under Part 12ZB of the Act;
 - (c) a declaration that section 171ZE(4) of the Act does not apply.
- (4) The information referred to in paragraph (2) and the declarations referred to in subparagraphs (a) and (b) of paragraph (3) must be provided—
- (a) no more than seven days after the date on which the adopter is notified of having been matched with the child, or

- (b) in a case where it was not reasonably practicable for the person to provide it in that period, as soon as is reasonably practicable.
- (5) The notice provided for in section 171ZC(1) of the Act (notice to be given stating the week or weeks in respect of which payments are to be made) must be given to whoever will be liable to pay statutory paternity pay (adoption)—
 - (a) no more than seven days after the date on which the adopter is notified of having been matched with the child, or
 - (b) in a case where it was not reasonably practicable for the person to provide it in that period, as soon as is reasonably practicable.
- (6) The declaration referred to in paragraph (3)(c) must be provided at the same time that the notice is given under paragraph (5).
- (7) Where notice has previously been given under paragraph (5) or this paragraph or under regulation 13(2), a notice of variation in writing may be given to the person who will be liable to pay statutory paternity pay which—
 - (a) cancels the period of payment of statutory paternity pay specified in that notice, or
 - (b) varies that period by choosing an option under regulation 12.
- (8) Where the notice under paragraph (5) specifies a period of two weeks in respect of which statutory paternity pay is to be paid, notice of variation may be given in relation to either one or both of those weeks, regardless of whether those weeks are consecutive or non-consecutive.
- (9) A notice of variation under paragraph (7) must be given by whichever is the earlier of at least 28 days before—
 - (a) the original day or date referred to in paragraph (10)(a), or
 - (b) the new day or date referred to in paragraph (10)(b),or, if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- (10) For the purposes of—
 - (a) paragraph (9)(a), where a notice has previously been given under either paragraph (5) or (7), the original day or date is—
 - (i) the date provided under paragraph (2)(c) above as the date on which the child is expected to be placed for adoption, where the option in regulation 12(1)(a) was chosen in that notice;
 - (ii) the date falling the specified number of days after the date provided under paragraph (2)(c) above as the date on which the child is expected to be placed for adoption, where the option in regulation 12(1)(b) was chosen in that notice;
 - (iii) the predetermined date specified in that notice, where the option in regulation 12(1)(c) was chosen;
 - (b) paragraph (9)(b), the new day or date is—
 - (i) the date provided under paragraph (2)(c) above as the date on which the child is expected to be placed for adoption, where the option in regulation 12(1)(a) is chosen in the notice of variation;
 - (ii) the date falling the specified number of days after the date provided under paragraph (2)(c) above as the date on which the child is expected to be placed for adoption, where the option in regulation 12(1)(b) is chosen in the notice of variation;

(iii) the predetermined date specified in the notice of variation, where the option in regulation 12(1)(c) is chosen.

(11) The person who is entitled to statutory paternity pay (adoption) must inform the person who is liable to pay it of the date of the child's placement if—

- (a) that person so requests, and
- (b) that date has not previously been provided to that person,

within 28 days of the request, or as soon as is reasonably practicable thereafter.

Additional notice requirements for statutory paternity pay (adoption)

13.—(1) Where a person has chosen an option in regulation 12(1)(a) or (b) in a notice of a period of payment of statutory paternity pay, the person must give further notice to the person liable to pay statutory paternity pay, as soon as is reasonably practicable, of the date on which the placement occurred.

(2) In a case where—

- (a) a person has chosen the option in regulation 12(1)(c) in a notice of a period of payment of statutory paternity pay, and
- (b) the child is placed for adoption later than the date specified in that notice,

the person must vary the date on which the period of payment is to begin by giving notice to the person liable to pay statutory paternity pay (adoption), as soon as is reasonably practicable, that the period in respect of which statutory paternity pay is to be paid will begin on a date different from that originally chosen.

(3) That date may be any date chosen in accordance with paragraph (1) of regulation 12.

(4) Where a notice is given under regulation 12B(7) or paragraph (2) above which varies the dates of a period of payment, a declaration under regulation 12B(3)(c) in relation to that period must be given at the same time as that notice.

(5) Paragraph (2) does not apply in circumstances where regulation 16A(5) applies.”.

11. In Part 4, before regulation 17, insert—

“Change in circumstances

16A.—(1) This regulation applies where a person is otherwise entitled to statutory paternity pay in respect of a child but a relevant event, as specified in paragraph (2), occurs.

(2) A relevant event as referred to in paragraph (1) occurs when—

- (a) the person is notified that the child will no longer be placed with the person with whom the child was to be placed for adoption, or
- (b) the child—
 - (i) dies, or
 - (ii) is returned after being placed for adoption.

(3) In a case where this regulation applies, the qualifying period for the purposes of section 171ZE(3) of the Act (period within which a period of payment of statutory paternity pay must occur) ends after the end of a period of eight weeks following the end of the relevant week specified in paragraph (4), except in the circumstances mentioned in paragraph (5).

(4) The relevant week referred to in paragraph (3) is—

- (a) in a case falling within paragraph (2)(a), the week during which the person with whom the child was to be placed for adoption is notified that the placement will not be made;
- (b) in a case falling within paragraph (2)(b)(i), the week during which the child dies;
- (c) in a case falling within paragraph (2)(b)(ii), the week during which the child is returned.

(5) Where the person has complied with the requirements in regulation 6B (notice and evidential requirements for statutory paternity pay (birth)) or regulation 12B (notice and evidential requirements for statutory paternity pay (adoption)), as the case may be, the person will remain entitled to payment in respect of any period of payment which has been specified in a notice given, before the day on which the relevant event occurs, under whichever of those regulations is relevant.

(6) Where paragraph (5) applies, no further notices may be served under regulation 6B or 12B other than a notice to cancel a period of payment specified in a notice already given under regulations 6B, 7, 12B or 13.

(7) In this regulation—

- (a) “week” means the period of seven days beginning with Sunday;
- (b) references to the death of a child are to be read, in relation to a child stillborn after twenty-four weeks of pregnancy, as references to the birth of the child.”.

12. For regulation 17, substitute—

“Work during a period of payment of statutory paternity pay

17.—(1) Where a person (P) works for an employer falling within—

- (a) paragraph (a) but not paragraph (b) of regulation 10, or
- (b) paragraph (a) but not paragraph (b) of regulation 16

for any part of a period which is specified by P in a notice under regulation 6B, 7, 12B or 13, P must notify the person liable to pay statutory paternity pay of the fact of that work within seven days of the first day during which P does such work.

(2) The notification mentioned in paragraph (1) must be in writing, if the person who has been liable to pay statutory paternity pay so requests.”.

13. In regulation 18—

- (a) the existing text becomes paragraph (1);
- (b) for sub-paragraph (c) of that paragraph, substitute—
 - “(c) during any part of which the person entitled to it is detained in legal custody or sentenced to a term of imprisonment, except where that sentence is suspended (but see paragraph (2)).”;
- (c) after that paragraph, insert—
 - “(2) There is liability to pay statutory paternity pay in respect of any week during any part of which the person who is entitled to that pay is detained in legal custody where that person—
 - (a) is released subsequently without charge,
 - (b) is subsequently found not guilty of any offence and is released, or
 - (c) is convicted of an offence but does not receive a custodial sentence.”.

14. In regulation 22 omit paragraph (5).

15. In regulation 43—

(a) for paragraph (1) substitute—

“(1) Notwithstanding sections 171ZD and 171ZM of the Act, where the conditions in regulation 42(2)(a) and (b) are satisfied, liability to make payments of statutory paternity pay or statutory adoption pay, as the case may be, is to be that of the Board⁽⁴⁾ and not the employer for—

- (a) any week in respect of which the employer was liable to pay statutory paternity pay or statutory adoption pay to that person but did not do so, and
- (b) any subsequent week in respect of which that person is entitled to payments of statutory paternity pay or statutory adoption pay.”;

(b) in paragraph (2)—

- (i) after the words “statutory adoption pay”, insert “in respect of any week in which a person is entitled to such payments”;
- (ii) for the words “paternity pay or adoption pay period”, substitute “adoption pay period or the qualifying period specified in regulations 6A or 12A, as the case may be”.

16. For regulation 44 substitute—

“Liability of the Board to pay statutory paternity or statutory adoption pay in cases of legal custody or imprisonment

44. Notwithstanding sections 171ZD and 171ZM of the Act, the liability to pay statutory paternity pay or statutory adoption pay, as the case may be, shall be that of the Board and not the employer where there is liability to pay—

(a) statutory adoption pay—

- (i) in respect of a period which is subsequent to the last week falling within paragraph (1)(c) of regulation 27, or
- (ii) during a period of detention in legal custody by virtue of the provisions of paragraph (2) of that regulation, or

(b) statutory paternity pay—

- (i) in respect of a period which is subsequent to the period mentioned in subparagraph (1)(c) of regulation 18 (cases where there is no liability to pay statutory paternity pay), or
- (ii) during a period of detention in legal custody by virtue of paragraph (2) of that regulation.”.

(4) The “Board” means the Commissioners of Inland Revenue (see section 171ZJ(1) of the Act and regulation 2(1) of [S.I. 2002/2822](#)). The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for His Majesty’s Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Inland Revenue (however expressed) shall, in so far as is appropriate, be taken as a reference to the Commissioners for His Majesty’s Revenue and Customs.