

2024 No. 121

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Paternity Pay (Amendment) Regulations 2024

Made - - - - *1st February 2024*

Laid before Parliament *5th February 2024*

Coming into force *8th March 2024*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 171ZC(1A) and (3), 171ZD(3), 171ZE(2), (3), (7) and (8), 171ZK and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), section 5(1)(i) of the Social Security Administration Act 1992(b), and section 8(1) and (2) of the Employment Act 2002(c), and with the concurrence of the Commissioners for His Majesty's Revenue and Customs(d) in so far as such concurrence is required.

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations need not be referred to it(e).

PART 1

General

Citation, commencement and extent

1. These Regulations may be cited as the Statutory Paternity Pay (Amendment) Regulations 2024.

2. Parts 1, 2 and 5 come into force on 8th March 2024 and Parts 3 and 4 come into force immediately after Parts 1, 2 and 5 have come into force.

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- (a) 1992 c. 4. Sections 171ZC, 171ZD, 171ZE, 171ZJ and 171ZK are contained in Part 12ZA, which was inserted by the Employment Act 2002 (c. 22), section 2; Section 171ZC(1A) was inserted by the Children and Families Act 2014 (c. 6), section 123; section 171ZE(2), (7) and (8) were amended by the Work and Families Act 2006 (c. 18), Schedule 1 paragraph 16 and the Children and Families Act, Schedule 7 paragraph 16; section 171ZK was amended by the Children and Families Act, section 122; section 175(1) and (3) have been amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 22), Schedule 3 paragraph 29. See section 171ZJ(1) for the definition of "prescribed". Part 12ZA has been applied, with modifications, to adoptions from overseas by S.I. 2003/499 and to parental order cases by S.I. 2014/2866.
- (b) 1992 c. 5. Section 5(5) was amended by the Employment Act 2002 (c. 22), Schedule 7, paragraph 11; and the Children and Families Act 2014 (c. 6), Schedule 7, paragraph 24.
- (c) Section 8 was amended by the Children and Families Act 2014 (c. 6), Schedule 7, paragraph 52; and the Parental Bereavement (Leave and Pay) Act 2018 (c. 24), Schedule, paragraph 37.
- (d) 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.
- (e) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992.

3. These Regulations extend to England and Wales and Scotland.

Interpretation

4.—(1) In this Part—

the “2002 Regulations” means the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002(a);

the “2003 Regulations” means the Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoptions from Overseas) (No. 2) Regulations 2003(b);

the “2014 Regulations” means the Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations 2014(c);

(2) For the purposes of this Part—

(a) in relation to children who are placed for adoption, “adopter” and “statutory paternity pay (adoption)” have the same meanings as in regulation 2(1) of the 2002 Regulations;

(b) in relation to adoption from overseas, “adopter” and “statutory paternity pay (adoption)” have the same meanings as in regulation 2(1) of the 2003 Regulations;

(c) the following expressions have the same meanings as in regulation 2 of the 2002 Regulations—

(i) “expected week”;

(ii) “placed for adoption”;

(iii) “statutory paternity pay (birth)”;

(d) the following expressions have the same meanings as in regulation 2(1) of the 2003 Regulations—

(i) “adoption from overseas”;

(ii) “enter Great Britain”;

(iii) “official notification”;

(e) the following expressions have the same meanings as in regulation 7(b) of the 2014 Regulations—

(i) “Parent A”;

(ii) “section 54 parental order parent”.

Application

5.—(1) The amendments in Part 2 to the 2002 Regulations apply in relation to an entitlement to—

(a) statutory paternity pay (birth), only in respect of children whose expected week of birth begins after 6th April 2024;

(b) statutory paternity pay (adoption), only in respect of children who are expected to be placed for adoption with the adopter on or after 6th April 2024.

(2) The amendments to the 2003 Regulations in Part 3 have effect only where the date on which the adopter’s child is expected to enter Great Britain is on or after 6th April 2024.

(3) The amendments to the 2014 Regulations in Part 4 have effect only in relation to children whose expected week of birth begins after 6th April 2024.

(a) S.I. 2002/2822, amended by S.I. 2003/2096, 2004/488, 2005/358, 2005/2114, 2006/1031, 2007/825, 2007/1154, 2010/1172, 2011/245, 2011/1740, 2014/386, 2014/2862, 2015/2065, 2020/450 and 2021/716; there are other amendments but none is relevant. Provisions in S.I. 2002/2822 are applied, with modifications, to adoptions from overseas by S.I. 2003/1194 and to parental order cases by S.I. 2014/2934.

(b) S.I. 2003/1194, amended by S.I. 2004/488, 2005/2114, 2011/159 and 2011/1740.

(c) S.I. 2014/2934, amended by 2018/1413.

(4) The amendments to the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002(a) in Part 5 apply in relation to an entitlement to—

- (a) statutory paternity pay (birth), only in respect of children whose expected week of birth begins after 6th April 2024;
- (b) statutory paternity pay (adoption), only in respect of children who are expected to be placed for adoption with the adopter on or after 6th April 2024;
- (c) statutory paternity pay (adoption), in respect of adoptions from overseas, only where the adopter's child enters Great Britain on or after 6th April 2024;
- (d) statutory paternity pay (adoption), in respect of section 54 parental order parents, only where the child's expected week of birth begins after 6th April 2024.

Transitional provisions

6.—(1) This regulation applies where, prior to the coming into force of these Regulations, a person has provided any information, notice or declaration required to exercise an entitlement to statutory paternity pay under the 2002, 2003 or 2014 Regulations.

(2) Where this regulation applies, the person is deemed to have complied with any similar requirement to provide such information, notice or declaration under the 2002, 2003 or 2014 Regulations as amended by these Regulations.

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(b);
 - (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(c); or
 - (c) where the child is placed in accordance with section 22C of the Children Act 1989(d), 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) S.I. 2002/2820, provisions in which are applied, with modifications, to adoptions from overseas by S.I. 2003/1192 and to parental order parents by S.I. 2014/2934.

(b) 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.

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

(d) 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 disapplied in certain circumstances by S.I. 2012/2813.

- (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.

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 7(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 7(1)(b) was chosen in that notice;
- (iii) the predetermined date specified in that notice, where the option in regulation 7(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 7(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 7(1)(b) is chosen in the notice of variation;
- (iii) the predetermined date specified in that notice, where the option in regulation 7(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^(a) and not the employer for—

(a) 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

- (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.”.

PART 3

Amendments to the Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoptions from Overseas) (No. 2) Regulations 2003

17. The Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoptions from Overseas) (No. 2) Regulations 2003(a) are amended in accordance with regulations 18 to 20.

18. In regulation 3(3), for “17 to 19” substitute “18, 19”.

19. For regulations 6 to 9 substitute—

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

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

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.

(a) S.I. 2003/1194, which applies the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002, with modifications, to adoptions from overseas.

- (a) the date on which the child enters Great Britain or, where the person is at work on that day, the following day; or
 - (b) a predetermined date, specified by the person, which is later than the date on which the child is expected to enter Great Britain.
- (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) in respect of adoptions from overseas

6A. Subject to regulation 11A, 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 on which the child enters Great Britain.

Notice and evidence requirements for statutory paternity pay (adoption) in respect of adoptions from overseas

6B.—(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 on which the adopter of the child received an official notification;
- (c) the date on which the child is expected to enter Great Britain or, where the child has already entered Great Britain, the date of that entry.

(3) The declarations referred to in paragraph (1)(b) are declarations in writing that—

- (a) the person satisfies the conditions prescribed in regulation 5(1);
- (b) the adopter of the child has received an official notification in relation to the child;
- (c) the person has elected to receive statutory paternity pay (adoption), and not statutory adoption pay under Part 12ZB of the Act;
- (d) 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), (b) and (c) of paragraph (3) must be provided—

- (a) no more than 28 days after whichever is the later of—
 - (i) the date on which the adopter of the child receives the official notification, or
 - (ii) the date on which the person completes 26 weeks' continuous employment with the employer, 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) at least 28 days before—

- (a) the date provided under paragraph (2)(c) above as the date on which the child is expected to enter Great Britain, where the option in regulation 6(1)(a) is chosen;
- (b) the predetermined date, where the option in regulation 6(1)(b) 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 provided under paragraph (5), the declaration referred to in paragraph (3)(d) must be provided at the same time.

(7) Where notice has previously been given under paragraph (5) or this paragraph or under regulation 7(1), 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 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 date referred to in paragraph (5)(a), where the option in regulation 6(1)(a) was chosen in that notice;
 - (ii) the predetermined date specified in that notice where the option in regulation 6(1)(b) was chosen in that notice,
- (b) paragraph (9)(b), the new day or date is—
 - (i) the date referred to in paragraph (5)(a), where the option in regulation 6(1)(a) is chosen in the notice of variation;
 - (ii) the predetermined date specified in the notice of variation, where the option in regulation 6(1)(b) 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 on which the child enters Great Britain, as soon as reasonably practicable after that date, unless that information has already been provided.

Additional notice requirements for statutory paternity pay (adoption) in relation to adoptions from overseas

7.—(1) In a case where—

- (a) a person has given notice in accordance with regulation 6B(5)(b), and
- (b) the child has not entered Great Britain on or before that date,

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.

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

(3) Where a notice is given under regulation 6B(7) or paragraph (1) above which varies the dates of a period of payment, a declaration under regulation 6B(3)(d) in relation to that period must be given at the same time as that notice.

(4) Paragraph (1) does not apply in circumstances where regulation 11A(5) applies.”.

20. After regulation 11 insert—

“Change in circumstances

11A.—(1) This regulation applies where a person is otherwise entitled to statutory paternity pay (adoption) 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 child ceases to live with the adopter, or
- (b) the child dies.

(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 child ceases to live with the adopter;
- (b) in a case falling within paragraph (2)(b), the week during which the child dies.

(5) Where the person has complied with the requirements in regulation 6B (notice and evidential requirements for statutory paternity pay (adoption)), 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 that regulation.

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

(7) In paragraph (4), “week” means the period of seven days beginning with Sunday.

Work during a period of payment of statutory paternity pay

11B.—(1) Where a person (P) works for an employer falling within paragraph (a), but not paragraph (b), of regulation 10, for any part of a period which has been specified by P in a notice under regulation 6B or 7, 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 the person 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.”.

PART 4

Amendments to the Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations 2014

21. The Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations 2014(a) are amended in accordance with regulations 22 to 27.

22. Omit regulation 10.

23. In regulation 11 (modifications to regulation 12)—

- (a) in the opening words, for “period of payment” substitute “options in respect of periods of payment”;

(a) S.I. 2014/2934, which applies the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002, with modifications, to parental order cases.

- (b) in paragraph (a), in the modification to the opening words of paragraph (1)—
 - (i) for “Subject to regulation 14” substitute “Within the qualifying period set out in regulation 12A”;
 - (ii) for “the statutory pay period” substitute “a period of payment of statutory paternity pay”;
 - (c) omit sub-paragraph (c).
- 24. In regulation 12 (modifications to regulation 13)—**
- (a) in paragraph (a), for the words from “shall read as if” to the end, substitute “will not apply”;
 - (b) for paragraph (b) substitute—
 - “(b) paragraph (2)(b) shall read as if the words “is placed for adoption” to the end were “is born later than the date specified in that notice as the date on which a period of payment is to begin.””.
- 25. In regulation 13 (modifications to regulation 12A)—**
- (a) in the opening words—
 - (i) for “In regulation 14” substitute “Regulation 12A”;
 - (ii) for “of 56 days” substitute “of 52 weeks”;
 - (b) in paragraphs (a) and (b), for the words “56 days”, in both places they occur, substitute “52 weeks”.
- 26. In regulation 14 (modifications to regulation 12B)—**
- (a) in the opening words, for “regulation 15 (evidence of entitlement for statutory paternity pay (adoption))” substitute “regulation 12B (notice and evidence requirements for statutory paternity pay (adoption))”;
 - (b) in paragraph (a)—
 - (i) for “paragraph (2)(b)” substitute “paragraph (2)”;
 - (ii) for “that paragraph read” substitute “sub-paragraphs (b) and (c) were omitted and replaced by”;
 - (c) omit paragraph (b);
 - (d) in paragraph (c) for “paragraph (3)” substitute “paragraph (4)”;
 - (e) after paragraph (c), insert—
 - “(ca) paragraph (5) shall apply as if, in sub-paragraphs (a) and (b), the words from “the date provided under” to “for adoption”, in both places they occur, were omitted and replaced by “the first day of the expected week of the child’s birth”;
 - (cb) paragraph (10) shall apply as if the words “the date referred to in paragraph (5)(a)”, in each place they occur, were replaced by “the first day of the expected week of the child’s birth”;
 - (f) for paragraph (d) substitute—
 - “(d) paragraph (11) shall apply as if the words from “child’s placement if” to the end were replaced by “birth as soon as is reasonably practicable thereafter”.
- 27. After regulation 14, insert—**
- “14A. In regulation 16A (change in circumstances)—**
- (a) paragraph (2) shall apply as if sub-paragraphs (a), (b) and (c) read—
 - “(a) the person does not apply for an order under section 54 of the Human Fertilisation and Embryology Act 2008 within the time limit set by subsection (3) of that section,

- (b) the person’s application for an order under that section for the child is refused, withdrawn or otherwise terminated without the order being granted and any time for an appeal or a new application has expired, or
- (c) the child dies.”;
- (b) paragraph (4) shall apply as if sub-paragraphs (a), (b) and (c) read—
 - “(a) in a case falling within paragraph (2)(a), the week during which the time limit in section 54(3) of the Human Fertilisation and Embryology Act 2008 for an application for an order under that section for the child expires;
 - (b) in a case falling within paragraph (2)(b), the week during which the person’s application for an order under that section is refused, withdrawn or otherwise terminated without the order being granted;
 - (c) in a case falling within paragraph (2)(c), the week during which the child dies.”;
- (c) paragraph (5) shall apply as if the words “regulation 6B (notice and evidential requirements for statutory paternity pay (birth)) or” and “as the case may be” were omitted;
- (d) paragraph (6) shall apply as if the words “6B or” and “6B, 7,” were omitted.”.

PART 5

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

28. The Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002 are amended in accordance with regulations 29 to 31.

29. In paragraph (1) of regulation 2—

- (a) omit the definition of “adoption pay period”;
- (b) insert at the appropriate place—

““period of payment of adoption pay” means the period prescribed under section 171ZN(2) of the Contributions and Benefits Act as the period in respect of which statutory adoption pay is payable to a person;

“period of payment of paternity pay” means a period determined in accordance with section 171ZE(2) of the Contributions and Benefits Act as a period in respect of which statutory paternity pay is payable to a person;”

- (c) omit the definition of “paternity pay period”.

30. In regulation 9—

- (a) in the opening words in paragraph (a), for “the employee’s paternity pay period or adoption pay period” substitute “a period of payment of paternity pay or a period of payment of adoption pay”;
- (b) in paragraph (c), for “the employee’s paternity pay period or adoption pay period” substitute “a period of payment of paternity pay or a period of payment of adoption pay”.

31. In regulation 11—

- (a) for paragraph (2) substitute—

“(2) An employer must provide to the employee the information specified in paragraph (2A) where the employer—

- (a) has made one or more payments of statutory paternity pay or statutory adoption pay to the employee, but

- (b) decides that it has no liability to make further payments to the employee because the employee has been detained in legal custody or sentenced to a term of imprisonment which was not suspended.
- (2A) The information specified in this paragraph is—
 - (a) details of the employer’s decision and the reasons for it;
 - (b) details of the week in respect of which a liability to pay statutory paternity pay or statutory adoption pay arose.”
- (b) in sub-paragraph (3)(a), omit “or (2)” and the “and” at the end of the sub-paragraph;
- (c) in sub-paragraph (3)(b)(i)—
 - (i) after “171ZA(1)” insert “or 171ZB(1)”;;
 - (ii) for “gave notice of his intended absence” to “later”, substitute “first gave notice under section 171ZC(1) of the week or weeks the employee expected there to be liability to pay statutory paternity pay”;
- (d) in sub-paragraph (3)(b)(ii), omit “statutory paternity pay under section 171ZB(1) or of”.

Kevin Hollinrake
Parliamentary Under Secretary of State
Department for Business and Trade

1st February 2024

The Commissioners for His Majesty’s Revenue and Customs hereby concur

Jim Harra
Justin Holliday

1st February 2024

Two of the Commissioners for His Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make changes to the way in which the entitlement to statutory paternity pay is exercised, by amending the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002 (“the 2002 Regulations”); the Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoptions from Overseas) (No. 2) Regulations 2003 (“the 2003 Regulations”); the Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations 2014 (“the 2014 Regulations”); and the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002 (the “Administration Regulations”).

The 2002 Regulations provide for statutory paternity pay in ‘birth’ cases (where a person qualifies for statutory paternity pay by virtue of their relationship with the birth mother) and ‘adoption’ cases (where a person qualifies by virtue of their relationship with someone who is adopting a child).

The 2003 Regulations apply, with modifications, the 2002 Regulations to ‘overseas adoption’ cases (where the person has a qualifying relationship with someone who is adopting a child who enters Great Britain from outside the United Kingdom, but where there is no placement for adoption under the law of any part of the United Kingdom).

The 2014 Regulations apply, with modifications, the 2002 Regulations to ‘parental order’ cases (where the person and their partner are the intended parents in surrogacy arrangements under the Human Fertilisation and Embryology Act 2008).

The amendments in these Regulations make changes to requirements relating to notice and evidence, the ‘qualifying period’ within which any periods for which statutory paternity pay is claimed must fall, and the existing requirement that statutory paternity pay can only be claimed in a single block of either one week or two weeks. They come into force on 8th March 2024.

Regulation 5 provides for these amendments to take effect in relation to children whose expected week of childbirth starts after 6th April 2024, and children whose expected date of placement for adoption, or expected date of entry into Great Britain for adoption, is on or after 6th April 2024.

Regulation 6 makes provision for situations where a person has served a notice or provided information or a declaration under the provisions in force prior to the coming into force of these Regulations. The person will be deemed to have complied with any requirement in the amendments in these Regulations to provide that information, declaration or notice.

Part 2 of these Regulations amends the 2002 Regulations.

Regulation 9 substitutes regulations 5A to 9 of the 2002 Regulations. New regulation 6 allows a person to choose to claim statutory paternity pay (birth) in respect of either two non-consecutive weeks', or a single period of either one week or two consecutive weeks. New regulation 6A extends the period within which any periods for which statutory paternity pay is claimed must fall, from 56 days after the birth of the child, to 52 weeks. New regulation 6B provides for notices and evidence of entitlement to be provided to the person liable to pay, and for the variation of dates notified previously, and new regulation 7 provides for certain additional notices to be provided in specific circumstances.

Regulation 10 substitutes regulations 11A to 15 of the 2002 Regulations to make similar provision in respect of statutory paternity pay (adoption).

Regulation 11 makes provision for entitlement to statutory paternity pay where a child dies, is no longer to be placed for adoption, or is returned after being placed.

Regulation 12 makes provision for entitlement to statutory paternity pay where a person performs work for an employer who is not liable to pay statutory paternity pay.

Regulation 13 makes provision for entitlement to statutory paternity where a person is detained or sentenced to a term of imprisonment and regulation 16 makes consequential provision for the liability to make payments of statutory paternity pay in those circumstances.

Regulation 15 makes consequential changes to the arrangements for payments made by His Majesty's Revenue and Customs, to facilitate the change made by these regulations which permits Statutory Paternity Pay to be claimed in respect of non-consecutive periods, instead of for a single continuous period only.

Part 3 makes similar provision to Part 2 in relation to adoptions from overseas.

Part 4 makes similar provision to Part 2 in relation to parental order cases.

Part 5 amends the Administration Regulations to make provision for the keeping of records and the provision of information in relation to periods of payment of statutory paternity pay.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary sector or community bodies is foreseen.

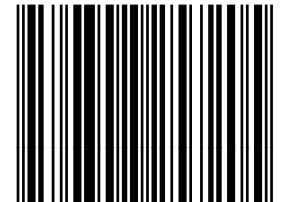
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