Draft Regulations laid before Parliament under section 176(1) of the Social Security Contributions and Benefits Act 1992, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. XXXX

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Shared Parental Pay (Parental Order Cases) Regulations 2014

Made - - - - ***

Coming into force - - *1st December 2014*

A draft of these Regulations was laid before Parliament in accordance with section 176(1) of the Social Security Contributions and Benefits Act 1992(**1**) and approved by resolution of each House of Parliament.

This instrument contains only regulations made by virtue of, or consequential upon, section 119(1) of the Children and Families Act 2014(**2**) and is made before the end of the period 6 months beginning with the coming into force of that enactment(**3**).

The Secretary of State, in exercise of the powers conferred by sections 171ZV(1), (2), (3), (4), (5), (12), (13), (14) and (15), 171ZW(1)(a) to (f), 171ZX(2) and (3), 171ZY(1), (3), (4) and (5), 171ZZ1(3), 171ZZ4(3), (4), (7) and (8) and 175(3) of the Social Security Contributions and Benefits Act 1992(**4**) and by section 5(1)(g), (i), (l) and (p) of the Social Security Administration Act 1992(**5**) and with the concurrence of the Commissioners for Her Majesty's Revenue and Customs, in so far as such concurrence is required, makes the following Regulations:

(**1**) 1992 c.4; see section 171ZZ4 for the definition of "prescribed"; under section 175(1) regulations are made by the Secretary of State.

(**2**) 2014 c.6.

(**3**) See section 173(5) of the Social Security Administration Act 1992 (c.5). Pursuant to section 172 of that Act, where the Secretary of State proposes to make regulations under the Social Security Contributions and Benefits Act 1992, the Secretary of State is required to refer such proposals, normally in the form of draft regulations, to the Social Security Advisory Committee. This requirement does not apply where the regulations are contained in a statutory instrument made before the end of a period of six months beginning with the coming into force of the enactments by virtue or as a consequence of which the regulations are being made.

(**4**) Sections 171ZV to 171ZZ4 were inserted by the Children and Families Act 2014, section 119(1). Section 171ZV(1), (2) and (4) are modified in so far as they apply to intended and parental order parents by S.I. 2014/ .

(**5**) 1992 c.5; section 5(5) was amended by the Children and Families Act 2014, Schedule 7, paragraph 24.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Statutory Shared Parental Pay (Parental Order Cases) Regulations 2014 and come into force on 1st December 2014.

Interpretation

2. In these Regulations—

"A" and "AP" have the same meanings as in the Pay Regulations as modified by these Regulations;

"C", "expected week of birth" and "statutory shared parental pay (adoption)" have the same meanings as under the Pay Regulations;

"parental order parent" means a person on whose application the court has made a parental order(**6**) in respect of C;

"parental statutory declaration" means a statutory declaration stating that the person making the declaration—

(a) has applied, or intends to apply, under section 54 of the Human Fertilisation and Embryology Act 2008(**7**) with another person for a parental order in respect of C within the time limit for making such an application; and

(b) expects the court to make a parental order on that application in respect of C;

"Pay Regulations" means the Statutory Shared Parental Pay (General) Regulations 2014(**8**).

Application of the Pay Regulations to an intended parent or a parental order parent

3. The provisions of the Pay Regulations in so far as they apply to statutory shared parental pay (adoption) shall apply to an intended parent(**9**) or a parental order parent with the modifications set out in Part 2 of these Regulations.

PART 2

Modifications of the Pay Regulations as they apply to an intended parent or a parental order parent

4. Regulation 2 (interpretation) of the Pay Regulations as they apply to an intended parent or a parental order parent shall read as if—

(a) in paragraph (1)—

(i) the definition of "A" read "means the intended parent or parental order parent in relation to C who has elected to receive statutory adoption pay under

(**6**) "parental order" is defined in section 171ZV(16A) of the Social Security Contributions and Benefits Act 1992 as modified by S.I. 2014/ .
(**7**) 2008 c.22. Section 54 was amended by the Crime and Courts Act 2013 (c.22), Schedule 11, Part 1, paragraph 206.
(**8**) S.I. 2014/ .
(**9**) "intended parent" is defined in section 171ZV(16A) of the Social Security Contributions and Benefits Act 1992 as modified by S.I. 2014/ .

section 171ZL(2)(e) of the 1992 Act(**10**) and to whom the conditions in that subsection apply;";

(ii) the definition of "AP" read "means the intended parent or parental order parent in relation to C who at the date of C's birth is married to, or is the civil partner of, or is the partner of A;";

(iii) the definition of "child" were omitted;

(iv) there was the following definition—

""parental order parent" means a person on whose application the court has made an order in respect of C under section 54(1) of the Human Fertilization and Embryology Act 2008;";

(v) the definitions of "placed for adoption" and "adoption agency" were omitted;

(b) paragraphs (4), (5) and (6) were omitted.

5. In regulation 3 (application) of the Pay Regulations as they apply to an intended parent or a parental order parent paragraph (b) shall read as if the words in that paragraph were—

"statutory shared parental pay (adoption) in respect of children whose expected week of birth begins on or after 5th April 2015.".

6. In regulation 17 (entitlement of adopter to statutory shared parental pay (adoption)) of the Pay Regulations as they apply to an intended parent or a parental order parent—

(a) in paragraph (2)—

(i) sub-paragraph (b) shall read as if the words in that sub-paragraph were—

"A has, or expects to have, at the date of C's birth the main responsibility for the care of C (apart from the responsibility of AP);";

(ii) sub-paragraph (d) shall read as if the words "to the placement for adoption of C" read "to being the intended parent or parental order parent of C";

(b) in paragraph (3), sub-paragraph (a) shall read as if the words in that sub-paragraph were—

"AP has, or expects to have, at the date of C's birth the main responsibility for the care of C (apart from the responsibility of A);".

7. In regulation 18 (entitlement of partner to statutory shared parental pay (adoption)) of the Pay Regulations as they apply to an intended parent or a parental order parent—

(a) in paragraph (2), sub-paragraph (b) shall read as if the words in that sub-paragraph were—

"AP has, or expects to have, at the date of C's birth the main responsibility for the care of C (apart from the responsibility of A)";

(b) in paragraph (3)—

(i) sub-paragraph (a) shall read as if the words in that sub-paragraph were—

"A has, or expects to have, at the date of C's birth the main responsibility for the care of C (apart from the responsibility of A);";

(ii) sub-paragraph (c) shall read as if the words "to the placement for adoption of C" read "to being the intended parent or parental order parent of C".

8.—(1) In regulation 19 (notification and evidential requirements relating to the adopter) of the Pay Regulations as they apply to an intended parent or a parental order parent—

(**10**) Section 171ZL of the Social Security Contributions and Benefits Act 1992 was inserted by the Employment Act 2002 (c.22), section 4.

(a) paragraph (1)(b) shall read as if the words "if C is not placed for adoption by that time as soon as reasonably practicable after the placement of C " were "if C is not born by that time as soon as reasonably practicable after the birth of C";

(b) in paragraph (3)—

(i) sub-paragraph (b) shall read as if the words in that sub-paragraph were "the expected week of birth of C";

(ii) sub-paragraph (c) shall read as if the words in that sub-paragraph were "C's date of birth";

(iii) that paragraph shall apply as if there were also specified a parental statutory declaration by A unless the condition in paragraph (2)(a) or (b) of this regulation is satisfied;

(c) paragraph (4) shall apply as if—

(i) sub-paragraph (a) were omitted;

(ii) there were also specified a copy of C's birth certificate or, if one has not been issued, a written declaration signed by A which states that it has not been issued;

(iii) where A has not provided a parental statutory declaration as a result of the condition in paragraph (2)(a) of this regulation being satisfied, there were specified a parental statutory declaration.

(2) The conditions referred to in paragraph (1)(b)(iii) and (c)(iii) are—

(a) that A has given the employer(**11**) who will be liable to pay statutory shared parental pay (adoption) to A a statutory declaration as evidence of A's entitlement to statutory adoption pay in respect of C in accordance with regulation 24 of the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002(**12**);

(b) that A is a parental order parent and has given the employer a copy of the order in respect of C made under section 54(1) of the Human Fertilisation and Embryology Act 2008.

9. In regulation 20 (notification and evidential requirements relating to the partner) of the Pay Regulations as they apply to an intended parent or a parental order parent—

(a) paragraph (1)(b) shall read as if the words "if C is not placed for adoption by that time as soon as reasonably practicable after the placement of C " were "if C is not born by that time as soon as reasonably practicable after the birth of C";

(b) in paragraph (3)—

(i) sub-paragraph (b) shall read as if the words in that sub-paragraph were "the expected week of birth of C";

(ii) sub-paragraph (c) shall read as if the words in that sub-paragraph were "C's date of birth";

(iii) sub-paragraph (e) shall read as if the written declaration signed by AP was also required to contain the statement that A and AP are the intended parents or the parental order parents of C;

(c) paragraph (4) shall apply as if—

(i) sub-paragraph (a) were omitted; and

(ii) there were specified a copy of C's birth certificate or, if one has not been issued, a written declaration signed by AP which states that it has not been issued.

(**11**) "employer" is construed in accordance with section 171ZZ4(1) of the Social Security Contributions and Benefits Act 1992.
(**12**) S.I. 2002/2822; regulation 24 is modified as it applies to intended and parental order parents by S.I. 2014/ ; there are other amendments but none are relevant.