STATUTORY RULES OF NORTHERN IRELAND

2015 No. 102

EMPLOYMENT

WORK AND FAMILIES

The Statutory Shared Parental Pay (Parental Order Cases) Regulations (Northern Ireland) 2015

Made - - - - *2nd March 2015*

Coming into operation *15th March 2015*

Approved by resolution of the Assembly on 12th May 2015

The Department for Employment and Learning makes the following Regulations in exercise of the powers conferred by sections 167ZW(1), (2), (3), (4), 167ZX(1), (8), (9), (10) and (11), 167ZZ(1), 167ZZ1(2) and (3), 167ZZ2(1), (3), (4) and (5), 167ZZ4(3), 167ZZ7(3), (4), (7) and (8) and 171(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and by section 5(1)(g), (j), (m) and (q) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and with the concurrence of the Commissioners for Her Majesty's Revenue and Customs, in so far as such concurrence is required.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Statutory Shared Parental Pay (Parental Order Cases) Regulations (Northern Ireland) 2015 and come into operation on 15th March 2015.

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;

(**1**) 1992 c. 7. Sections 167ZW to 167ZZ7 were inserted by the Work and Families Act (Northern Ireland) 2015 (c. 1 (N.I.)), section 5(2). Section 167ZW(1), (2) and (4) are modified in so far as they apply to intended and parental order parents by S.R. 2015 No. 90.

(**2**) 1992 c. 8; section 5(4A)(a) was amended by 2015 c. 1 (N.I.), Schedule 1, paragraph 3(2).

"parental order parent" means a person on whose application the court has made a parental order(**3**) 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(**4**) 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 (Northern Ireland) 2015(**5**).

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(**6**) 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 (definitions) 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) for the definition of "A" there was substituted—

""A" means the intended parent or parental order parent in relation to C who has elected to receive statutory adoption pay under section 167ZL(2)(e) of the 1992 Act(**7**) and to whom the conditions in section 167ZL(2) apply;";

(ii) for the definition of "AP" there was substituted—

""AP" 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 definitions of "adoption agency" and "child" were omitted;

(iv) there were inserted, in the appropriate places alphabetically, the following definitions —

""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 Fertilisation and Embryology Act 2008;"; and

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

(**3**) "Parental order" is defined in section 167ZX(13) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as modified by S.R. 2015 No. 90.
(**4**) 2008 c. 22.
(**5**) S.R. 2015 No. 94.
(**6**) "Intended parent" is defined in section 167ZX(13) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as modified by S.R. 2015 No. 90.
(**7**) Section 167ZL of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 was inserted by the Employment (Northern Ireland) Order 2002 (S.I.2002/2836 (N.I.2)), Article 6.

(a) has applied, or intends to apply, under section 54 of the Human Fertilisation and Embryology Act 2008 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;";

(v) the definition of "placed for adoption" was omitted;

(b) paragraphs (4) and (5) 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 for that paragraph there was substituted—

"(b) 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, it shall read as if—

(a) paragraph (2)(b) was substituted by—

"(b) 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);";

(b) in paragraph (2)(d), the words "to the placement for adoption of C" were "to being the intended parent or parental order parent of C";

(c) paragraph (3)(a) was substituted by—

"(a) 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); and".

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, it shall read as if—

(a) paragraph (2)(b) was substituted by—

"(b) 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) paragraph (3)(a) was substituted by—

"(a) 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);";

(c) in paragraph (3)(c), the words "to the placement for adoption of C" were "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, it shall read as if—

(a) in paragraph (1)(a), the words "paragraphs (2) and (3)(a)" read "paragraphs (2) and (3)(za), (a)";

(b) in paragraph (1)(b), 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";

(c) before sub-paragraph (3)(a), there was inserted—

"(za) unless the condition in paragraph (5) or (6) is satisfied, a parental statutory declaration by A;";

(d) paragraph (3)(b) was substituted by—

"(b) the expected week of birth of C;";

(e) paragraph (3)(c) was substituted by—

"(c) C's date of birth;";

(f) before paragraph (4)(a), there was inserted—

"(za) 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;

(zb) unless provided as a result of the condition in paragraph (5) being satisfied, a parental statutory declaration;";

(g) paragraph (4)(a) did not apply;

(h) after paragraph (4), there was inserted—

"(5) The condition referred to in paragraph 3(za) and (4)(zb) is that A has given the employer(**8**) 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 (Northern Ireland) 2002(**9**).

(6) The condition referred to in paragraph 3(za) is 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, it shall read as if—

(a) in paragraph (1)(b), 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) paragraph (3)(b) was substituted by—

"(b) the expected week of birth of C;";

(c) paragraph (3)(c) was substituted by—

"(c) C's date of birth;";

(d) before paragraph (3)(e)(ii), there was inserted—

"(ia) that A and AP are the intended parents or the parental order parents of C;";

(e) before paragraph (4)(a), there was inserted—

"(za) 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;";

(f) paragraph (4)(a) did not apply.

10.—(1) It shall read as if, after regulation 21 there was inserted—

"**21A.**—(1) These Regulations apply to an intended parent or a parental order parent with the modification provided for in paragraph (2) where—

(a) one or more of the periods specified in a notice under regulation 19, 20 or 21 during which A or, as the case may be, AP intends to claim statutory shared

(**8**) "Employer" is construed in accordance with section 167ZZ7(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(**9**) S.R. 2002 No. 378; regulation 24 is modified as it applies to intended and parental order parents by S.R. 2015 No. 92; there are other amendments but none are relevant.