Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Statutory Shared Parental Pay (General) Regulations (Northern Ireland) 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2015 No. 94

EMPLOYMENT

WORK AND FAMILIES

The Statutory Shared Parental Pay (General) Regulations (Northern Ireland) 2015

Made - - - -	*2nd March 2015*
Coming into operation	*15th March 2015*

The Department for Employment and Learning makes the following Regulations in exercise of the powers conferred by sections 167ZU(1), (2), (3) and (4), 167ZV(1), (9), (10), (11) and (12), 167ZW(1), (2), (3) and (4), 167ZX(1), (8), (9), (10) and (11), 167ZY(1), 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 [F1] and by section 5(1)(g), (j), (m) and (q) of the Social Security Administration (Northern Ireland) Act 1992 [F2] and with the concurrence of the Commissioners for Her Majesty's Revenue and Customs in so far as such concurrence is required.

F1 1992 c. 7; section 167ZU to section 167ZZ7 were inserted by the Work and Families Act (Northern Ireland) 2015 (c. 1 (N.I.)), **section 5**.

F2 1992 c. 8; section 5(4A)(a) was amended by 2015 c. 1 (N.I.), **Schedule 1**, paragraph 3(2).

PART 1

GENERAL

Citation and commencement

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

Definitions

2.—(1) In these Regulations—

"1992 Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"A" means a person with whom C is, or is expected to be, placed for adoption under the law of any part of the United Kingdom;

"AP" means a person who at the date C is placed for adoption is married to, or is the civil partner of, or is the partner of A;

"C" means the child in relation to whom entitlement to statutory shared parental pay arises;

"M" means the mother (or expectant mother) of C;

"P" means the father of C or a person who at the date of C's birth is married to, or is the civil partner of, or is the partner of M;

"actual week of birth", in relation to a child, means the week beginning with midnight between Saturday and Sunday, in which the child was born;

"adoption agency" has the meaning given—

(a) in relation to Northern Ireland, by Article 3(3) of the Adoption (Northern Ireland) Order 1987 [F3];

(b) in relation to England and Wales, by section 2 of the Adoption and Children Act 2002 [F4]; and

(c) in relation to Scotland, by section 119(1) of the Adoption and Children (Scotland) Act 2007 [F5];

"child", in relation to A, means a person who is, or when placed with A for adoption was, under the age of 18;

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"expected week of birth", in relation to a child, means the week, beginning with midnight between Saturday and Sunday, in which, as appropriate, it is expected that the child will be born, or was expected that the child would be born;

"partner", in relation to M or A, means a person (whether of a different sex or the same sex) who lives with, as the case may be, M or A as well as C in an enduring family relationship but is not a relative of M or A of a kind specified in paragraph (2);

"placed for adoption" means—

(a) placed for adoption by virtue of regulation 12 of the Adoption Agencies Regulations (Northern Ireland) 1989 [F6];

(b) placed by an authority with a person who is an approved foster parent who is also an approved prospective adopter [F7] where the authority—

(i) is considering adoption for the child; or

(ii) is satisfied that adoption is in the best interests of the child,

and is considering whether that person would be a suitable adoptive parent for that child;

(c) placed for adoption under the Adoption and Children Act 2002 or the Adoption and Children (Scotland) Act 2007; or

(d) placed in accordance with section 22C of the Children Act 1989 [F8] with a local authority foster parent who is also a prospective adopter;

"processing", in relation to information, has the meaning given by section 1(1) of the Data Protection Act 1998 [F9];

"shared parental leave" means leave under Article 107E or 107G of the Employment Rights (Northern Ireland) Order 1996 [F10];

"statutory shared parental pay" means statutory shared parental pay payable in accordance with Part 12ZC of the 1992 Act [F11];

"statutory shared parental pay (adoption)" means statutory shared parental pay payable where entitlement to that pay arises under regulation 17 or 18;

"statutory shared parental pay (birth)" means statutory shared parental pay payable where entitlement to that pay arises under regulation 4 or 5;

"week" in Parts 2, 3 and 5 means a period of seven days.

(2) The relatives of M or A referred to in the definition of "partner" in paragraph (1) are M's, or, A's parent, grandparent, sister, brother, aunt, uncle, child, grandchild, niece or nephew.

(3) References to relationships in paragraph (2)—

(a) are to relationships of the full-blood or half-blood or, in the case of an adopted person, such of those relationships as would exist but for the adoption; and

(b) include the relationship of a child with his adoptive, or former adoptive parents, but do not include any other adoptive relationship.

(4) For the purpose of these Regulations—

(a) a person is matched with a child for adoption when an adoption agency decides that that person would be a suitable adoptive parent for the child;

(b) in a case where sub-paragraph (a) applies, a person is notified as having been matched with a child on the date on which that person receives notification of the agency's decision, under regulation 11(2)(d) of the Adoption Agencies Regulations (Northern Ireland) 1989 **F12**, regulation 33(3)(a) of the Adoption Agencies Regulations 2005 **F13**, regulation 28(3) of the Adoption Agencies (Wales) Regulations 2005 **F14** or regulation 8(5) of the Adoption Agencies (Scotland) Regulations 2009 **F15**;

(c) a person is also matched with a child where each of the following conditions is met—

(i) that person is an approved foster parent and an approved prospective adopter, and the child is, or is expected to be, placed by the authority with that person under Article 27(2)(a) of the Children (Northern Ireland) Order 1995 **F16**;

(ii) the authority—

(aa) is considering adoption for the child; or

(bb) is satisfied that adoption is in the best interests of the child;

(iii) the authority is considering whether that person would be a suitable adoptive parent for that child;

(d) in a case where sub-paragraph (c) applies, a person is notified as having been matched with a child on the date on which that person receives notification from the authority that the conditions in that sub-paragraph have been met;

(e) a person is also matched with a child for adoption when a decision has been made in accordance with regulation 22A of the Care Planning, Placement and Case Review (England) Regulations 2010 **F17** and an adoption agency has identified that person with whom the child is to be placed in accordance with regulation 12B of the Adoption Agencies Regulations 2005 **F18**;

(f) in a case where sub-paragraph (e) applies, a person is notified as having been matched with a child on the date on which that person receives notification in accordance with regulation 12B(2)(a) of the Adoption Agencies Regulations 2005.

(5) In paragraph (d) of the definition of "placed for adoption" in paragraph (1)—

"local authority foster parent" means a person approved as a local authority foster parent in accordance with regulations made by virtue of paragraph 12F of Schedule 2 to the Children Act 1989 **F19**;

"prospective adopter" means a person who has been approved as suitable to adopt a child and has been notified of that decision in accordance with regulation 30B(4) of the Adoption Agencies Regulations 2005 [F20].

F3 S.I. 1987/2203 (N.I. 22); Article 3(3) was amended by S.I. 1994/429 (N.I. 2).
F4 2002 c. 38.
F5 2007 asp 4.
F6 S.R. 1989 No. 253.
F7 "Approved foster parent", "approved prospective adopter" and "authority" are defined in section 167ZY(4) of 1992 c. 7, as inserted by 2015 c. 1 (N.I.), **section 5(2)**.
F8 1989 c.41; section 22C was inserted by the Children and Young Persons Act 2008 (c. 23), **section 8(1)**.
F9 1998 c. 29.
F10 S.I. 1996/1919 (N.I. 16); Articles 107E and 107G were inserted by 2015 c. 1 (N.I.), **section 2(2)**.
F11 Part 12ZC was inserted by 2015 c. 1 (N.I.), **section 5**.
F12 S.R. 1989 No. 253.
F13 S.I. 2005/389.
F14 S.I. 2005/1313.
F15 S.S.I. 2009/154.
F16 S.I. 1995/755 (N.I. 2).
F17 S.I. 2010/959, amended for relevant purposes by S.I. 2014/1556.
F18 S. I. 2005/389, amended for relevant purposes by S.I. 2014/1556.
F19 1989 c. 41; paragraph 12F was inserted by 2008 c. 23, **Schedule 1**, paragraph 4.
F20 S.I. 2005/389: amended for relevant purposes by S.I. 2014/1556.

Modifications etc. (not altering text)
C1 Reg. 2 applied (with modifications) (15.3.2015) by The Statutory Shared Parental Pay (Parental Order Cases) Regulations (Northern Ireland) 2015 (S.R. 2015/102), regs. 1, **4**
C2 Reg. 2 applied (with modifications) (5.4.2015) by The Statutory Shared Parental Pay (Adoptions from Overseas) Regulations (Northern Ireland) 2015 (S.R. 2015/99), regs. 1, **5**

Application

3. These Regulations apply in relation to—

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

(b) statutory shared parental pay (adoption) in respect of children placed for adoption on or after 5th April 2015.

Modifications etc. (not altering text)
C3 Reg. 3 applied (with modifications) (15.3.2015) by The Statutory Shared Parental Pay (Parental Order Cases) Regulations (Northern Ireland) 2015 (S.R. 2015/102), regs. 1, **5**
C4 Reg. 3 applied (with modifications) (5.4.2015) by The Statutory Shared Parental Pay (Adoptions from Overseas) Regulations (Northern Ireland) 2015 (S.R. 2015/99), regs. 1, **6**

PART 2

ENTITLEMENT TO STATUTORY SHARED PARENTAL PAY (BIRTH)

Entitlement of mother to statutory shared parental pay (birth)

4.—(1) M is entitled to statutory shared parental pay (birth) if M satisfies the conditions specified in paragraph (2) and if P satisfies the conditions specified in paragraph (3).

(2) The conditions referred to in paragraph (1) are that—

(a) M satisfies the conditions as to continuity of employment and normal weekly earnings specified in regulation 30;

(b) M has at the date of C's birth the main responsibility for the care of C (apart from the responsibility of P);

(c) M has complied with the requirements specified in regulation 6 (notification and evidential requirements of M)**;**

(d) M became entitled by reference to the birth or expected birth of C to statutory maternity pay in respect of C;

(e) the maternity pay period that applies as a result of M's entitlement to statutory maternity pay is, and continues to be, reduced under section 161(3A) of the 1992 Act [F21];

(f) it is M's intention to care for C during each week in respect of which statutory shared parental pay (birth) is paid to her;

(g) M is absent from work during each week in respect of which statutory shared parental pay (birth) is paid to her (except in the cases referred to in regulation 15 (entitlement to shared parental pay: absence from work)); and

(h) where M is an employee (within the meaning of the Employment Rights (Northern Ireland) Order 1996 [F22]) M's absence from work as an employee during each week that statutory shared parental pay (birth) is paid to her is absence on shared parental leave in respect of C.

(3) The conditions referred to in paragraph (1) are that—

(a) P has at the date of C's birth the main responsibility for the care of C (apart from the responsibility of M); and

(b) P satisfies the conditions relating to employment and earnings in regulation 29 (conditions as to employment and earnings of claimant's partner).

F21 Section 161(3A) was inserted by 2015 c. 1 (N.I.), **section 6(4)**.
F22 S.I. 1996/1919 (N.I. 16).

Entitlement of father or partner to statutory shared parental pay (birth)

5.—(1) P is entitled to statutory shared parental pay (birth) if P satisfies the conditions specified in paragraph (2) and M satisfies the conditions specified in paragraph (3).

(2) The conditions specified in paragraph (1) are that—

(a) P satisfies the conditions as to continuity of employment and normal weekly earnings specified in regulation 30;

(b) P has at the date of C's birth the main responsibility for the care of C (apart from the responsibility of M);

(c) P has complied with the requirements specified in regulation 7 (notification and evidential requirements of P);