STATUTORY RULES OF NORTHERN IRELAND

2015 No. 91

EMPLOYMENT

WORK AND FAMILIES

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

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

The Department for Employment and Learning makes these Regulations in exercise of the powers conferred by Articles 8, 9, 11 and 16(1) of the Employment (Northern Ireland) Order 2002(**1**) and 7(1)(fa) and (ga) and 23(5) and (8) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999(**2**) with the concurrence of the Commissioners for Her Majesty's Revenue and Customs(**3**).

Citation and commencement

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

Interpretation

2.—(1) In these Regulations—

"the 1992 Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**4**);

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

(**1**) S.I. 2002/2836 (N.I. 2); Articles 8,9 and 11 were amended by the Work and Families Act (Northern Ireland) 2015 (c. 1 (N.I.)), Schedule 1, paragraph 6(2) to (4).

(**2**) S.I. 1999/671; Articles 7(1)(fa) and (ga) were inserted by S.I. 2002/2836 (N.I. 2), Article 10(2), amended by the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)), Schedule 1, paragraph 43(2), and further amended by 2015 c. 1 (N.I.), Schedule 1, paragraph 5(2). Article 23 was amended by paragraph 7 of Schedule 2 to the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)).

(**3**) Regulations made by the Department for Employment and Learning pursuant to S.I. 2002/2836 (N.I. 2), Articles 8, 9 and 11, and to S.I. 1999/671, Article 7(1)(ga), must, by virtue of those Articles, be made with the concurrence of the Commissioners of Her Majesty's Revenue and Customs. By virtue of the Commissioners for Revenue and Customs Act 2005 (c. 11), section 50(1), references to the Commissioners of Inland Revenue in statutory provisions are to be taken as references to the Commissioners for Her Majesty's Revenue and Customs.

(**4**) 1992 c. 7.

"contributions payments" has the same meaning as in Article 8 of the Employment (Northern Ireland) Order 2002;

"the Contributions Regulations" means the Social Security (Contributions) Regulations 2001(**5**);

"income tax month" means the period beginning on the 6th day of any calendar month and ending on the 5th day of the following calendar month;

"income tax quarter" means the period beginning on—

(a) the 6th day of April and ending on the 5th day of July;

(b) the 6th day of July and ending on the 5th day of October;

(c) the 6th day of October and ending on the 5th day of January;

(d) the 6th day of January and ending on the 5th day of April;

"period of payment of statutory shared parental pay" means each week during which statutory shared parental pay is payable to a person under section 167ZZ2(2) of the 1992 Act(**6**);

"statutory shared parental pay" means statutory shared parental pay payable in accordance with the provisions of Part 12ZC of the 1992 Act(**7**);

"tax year" means the 12 months beginning with 6th April in any year;

"writing" includes writing delivered by means of electronic communications to the extent that the electronic communications are approved by directions issued by the Commissioners pursuant to regulations under section 132 of the Finance Act 1999(**8**).

(2) Any reference in these Regulations to the employees of an employer includes the employer's former employees(**9**).

Funding of employers' liabilities to make payments of statutory shared parental pay

3.—(1) An employer who has made any payment of statutory shared parental pay shall be entitled—

(a) to an amount equal to 92% of such payment; or

(b) if the payment qualifies for small employer's relief by virtue of Article 8(3) of the Employment (Northern Ireland) Order 2002—

(i) to an amount equal to such payment; and

(ii) to an additional payment equal to the amount to which the employer would have been entitled under section 163(2)(b) of the 1992 Act had the payment been a payment of statutory maternity pay.

(2) The employer shall be entitled in either case (a) or case (b) to apply for advance funding in respect of such payment in accordance with regulation 4, or to deduct it in accordance with regulation 5 from amounts otherwise payable by the employer.

Applications for funding from the Commissioners

4.—(1) An employer may apply to the Commissioners for funds to pay the statutory shared parental pay (or so much of it as remains outstanding) to the employee or employees in a form approved for that purpose by the Commissioners where—

(**5**) S.I. 2001/1004, to which there are amendments not relevant to these Regulations.
(**6**) Section 167ZZ2 was inserted by 2015 c. 1 (N.I.), section 5.
(**7**) Part 12ZC was inserted by 2015 c. 1 (N.I.), section 5(2),.and is applied by S.R. 2003 No. 221 and S.R. 2015 No. 90.
(**8**) 1999 c. 16; section 132 was amended by the Communications Act 2003 (c. 21), Schedule 17, paragraph 156.
(**9**) Definitions of "employee" and "employer" are provided in S.I. 2002/2836 (N.I. 2), Article 2(2).

(a) the conditions in paragraph (2) are satisfied; or

(b) the condition in paragraph (2)(a) is satisfied and the employer considers that the condition in paragraph (2)(b) will be satisfied on the date of any subsequent payment of emoluments to one or more employees who are entitled to payment of statutory shared parental pay.

(2) The conditions in this paragraph are—

(a) the employer is entitled to a payment determined in accordance with regulation 3 in respect of statutory shared parental pay which the employer is required to pay to an employee or employees for an income tax month or income tax quarter; and

(b) the payment exceeds the aggregate of—

(i) the total amount of tax which the employer is required to pay to the collector of taxes in respect of the deduction from the emoluments of employees in accordance with the Income Tax (Pay as You Earn) Regulations 2003(**10**) for the same income tax month or income tax quarter;

(ii) the total amount of the deductions made by the employer from the emoluments of employees for the same income tax month or income tax quarter in accordance with regulations under section 22(5) of the Teaching and Higher Education Act 1998(**11**) or under section 73B of the Education (Scotland) Act 1980(**12**) or in accordance with Article 3(5) of the Education (Student Support) (Northern Ireland) Order 1998(**13**);

(iii) the total amount of contributions payments which the employer is required to pay to the collector of taxes in respect of the emoluments of employees (whether by means of deduction or otherwise) in accordance with the Contributions Regulations for the same income tax month or income tax quarter; and

(iv) the total amount of payments which the employer is required to pay to the collector of taxes in respect of the deductions made on account of tax from payments to sub-contractors in accordance with section 61 of the Finance Act 2004(**14**) for the same income tax month or income tax quarter.

(3) An application by an employer under paragraph (1) shall be for an amount up to, but not exceeding, the amount of the payment to which the employer is entitled in accordance with regulation 3 in respect of statutory shared parental pay which the employer is required to pay to an employee or employees for the income tax month or income tax quarter to which the payment of emoluments relates.

Deductions from payments to the Commissioners

5. An employer who is entitled to a payment determined in accordance with regulation 3 may recover such payment by making one or more deductions from the aggregate of the amounts specified in sub-paragraphs (i) to (iv) of regulation 4(2)(b) except where and in so far as—

(a) those amounts relate to earnings paid before the beginning of the income tax month or income tax quarter in which the payment of statutory shared parental pay was made;

(b) those amounts are paid by the employer later than six years after the end of the tax year in which the payment of statutory shared parental pay was made;

(c) the employer has received payment from the Commissioners under regulation 4; or

(**10**) S.I. 2003/2682.
(**11**) 1998 c. 30; section 22(5) was amended by the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6, paragraph 236(a).
(**12**) 1980 c. 44; section 73B was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 29.
(**13**) S.I. 1998/1760 (N.I. 14); Article 3(5) was amended by 2003 c. 1, Schedule 6, paragraph 238(a).
(**14**) 2004 c.12.

(d) the employer has made a request in writing under regulation 4 that the payment to which the employer is entitled in accordance with regulation 3 be paid and the employer has not received notification by the Commissioners that the request is refused.

Payments to employers by the Commissioners

6. The Commissioners shall pay the employer such amount as the employer was unable to deduct where—

(a) the Commissioners are satisfied that the total amount which the employer is or would otherwise be entitled to deduct under regulation 5 is less than the payment to which the employer is entitled in accordance with regulation 3 in an income tax month or income tax quarter; and

(b) the employer has in writing requested the Commissioners to do so.

Date when certain contributions are to be treated as paid

7. Where an employee has made a deduction from a contributions payment under regulation 5, the date on which it is to be treated as having been paid for the purposes of paragraph (5) of Article 8 (funding of employers' liabilities) of the Employment (Northern Ireland) Order 2002 is—

(a) in a case where the deduction did not extinguish the contributions payment, the date on which the remainder of the contributions payment or, as the case may be, the first date on which any part of the remainder of the contributions payment was paid; and

(b) in a case where deduction extinguished the contributions payment, the 14th day after the end of the income tax month or income tax quarter during which there were paid the earnings in respect of which the contributions payment was payable.

Overpayments

8.—(1) This regulation applies where funds have been provided to the employer pursuant to regulation 4 in respect of one or more employees and it appears to an officer of Revenue and Customs that the employer has not used the whole or part of those funds to pay statutory shared parental pay.

(2) An officer of Revenue and Customs shall decide to the best of the officer's judgement the amount of funds provided pursuant to regulation 4 and not used to pay statutory shared parental pay and shall serve notice in writing of this decision on the employer.

(3) A decision under this regulation may cover funds provided pursuant to regulation 4—

(a) for any one income tax month or income tax quarter, or more than one income tax month or income tax quarter, in a tax year; and

(b) in respect of a class or classes of employees specified in the decision notice (without naming the individual employees), or in respect of one or more employees named in the decision notice.

(4) Subject to the following provisions of this regulation, Part 6 of the Taxes Management Act 1970(**15**) (collection and recovery) shall apply with any necessary modifications to a decision under this regulation as if it were an assessment and as if the amount of funds determined were income tax charged on the employer.

(5) Where an amount of funds determined under this regulation relates to more than one employee, proceedings may be brought for the recovery of that amount without distinguishing the amounts making up that sum which the employer is liable to repay in respect of each employee and without specifying the employee in question, and the amount determined under this regulation shall

(**15**) 1970 c. 9.