

2015 No. 96

EMPLOYMENT

WORK AND FAMILIES

**The Statutory Adoption Pay (Curtailment) Regulations
(Northern Ireland) 2015**

Made - - - - *2nd March 2015*

Coming into operation - *15th March 2015*

The Department for Employment and Learning, in exercise of the powers conferred by sections 167ZN(2A), (2B), (2C) and (2D) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), makes the following Regulations.

PART 1

GENERAL

Citation and commencement

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

Interpretation

2. In these Regulations—

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

“the 1996 Order ” means the Employment Rights(Northern Ireland) Order 1996(b);

“A” means a person who is entitled to statutory adoption pay;

“adoption pay curtailment date” means, subject to regulation 7(4), the date specified in an adoption pay period curtailment notice;

“adoption pay period curtailment notice” means a notice given in accordance with regulation 7;

“AP” means the person who is married to, or the civil partner or the partner of, A;

“C” means the child in respect of whom an entitlement to—

(a) 1992 c. 7. Section 167ZN was inserted by the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)), Article 6; and subsections (2A) to (2D) were inserted by the Work and Families Act (Northern Ireland) 2015 (c. 1), section 6(1) and (6). See section 167ZS of the 1992 Act for the definition of “prescribed”.

(b) S.I. 1996/1919 (N.I. 16).

(a) shared parental leave arises under Article 107G (entitlement to shared parental leave: adoption) of the 1996 Order(a);

(b) statutory shared parental pay arises under sections 167ZW and 167ZX (entitlement: adoption) of the 1992 Act(b);

“calendar week” means a period of seven days beginning with a Sunday;

“partner” in relation to A, means a person (whether of a different sex or the same sex) who lives with A and with C in an enduring family relationship but is not A’s child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew;

“SPL Regulations” means the Shared Parental Leave Regulations (Northern Ireland) 2015(c);

“ShPP Regulations” means the Statutory Shared Parental Pay (General) Regulations (Northern Ireland 2015(d);

“statutory adoption pay” has the meaning given in section 167ZL(e) (entitlement) of the 1992 Act.

Notices

3.—(1) Where a notice is to be given under these Regulations, it may be given—

(a) where paragraph (2) applies, by electronic communication;

(b) by post; or

(c) by personal delivery.

(2) This paragraph applies where the person who is to receive the notice has agreed that the notice may be given to the person by being transmitted to an electronic address and in an electronic form specified by the person for the purpose.

(3) Where a notice is to be given under these Regulations it is to be taken to have been given—

(a) if sent by electronic communication, on the day of transmission;

(b) if sent by post in an envelope which is properly addressed and sent by prepaid post, on the day on which it is posted;

(c) if delivered personally, on the day of delivery.

PART 2

CURTAILMENT OF ADOPTION PAY PERIOD

Curtailment of adoption pay period (statutory shared parental pay: A)

4. A’s adoption pay period shall end on the adoption pay curtailment date if—

(a) A gives an adoption pay period curtailment notice (unless the notice is revoked under regulation 8);

(b) A satisfies the conditions in sub-paragraphs (a) and (d) of regulation 17(2) (entitlement of adopter to statutory shared parental pay (adoption)) of the ShPP Regulations; and

(c) AP satisfies the condition in sub-paragraph (b) of regulation 17(3) of the ShPP Regulations.

(a) Sections 107G was inserted by 2015 c. 1, section 2.

(b) Sections 167ZW and 167ZX were inserted by the 2015 c. 1, section 5.

(c) S.R. 2015. No. 93.

(d) S.R. 2015 .No. 94.

(e) Section 167ZL was inserted by the Employment (NI) Order 2002 S.I. 2002/2836 (N.I.), Art. 6.

Curtailment of adoption pay period (statutory shared parental pay: AP)

5. A's adoption pay period shall end on the adoption pay curtailment date if—
- (a) A gives an adoption pay period curtailment notice (unless the notice is revoked under regulation 8);
 - (b) AP satisfies the conditions in sub-paragraph (a) of regulation 18(2) (entitlement of partner to statutory shared parental pay (adoption)) of the ShPP Regulations; and
 - (c) A satisfies the conditions in sub-paragraphs (b) and (c) of regulation 18(3) of the ShPP Regulations.

Curtailment of adoption pay period (shared parental leave: AP)

6. A's adoption pay period shall end on the adoption pay curtailment date if—
- (a) A gives an adoption pay period curtailment notice (unless the notice is revoked under regulation 8);
 - (b) AP satisfies the condition in sub-paragraph (a) of regulation 21(2) (adopter's partner's entitlement to shared parental leave) of the SPL Regulations; and
 - (c) A satisfies the conditions in sub-paragraphs (a) and (c) of regulation 21(3) of the SPL Regulations.

Adoption pay period curtailment notice

- 7.—(1) An adoption pay period curtailment notice must—
- (a) be in writing;
 - (b) specify the date on which A's statutory adoption pay period is to end; and
 - (c) be given to the person who is liable to pay A's statutory adoption pay.
- (2) The date specified in accordance with paragraph (1)(b) must be—
- (a) the last day of a week;
 - (b) at least eight weeks after the date on which A gave the adoption pay period curtailment notice;
 - (c) at least two weeks after the first day of the adoption pay period; and
 - (d) at least one week before the last day of the adoption pay period.
- (3) If A has more than one entitlement to statutory adoption pay in relation to C, A must curtail the adoption pay period in relation to each (or none) of those entitlements, and in relation to each of those entitlements A must specify an adoption pay curtailment date which falls in the same calendar week.
- (4) Where A—
- (a) returns to work before giving a notice in accordance with paragraph (1); and
 - (b) subsequently gives such a notice;

the adoption pay curtailment date shall be the last day of the week in which that notice is submitted (irrespective of the date given in that notice under paragraph (1)).

(5) For the purposes of paragraph (2)(a) and (4), "week" has the meaning given in section 167ZN(8) of the 1992 Act.

(6) In this regulation, A is treated as returning to work where statutory adoption pay is not payable to A in accordance with section 167ZN(3) or (5) of the 1992 Act(a).

(a) Section 167ZN(3) was amended by the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16), Schedule 1, paragraph 20(1) and (2).

Revocation (adoption pay period curtailment notice)

8.—(1) Where AP dies before the adoption pay curtailment date, A may revoke an adoption pay period curtailment notice by giving a notice (“a revocation notice”) in accordance with paragraph (2).

(2) A revocation notice must be given to the person who is liable to pay A statutory adoption pay within a reasonable period from the date of AP’s death and before the adoption pay curtailment date.

(3) A revocation notice must—

- (a) be in writing;
- (b) state that A revokes the adoption pay period curtailment notice; and
- (c) state the date of AP’s death.

(4) Where in accordance with regulation 7(3) A has given an adoption pay period curtailment notice to more than one person, A must give a revocation notice to each of those persons.

(5) A may not give an adoption pay period curtailment notice subsequent to giving a revocation notice.

Sealed with the Official Seal of the Department for Employment and Learning on 2nd March 2015.



Dr Stephen Farry
Minister for Employment and Learning

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations allow eligible adopters to curtail their adoption pay period in accordance with section 167ZN(2A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the 1992 Act”) in order to enable them to take statutory shared parental pay in accordance with section 167ZW and 167ZX of that Act. The Regulations also allow eligible adopters to curtail their adoption pay period in accordance with 167ZN(2A) of the 1992 Act in order to allow their partner to take statutory shared parental pay in accordance with sections 167ZW and 167ZX of that Act, or shared parental leave in accordance with article 6 of the Employment Rights (Northern Ireland) Order 1996.

Regulation 3 prescribes how notices may be given under these Regulations.

Regulation 4 applies to an adopter who is entitled to statutory adoption pay curtailing that statutory adoption pay in order to take statutory shared parental pay.

Regulation 5 applies to an adopter curtailing their statutory adoption pay so that their partner can take statutory shared parental pay.

Regulation 6 allows an adopter who is not eligible for statutory adoption leave to curtail their statutory adoption pay so that their partner can take shared parental leave. In these circumstances, an eligible partner will be entitled to 52 weeks of shared parental leave less the amount of statutory adoption pay the child’s adopter has taken at the point of curtailing the adoption pay period.

Regulation 7 prescribes the requirements with which an adoption pay period curtailment notice must comply.

Regulation 8 allows an adopter to revoke a notice to curtail their statutory adoption pay in specified circumstances and subject to certain conditions being satisfied.

An impact assessment has not been prepared for these Regulations. These Regulations are part of a package of legislative measures and the relevant impacts were assessed within the document ‘Sharing parental rights, extending flexibility at work – public consultation’, published in May 2013 (www.delni.gov.uk/index/consultation-zone/archived-consultations/archived-consultations-2013/working-parents-rights.htm), and supplemented by a further publication in April 2014 (www.delni.gov.uk/index/publications/equality-good-relations/shared-parental-leave-and-pay.htm).

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