STATUTORY INSTRUMENTS

2014 No. 3054

SOCIAL SECURITY

The Statutory Maternity Pay and Statutory Adoption Pay (Curtailment) Regulations 2014

Made - - - -	*19th November 2014*
Laid before Parliament	*20th November 2014*
Coming into force - -	*1st December 2014*

This instrument contains only regulations made by virtue of, or consequential upon, section 120(1), (4) and (6) of the Children and Families Act 2014(**a**) and is made before the end of the period of 6 months beginning with the coming into force of that enactment(**b**).

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 165(3A), (3B), (3C) and (3D), 171ZN(2A), (2B), (2C) and (2D) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(**c**), makes the following Regulations:

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Statutory Maternity Pay and Statutory Adoption Pay (Curtailment) Regulations 2014 and come into force on 1st December 2014.

Interpretation

2. In these Regulations—

"the 1992 Act" means the Social Security Contributions and Benefits Act 1992;

"the 1996 Act" means the Employment Rights Act 1996(**d**);

(**a**) 2014 c. 6.

(**b**) See section 173(5) of the Social Security Administration Act 1992 (c. 5). Pursuant to sections 170 and 172 of that Act, where the Secretary of State proposes to make regulations under the Social Security Contributions and Benefits Act 1992 (c. 4) ("the 1992 Act"), the Secretary of State is usually 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 enactment by virtue or as a consequence of which the regulations are being made.

(**c**) 1992 c. 4. Section 165(3A) to (3D) was inserted by the Children and Families Act 2014 (c. 6) ("the 2014 Act"), section 120(1) and (4). Section 171ZN was inserted by the Employment Act 2002 (c. 22) ("the 2002 Act"), section 4, and subsections (2A) to (2D) were inserted by the 2014 Act, section 120(1) and (6). See sections 171 and 171ZS of the 1992 Act for the definition of "prescribed".

(**d**) 1996 c. 18.

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

"adoption pay curtailment date" means, subject to regulation 12(4), the date specified in an adoption pay period curtailment notice;

"adoption pay period curtailment notice" means a notice given in accordance with regulation 12;

"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) shared parental leave arises under section 75E (entitlement to shared parental leave: birth) or 75G (entitlement to shared parental leave: adoption) of the 1996 Act(**a**);

(b) statutory shared parental pay arises under section 171ZU (entitlement: birth) or 171ZV (entitlement: adoption) of the 1992 Act(**b**);

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

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

"maternity pay period curtailment date" means, subject to regulation 7(5), the date specified in a maternity pay period curtailment notice;

"maternity pay period curtailment notice" means a notice given in accordance with regulation 7 and regulation 8(5);

"P" means the father of C, or the person who is married to, or the civil partner or the partner of, M;

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

"SPL Regulations" means the Shared Parental Leave Regulations 2014(**c**);

"ShPP Regulations" means the Statutory Shared Parental Pay (General) Regulations 2014(**d**);

"statutory adoption pay" has the meaning given in section 171ZL(**e**) (entitlement) of the 1992 Act;

"statutory maternity pay" has the meaning given in section 164(1) (statutory maternity pay—entitlement and liability to pay) 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.

(**a**) Sections 75E and 75G were inserted by the 2014 Act, section 117.
(**b**) Sections 171ZU and 171ZV were inserted by the 2014 Act, section 119.
(**c**) S.I. 2014/3050.
(**d**) S.I. 2014/3051.
(**e**) Section 171ZL was inserted by the 2002 Act, section 4, and amended by S.I. 2006/2012, 2011/1740.

PART 2

CURTAILMENT OF MATERNITY PAY PERIOD

Curtailment of maternity pay period (statutory shared parental pay: M)

4. M's maternity pay period shall end on the maternity pay period curtailment date if—

(a) M gives a maternity pay period curtailment notice (unless the notice is revoked under regulation 8);

(b) M satisfies the conditions in sub-paragraphs (a) and (d) of regulation 4(2) (entitlement of mother to statutory shared parental pay (birth)) of the ShPP Regulations; and

(c) P satisfies the conditions in sub-paragraph (b) of regulation 4(3) of the ShPP Regulations.

Curtailment of maternity pay period (statutory shared parental pay: P)

5. M's maternity pay period shall end on the maternity pay period curtailment date if—

(a) M gives a maternity pay period curtailment notice (unless the notice is revoked under regulation 8);

(b) P satisfies the conditions in sub-paragraph (a) of regulation 5(2) (entitlement of father or partner to statutory shared parental pay (birth)) of the ShPP Regulations; and

(c) M satisfies the conditions in sub-paragraphs (b) and (c) of regulation 5(3) of the ShPP Regulations.

Curtailment of maternity pay period (shared parental leave: P)

6. M's maternity pay period shall end on the maternity pay period curtailment date if—

(a) M gives a maternity pay period curtailment notice (unless the notice is revoked under regulation 8);

(b) P satisfies the condition in sub-paragraph (a) of regulation 5(2) (father's or partner's entitlement to shared parental leave) of the SPL Regulations; and

(c) M satisfies the conditions in sub-paragraphs (a) and (c) of regulation 5(3) of the SPL Regulations.

Maternity pay period curtailment notice

7.—(1) A maternity pay period curtailment notice must—

(a) be in writing;

(b) specify the date on which M's statutory maternity pay period is to end; and

(c) be given to the person who is liable to pay M's statutory maternity pay.

(2) The date specified in accordance with paragraph (1)(b) must be—

(a) the last day of a week;

(b) if M has the right to maternity leave under section 71 (ordinary maternity leave) of the 1996 Act(**a**), at least one day after the end of the compulsory maternity leave period, or, if M does not have that right, at least two weeks after the end of the pregnancy;

(c) at least eight weeks after the date on which M gave the maternity pay period curtailment notice; and

(d) at least one week before the last day of the maternity pay period.

(**a**) Section 71 was substituted by the Employment Relations Act 1999 (c. 26) ("the 1999 Act"), section 7, Schedule 4, Part 1. Section 71(3) was amended by the Work and Families Act 2006 (c. 18) ("the 2006 Act"), section 11(1), Schedule 1, paragraph 31. No other relevant amendments have been made to section 71.

(3) In paragraph (2) "the end of the compulsory maternity leave period" means whichever is the later of—

(a) the last day of the compulsory maternity leave period provided for in regulations under section 72(2) (compulsory maternity leave) of the 1996 Act(**a**); or

(b) where section 205 of the Public Health Act 1936(**b**) (women not to be employed in factories or workshops within four weeks after birth of a child) applies to M's employment, the last day of the period in which an occupier of a factory is prohibited from knowingly allowing M to be employed in that factory.

(4) If M has more than one entitlement to statutory maternity pay in relation to C, M must curtail the maternity pay period in relation to each (or none) of those entitlements, and in relation to each of those entitlements M must specify a maternity pay period curtailment date which falls in the same calendar week.

(5) Where M—

(a) returns to work before giving a notice in accordance with paragraph (1); and

(b) subsequently gives such a notice;

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

(6) For the purposes of paragraphs (2)(a) and (5), "week" has the meaning given in section 165(8) (the maternity pay period) of the 1992 Act(**c**).

(7) In this regulation, M is treated as returning to work where statutory maternity pay is not payable to her in accordance with section 165(4) or (6) of the 1992 Act(**d**).

Revocation (maternity pay period curtailment notice)

8.—(1) Subject to paragraph (2), M may revoke a maternity pay period curtailment notice by giving a notice ("a revocation notice") before the maternity pay period curtailment date if—

(a) she gave the maternity pay period curtailment notice before the birth of C; or

(b) P dies.

(2) Revocation is effective under paragraph (1) where M gives a revocation notice to the person who is liable to pay M's statutory maternity pay that—

(a) if given under paragraph (1)(a), is given within six weeks of the date of C's birth; or

(b) if given under paragraph (1)(b), is given within a reasonable period from the date of P's death.

(3) A revocation notice must—

(a) be in writing;

(b) state that M revokes the maternity pay period curtailment notice; and

(c) if given under paragraph (1)(b), state the date of P's death.

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

(5) M may not give a maternity pay period curtailment notice in respect of the same maternity pay period subsequent to giving a revocation notice unless the revocation was made in accordance with paragraph (1)(a).

(**a**) Section 72 was substituted by the 1999 Act, section 7, Schedule 4, Part 1.
(**b**) 1936 c. 49 as amended by the Statute Law (Repeals) Act 1993 (c. 50), section 1, Schedule 1, Part 14 and the Statute Law (Repeals) Act 2004 (c. 14), section 1, Schedule 1, Part 13.
(**c**) Section 165(8) was inserted by the 2006 Act, section 11(1), Schedule 1, paragraph 7(1) and (4).
(**d**) Section 165(4) was amended by the 2006 Act, Schedule 1, paragraph 7(1) and (3).

PART 3

CURTAILMENT OF ADOPTION PAY PERIOD

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

9. 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 13);

(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.

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

10. 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 13);

(b) AP satisfies the conditions in sub-paragraph (a) of regulation 18(2) (entitlement of adopter's 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)

11. 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 13);

(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

12.—(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 171ZN(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 171ZN(3) or (5) of the 1992 Act(**a**).

Revocation (adoption pay period curtailment notice)

13.—(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 12(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.

Signed by authority of the Secretary of State for Work and Pensions

Steve Webb
Minister of State
Department for Work and Pensions

19th November 2014

(**a**) Section 171ZN(3) was amended by the Work and Families Act 2006, Schedule 1, paragraph 21(1) and (2).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations allow eligible women to curtail their statutory maternity pay in accordance with section 165(3A) of the Social Security Contributions and Benefits Act 1992 ("the 1992 Act") in order to enable them to take statutory shared parental pay in accordance with section 171ZU of the 1992 Act. The Regulations also allow eligible women to curtail their statutory maternity pay in accordance with section 165(3A) of the 1992 Act in order to allow their partner (which includes their spouse or the child's father) to take statutory shared parental pay in accordance with section 171ZU of the 1992 Act, or shared parental leave in accordance with section 75E of the Employment Rights Act 1996.

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

Regulation 4 applies to a woman curtailing her statutory maternity pay in order to take statutory shared parental pay.

Regulation 5 applies to a woman curtailing her statutory maternity pay so that her partner can take statutory shared parental pay.

Regulation 6 allows a woman who is not eligible for statutory maternity leave to curtail her statutory maternity pay so that her 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 maternity pay the child's mother has taken at the point of curtailing the maternity pay period.

Regulation 7 prescribes the requirements with which a maternity pay period curtailment notice must comply.

Regulation 8 allows a woman to revoke a notice to curtail her statutory maternity pay in specified circumstances and subject to certain conditions being satisfied.

These Regulations also make equivalent provisions for adopters. The Regulations allow eligible adopters to curtail their adoption pay period in accordance with section 171ZN(2A) of the 1992 Act in order to enable them to take statutory shared parental pay in accordance with section 171ZV of the 1992 Act. The Regulations also allow eligible adopters to curtail their adoption pay period in accordance with 171ZN(2A) of the 1992 Act in order to allow their partner to take statutory shared parental pay in accordance with section 171ZV of the 1992 Act, or shared parental leave in accordance with section 75G of the Employment Rights Act 1996.

An impact assessment has not been prepared for these Regulations. These Regulations are part of a package of legislative measures and the relevant impact assessment is the *Modern Workplaces: shared parental leave and pay administration consultation impact assessment* which was published in February 2013. A copy of that impact assessment can be obtained from the Department for Business, Innovation and Skills, Labour Market Directorate, 1 Victoria Street, London, SW1H 0ET. Copies have also been placed in the libraries of both Houses of Parliament.

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