STATUTORY INSTRUMENTS

2025 No. 202

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Neonatal Care Pay (Persons Abroad and Mariners) Regulations 2025

Made - - - - at 10:30 a.m. on 24th February 2025

Laid before Parliament at 4:00 p.m. on 24th February 2025

Coming into force - - 6th April 2025

The Secretary of State, with the concurrence of the Treasury, makes the following Regulations in exercise of the powers conferred by sections 171ZZ23 and 171ZZ24(3) of the Social Security Contributions and Benefits Act 1992(**a**).

This instrument contains only regulations made by virtue of, or consequential upon, the Schedule to the Neonatal Care (Leave and Pay) Act 2023 and is made before the end of the period of 6 months beginning with the coming into force of that Act(**b**).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Statutory Neonatal Care Pay (Persons Abroad and Mariners) Regulations 2025.

(2) These Regulations come into force on 6 April 2025.

(3) These Regulations extend to England and Wales and Scotland.

Interpretation

2.—(1) In these Regulations—

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

"foreign-going ship" means any ship or vessel which is not a home-trade ship;

"general regulations" means the Statutory Neonatal Care Pay (General) Regulations 2025(**c**);

"home-trade ship" includes—

(**a**) 1992 c. 4; sections 171ZZ23 and 171ZZ24(3) were inserted with sections 171ZZ16 to 171ZZ24 (Part 12ZE) by the Neonatal Care (Leave and Pay) Act 2023 (c. 20), paragraph 5 of Part 2 of the Schedule.

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

(**c**) S.I. 2025/XXXX

(a) every ship or vessel employed in trading or going within the following limits—

(i) the United Kingdom (including for this purpose the Republic of Ireland),

(ii) the Channel Islands,

(iii) the Isle of Man, and

(iv) the continent of Europe between the river Elbe and Brest inclusive;

(b) every fishing vessel not proceeding beyond the following limits—

(i) on the South, Latitude 48°30′N,

(ii) on the West, Longitude 12°W, and

(iii) on the North, Latitude 61°N;

"mariner" means a person who is or has been in employment under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—

(a) the employment in that other capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel, and

(b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage,

but does not include a person insofar as their employment is as a serving member of HM's forces;

"serving member of HM's forces" means a member of a regular force or reserve force ("M") as defined, in each case, by section 374 (definitions applying for purposes of the whole Act) of the Armed Forces Act 2006(**a**), unless—

(a) M is under the age of 16,

(b) M is committing an offence under section 8 of the Armed Forces Act 2006 (desertion),

(c) the force concerned is one of His Majesty's ("HM's") naval forces which M locally entered at an overseas base without previously being—

(i) an insured person under the National Insurance Act 1965(**b**), or

(ii) a contributor under the Act, or

(d) the force concerned is one of HM's military forces or HM's air forces which M entered, or was recruited for, outside the United Kingdom and—

(i) where that force is one of HM's military forces, the depot for M's unit is outside the United Kingdom, or

(ii) where that force is one of HM's air forces, M is liable under the terms of M's engagement to serve only in a specified area outside the United Kingdom;

"statutory neonatal care pay" means statutory neonatal care pay payable in accordance with the provisions of Part 12ZE of the Act where the conditions specified in section 171ZZ16(2) of the Act are satisfied.

(2) For the purposes of these Regulations, the expressions "ship" and "ship or vessel" include hovercraft, except in regulation 9(2).

(**a**) 2006 c. 52; section 374 was amended by the Defence Reform Act 2014 (c. 20), section 44; there are other amendments none of which is relevant.
(**b**) 1965 c. 51.

Application

3. These Regulations apply in relation to children who are born on or after 6th April 2025.

Restriction on scope

4. A person who would not be treated under regulation 14 (treatment of persons as employees) of the general regulations as an employee for the purposes of Part 12ZE (statutory neonatal care pay) of the Act if that person's employment were in Great Britain will not be treated as an employee under these Regulations.

Treatment of persons in EEA states as employees

5. A person who is—

(a) gainfully employed in an EEA state in such circumstances that, if the employment were in Great Britain, the person would be an employee for the purposes of Part 12ZE of the Act, or a person treated as such an employee under regulation 14 of the general regulations, and

(b) subject to the legislation of the United Kingdom under

(i) Council Regulation (EEC) No 1408/71(**a**) of 14 June 1971 on the application of social security systems to employed persons and their families moving within the Community, or

(ii) Regulation (EC) 883/2004 of the European Parliament and of the Council of 29 April 2004(**b**), on the coordination of social security systems

as those instruments apply in the European Economic Area from time to time,

notwithstanding that person not being employed in Great Britain, is to be treated as an employee for the purposes of Part 12ZE of the Act.

Treatment of certain persons absent from Great Britain as employees

6. Subject to regulation 9(2), where a person, while absent from Great Britain for any purpose, is gainfully employed by an employer who is liable to pay secondary Class 1 contributions (within the meaning of section 1(2) of the Act) in respect of that person's employment under section 6 of the Act(**c**) or regulation 146 of the Social Security Contributions Regulations 2001(**d**), that person will be treated as an employee for the purposes of Part 12ZE of the Act.

Entitlement to statutory neonatal care pay where person has worked in an EEA state in the 26 weeks preceding the relevant week

7.—(1) A person who—

(a) is an employee or treated as an employee under regulation 5,

(b) in the relevant week, was in employed earner's employment with an employer in Great Britain, and

(**a**) The text of Regulation EEC 1408/71 is restated in Annex 1, Part 1 of Council Regulation (EC) No 118/97 of 2 December 1996 OJ No. L 28, 30.01.1997, p.1 and was last amended by Regulation (EC) No 592/2008 of the European Parliament and of the Council of 17 June 2008 OJ No. L 177, 04.07.2008, p.1.

(**b**) OJ No. L 166, 30.04.2004, p.1 and OJ No. L 200, 07.06.2004, p.1. There are further amendments in S.I. 2019/211, 2019/2012, 2019/622, 2019/722, 2019/776, 2019/1302 and 2019/1303, none of which are yet in force.

(**c**) Section 6 was substituted by the Welfare Reform and Pensions Act 1992 (c. 30), Schedule 9, Part 1, paragraph 2 and by the Child Support, Pensions and Social Security Act 2000 (c. 19), section 77(3).

(**d**) S.I. 2001/1004, amended by S.I. 2007/1838.

(c) had, in any week within the period of 26 weeks ending with the relevant week, been employed by the same employer in an EEA state,

is to be treated for the purposes of section 171ZZ16 of the Act (entitlement to statutory neonatal care pay) as having been employed in employed earner's employment with an employer in those weeks in which the person was so employed in the EEA state.

(2) In paragraph (1), "relevant week" has the same meaning as in section 171ZZ16(6) of the Act.

Time for compliance with Part 12ZE of the Act or regulations made under it

8. Where—

(a) a person is outside the United Kingdom,

(b) Part 12ZE of the Act or regulations made under it require any act to be done forthwith or on the happening of a certain event or within a specified time, and

(c) because the person is outside the United Kingdom that person or that person's employer cannot comply with the requirement,

the person or the employer, as the case may be, will be deemed to have complied with the requirement if the act is performed as soon as reasonably practicable.

Mariners

9.—(1) A mariner engaged in employment on board a home-trade ship with an employer who has a place of business within the United Kingdom will be treated as an employee for the purposes of Part 12ZE of the Act, notwithstanding that the mariner may not be employed in Great Britain.

(2) A mariner who is engaged in employment—

(a) on a foreign-going ship, or

(b) on a home-trade ship with an employer who does not have a place of business within the United Kingdom,

will not be treated as an employee for the purposes of Part 12ZE of the Act, notwithstanding that the mariner may have been employed in Great Britain.

Continental shelf

10.—(1) In this regulation—

(a) "designated area" means any area which may from time to time be designated by Order in Council under section 1(7) of the Continental Shelf Act 1964(**a**) as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

(b) "prescribed employment" means any employment (whether under a contract of service or not) in a designated area in connection with continental shelf operations, as defined in section 120(2) of the Act(**b**).

(2) A person in prescribed employment will be treated as an employee for the purposes of Part 12ZE of the Act notwithstanding that that person may not be employed in Great Britain.

(**a**) 1964 c. 29; section 1(7) was amended by the Oil and Gas (Enterprise) Act 1982 (c. 23), Schedule 3, paragraph 1, and the Energy Act 2011 (c. 16), section 103.

(**b**) Section 120(2) was amended by the Petroleum Act 1998 (c. 17), Schedule 4, paragraph 30.

Justin Madders
Parliamentary Under Secretary of State
At 10.30 a.m. on 24th February 2025 Department for Business and Trade

Jeff Smith
Anna Turley
21st February 2025 Two of the Lords Commissioners of His Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to the treatment under Part 12ZE of the Social Security Contributions and Benefits Act 1992 ("the Act") of persons abroad, persons who work as mariners and persons who work on the continental shelf. The effect is that certain persons who would otherwise not fulfil the qualifying conditions for entitlement to statutory neonatal care pay because of the nature of their employment or the fact that they are outside the United Kingdom will have an entitlement to such pay.

Regulation 4 limits the application of the Regulations to cases where the person would be treated as an employee under Part 12ZE of the Act if the employment were in Great Britain.

Regulation 5 provides for a person employed in a State of the European Economic Area but subject to the legislation of the United Kingdom to be treated as an employee for the purposes of Part 12ZE.

Regulation 6 provides for a person who is absent from Great Britain but in respect of whom an employer has secondary Class 1 national insurance contribution liability to be treated as an employee for the purposes of the Part 12ZE.

Where a person has worked for the same employer both in Great Britain and in a State of the European Economic Area, regulation 7 provides, in specified circumstances, for employment in the Member State to be treated as employed earner's employment for the purposes of Part 12ZE.

Regulation 8 relaxes any time limit imposed by Part 12ZE of the Act or regulations made under it in relation to a person who cannot comply with the time limit because that person is outside the United Kingdom.

Regulation 9 treats certain classes of mariners as employees for the purposes of Part 12ZE and regulation 10 makes corresponding provision for persons working on the continental shelf.

A separate impact assessment has not been prepared for these Regulations. The Regulations are part of a package of legislative measures and the relevant impact assessment is the Neonatal Care (Leave and Pay) Act 2023 impact assessment which was published on 23 January 2023. A copy of that impact assessment can be obtained from the Department for Business and Trade, Old Admiralty Building, London, SW1A 2PA.

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