EXPLANATORY MEMORANDUM TO

THE STATUTORY PARENTAL BEREAVEMENT PAY (ADMINISTRATION) REGULATIONS (NORTHERN IRELAND) 2022

2022 No. 169

AND

THE STATUTORY PARENTAL BEREAVEMENT PAY (PERSONS ABROAD AND MARINERS) REGULATIONS (NORTHERN IRELAND) 2022

2022 No. 170

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for the Economy to accompany the Statutory Rules and is laid before the Northern Ireland Assembly.

1.2 These Statutory Rules are made under powers inserted into the Social Security Contributions and Benefits (Northern Ireland) Act 1992 by the Parental Bereavement (Leave and Pay) Act (Northern Ireland) 2022 and are subject to the negative resolution procedure.

2. Purpose

2.1 The Statutory Rules are part of a package of regulations which together make provision to implement a new statutory entitlement to Parental Bereavement Leave and Pay for employed parents who lose a child under the age of 18, or suffer a stillbirth after 24 weeks' pregnancy, on or after 6th April 2022. Together, the package will ensure that employed bereaved parents will be supported to take time away from work to grieve. It will also establish a statutory baseline for employers when managing parental bereavement in the workplace.

2.2 Specifically:

- The Statutory Parental Bereavement Pay (Administration) Regulations (Northern Ireland) 2022 make provision to allow employers to reclaim payments of statutory pay from Her Majesty's Revenue and Customs, including provisions allowing for Officers of Revenue and Customs to settle disputes;
- The Statutory Parental Bereavement Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 2022 deal with the entitlement to parental bereavement pay for employees who fall into particular categories of employment, for example: mariners, those employed in certain types of employment on the continental shelf, and those who have spent time working abroad, who might otherwise not qualify for the entitlement.

3. Background

3.1 The objectives of the Parental Bereavement Leave and Pay policy are to:

- give bereaved employees a statutory right to paid leave to provide space for them to grieve following the death of a child, and
- to send a signal to employees and employers about the importance and value of recognising bereavement and providing adequate support for parents in such circumstances.

3.2 The Parental Bereavement Leave Regulations (Northern Ireland) 2022 set a statutory minimum entitlement for all employees - regardless of how long they have worked for their employer - to 2 weeks off work in the event of their child's death or stillbirth.

3.3 The Statutory Parental Bereavement Pay (General) Regulations (Northern Ireland) 2022 implement a new statutory payment for parents taking time away from work following a child bereavement (paid subject to eligibility criteria, as for all other statutory payments). The payment will provide a measure of earnings replacement which will enable parents to take this time away from work to grieve. Whilst employers will administer the statutory payment on behalf of Government, they will be entitled to reclaim a proportion of the amount through setting payments off against deductions which they remit regularly to HMRC.

3.4 Employers are generally familiar with the framework and process for administering other forms of statutory pay, e.g. statutory maternity pay. The Statutory Parental Bereavement (Administration) Regulations (Northern Ireland) 2022 make provision so that statutory parental bereavement pay is to be administered in exactly the same way as other family-related statutory payments. By making the payment straightforward to administer, it is more likely that employers will comply with their obligations and that employees will receive their entitlements.

3.5 The Statutory Parental Bereavement Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 2022 ensure that individuals who may otherwise not fulfil the qualifying conditions for entitlement to statutory parental bereavement pay, because of the nature of their employment or the fact that they are outside the United Kingdom have an entitlement to such pay.

4. Consultation

4.1 Public consultation has not been carried out in relation to these Statutory Rules. Prior to the recent passage of the Parental Bereavement Leave and Pay Bill through the Northern Ireland Assembly, a full public consultation, exploring the introduction of Parental Bereavement Leave and Pay was completed.

5. Equality Impact

5.1 The Department is required under section 75 of the Northern Ireland Act 1998 to screen the proposed changes to ascertain if an Equality Impact Assessment is required. Prior to the recent passage of the Parental Bereavement Leave and Pay Bill through the Northern Ireland Assembly a screening exercise was, therefore, carried out. No equality issues were identified.

6. Regulatory Impact

6.1 A Regulatory Impact Assessment has not been carried out in relation to these Statutory Rules as the impact on business is small. There is no impact on charities or voluntary bodies and these Statutory Rules impose no new obligations on them, except in their capacity as employers. The Administration Regulations confer powers

on the Commissioners for Her Majesty's Revenue and Customs, which creates a small additional administrative burden on them. Otherwise, the impact on the public sector is limited to the extent to which they may need to administer this entitlement to an employee. Prior to the recent passage of the Parental Bereavement Leave and Pay Bill through the Northern Ireland Assembly, a regulatory impact assessment was completed.

7. Financial Implications

7.1 None for the Department.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department considers that the Statutory Rule complies with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The Statutory Parental Bereavement Pay (Administration) Regulations 2020 (SI 2020/246) and the Statutory Parental Bereavement Pay (Persons Abroad and Mariners) Regulations 2020 (SI 2020/252), applicable in GB, were made on 9 March 2020. The provisions in the GB Regulations are broadly similar to the provisions contained within these Statutory Rules.

11. Additional Information – 21 Day Rule

11.1 These Statutory Rules comes into operation on 6 April 2022. They are therefore in breach of the rule requiring Statutory Rules to be laid at least 21 days before they come into effect. This was due to awaiting Royal Assent for the Parental Bereavement (Leave and Pay) Bill, which was only received on 21 March 2022.

12. Contact

12.1 Laurence Rogers at the Department for the Economy Telephone: 02890416867 or email: laurence.rogers@economy-ni.gov.uk can be contacted with any queries regarding the Statutory Rules.

12.2 Colin Jack, Director of Business and Employment Regulation, at the Department for the Economy can confirm that this Explanatory Memorandum meets the required standard.