STATUTORY INSTRUMENTS

2014 No. 2862

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Paternity Pay and Statutory Adoption Pay (General) (Amendment) Regulations 2014

Made - - - -	*20th October 2014*
Laid before Parliament	*28th October 2014*
Coming into force - -	*1st December 2014*

This instrument contains only regulations made by virtue of, or consequential upon, section 123(2) 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, in exercise of the powers conferred by sections 171ZC(1A) and 171ZC(3)(c) of the Social Security Contributions and Benefits Act 1992(**c**), makes the following Regulations.

Citation and commencement

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

Application

2. The amendments to the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002(**d**) provided for by regulations 4 to 9 apply in relation to an entitlement to—

(a) statutory paternity pay (birth), only in respect of children whose expected week of birth begins on or after 5th April 2015;

(b) statutory paternity pay (adoption), only in respect of children placed for adoption on or after 5th April 2015.

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

(**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 (c. 4), 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 or as a consequence of which the regulations are being made.

(**c**) 1992 c. 4. Section 171ZC was inserted by the Employment Act 2002 (c. 22), section 2, moved under a new heading entitled "Ordinary statutory paternity pay" by the Work and Families Act 2006 (c. 18), Schedule 1, paragraph 11 and amended by the Children and Families Act 2014, section 123(2).

(**d**) S.I. 2002/2822, to which there are amendments not relevant to these Regulations.

Amendments to the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002

3. The Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002 are amended as follows.

4. After regulation 5 (modification of entitlement conditions: early birth) insert—

"5A. Notice of entitlement to statutory paternity pay (birth)

The notice provided for in section 171ZC(1) of the Act must be given to the employer—

(a) in or before the 15th week before the expected week of the child's birth, or

(b) in a case where it was not reasonably practicable for the employee to give the notice in accordance with sub-paragraph (a), as soon as is reasonably practicable.".

5. In regulation 6 (period of statutory paternity pay (birth)), for paragraph (4) substitute—

"(4) An employee who has made a choice in accordance with paragraph (1) may vary the date chosen provided that the employee gives the employer notice of the variation—

(a) where the variation is to provide for the employee's statutory paternity pay period to begin on the date on which the child is born, or where he is at work on that day, the following day, at least 28 days before the first day of the expected week of the child's birth;

(b) where the variation is to provide for the employee's statutory paternity pay period to begin on a date that is a specified number of days (or a different specified number of days) after the date on which the child is born, at least 28 days before the date falling that number of days after the first day of the expected week of the child's birth;

(c) where the variation is to provide for the employee's statutory paternity pay period to begin on a predetermined date (or a different predetermined date), at least 28 days before that date,

or, if it is not reasonably practicable to give the notice at least 28 days before whichever day or date is relevant, as soon as is reasonably practicable.".

6. In regulation 9 (evidence of entitlement to statutory paternity pay (birth)) for paragraph (3) substitute—

"(3) The information and declaration referred to in paragraph (1) shall be provided—

(a) in or before the 15th week before the expected week of the child's birth, or

(b) in a case where it was not reasonably practicable for the employee to provide it in accordance with sub-paragraph (a), as soon as is reasonably practicable.".

7. After regulation 11 (conditions of entitlement to statutory paternity pay (adoption)) insert—

"11A. Notice of entitlement to statutory paternity pay (adoption)

The notice provided for in section 171ZC(1) of the Act must be given to the employer—

(a) no more than seven days after the date on which the adopter is notified of having been matched with the child, or

(b) in a case where it was not reasonably practicable for the employee to give notice in accordance with sub-paragraph (a), as soon as is reasonably practicable.".

8. In regulation 12 (period of payment of statutory paternity pay (adoption)), for paragraph (4) substitute—

"(4) An employee who has made a choice in accordance with paragraph (1) may vary the date chosen provided that the employee gives the employer notice of the variation—

(a) where the variation is to provide for the employee's statutory paternity pay period to begin on the date on which the child is placed with the adopter or, where the person is at work on that day, the following day, at least 28 days before the date provided under regulation 15(2)(b) as the date on which the child is expected to be placed for adoption;

(b) where the variation is to provide for the employee's statutory paternity pay period to begin on a date that is a specified number of days (or a different specified number of days) after the date on which the child is placed with the adopter, at least 28 days before the date falling that number of days after the date provided under regulation 15(2)(b) as the date on which the child is expected to be placed for adoption;

(c) where the variation is to provide for the employee's statutory paternity pay period to begin on a predetermined date, at least 28 days before that date,

or, if it is not reasonably practicable to give the notice at least 28 days before whichever date is relevant, as soon as is reasonably practicable.".

9. In regulation 15 (evidence of entitlement to statutory paternity pay (adoption)), for paragraph (3) substitute—

"(3) The information and declaration referred to in paragraph (1) shall be provided—

(a) no more than seven days after the date on which the adopter is notified of having been matched with the child, or

(b) in a case where it was not reasonably practicable for the employee to provide it in accordance with sub-paragraph (a), as soon as is reasonably practicable.".

Jo Swinson
Parliamentary Under Secretary of State for Employment Relations and Consumer Affairs
20th October 2014 Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002 (S.I. 2002/2822) ("the Pay Regulations").

Regulation 4 inserts a new regulation 5A into the Pay Regulations to align the notice period for statutory paternity pay (birth) with that for statutory paternity leave (birth) in the Paternity and Adoption Leave Regulations 2002 (S.I. 2002/2788) ("the Leave Regulations"). The notice must be provided in or before the 15th week before the expected week of birth.

Regulation 5 amends the Pay Regulations to align the provisions for varying the choice of when a period of statutory paternity pay (birth) will begin with those for statutory paternity leave (birth) in the Leave Regulations, so that notice must be given 28 days before the relevant day or date.

Regulation 6 amends the Pay Regulations so that the time for providing information and evidence regarding a person's entitlement to statutory paternity pay (birth) is aligned with that for providing notice.

Regulation 7 inserts a new regulation 11A into the Pay Regulations to align the notice period for statutory paternity pay (adoption) with that for statutory paternity leave (adoption) in the Leave Regulations. The notice must be provided no more than seven days after the date on which the adopter is notified of having been matched with the child.

Regulation 8 amends the Pay Regulations to align the provisions for varying the choice of when the period of statutory paternity pay (adoption) will begin with those for statutory paternity leave (adoption) in the Leave Regulations, so that the notice must be given 28 days before the relevant date.

Regulation 9 amends regulation 15 of the Pay Regulations so that the time for providing information and evidence regarding a person's entitlement to statutory paternity pay (adoption) is aligned with that for providing notice.

Regulations 4 to 9 all contain a provision that if it is not reasonably practicable to meet the relevant deadline then it must be met as soon as is reasonably practicable.

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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