EXPLANATORY MEMORANDUM TO

THE STATUTORY SHARED PARENTAL PAY (GENERAL) (AMENDMENT) REGULATIONS 2015

2015 No. 189

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

The Statutory Shared Parental Pay (General) (Amendment) Regulations 2015 ("the Amendment Regulations") correct drafting errors in the Statutory Shared Parental Pay (General) Regulations 2014 ("the Pay Regulations") These are –

- incorrect cross-referencing in provisions dealing with the calculation of a person's average weekly earnings (regulation 29)
- incorrect time periods in regulation 29 and provisions dealing with normal weekly earnings (regulation 31)
- incorrect reference to a section in the Social Security Contributions and Benefits Act 1992 in provisions dealing with the calculation of continuous employment where an employee has been re-engaged or reinstated after unfair dismissal or where there has been a stoppage at work (regulations 35 and 36), and
- reference to the incorrect statutory pay in the provisions for a person who is or may be entitled to statutory shared parental leave but is unable to act (regulation 48).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative context

4.1 The Pay Regulations were made under the new powers for statutory shared parental pay in Part 12C of the Social Security Contributions and Benefits Act 1992. These were introduced by Part 7 of the Children and Families Act 2014.

4.2 The Pay Regulations are part of a package of statutory instruments that give effect to the Government's Modern Workplaces agenda, which creates a statutory right to shared parental leave and pay. The Pay Regulations came into force on 1 December 2014 and introduce statutory shared parental pay in respect of children due on or after 5 April 2015 or placed for adoption on or after that date.

5. Territorial extent and application

5.1 This instrument applies to Great Britain.

5.2 The Work and Families Act (Northern Ireland) 2015 has received Royal Assent and regulations providing for implementation of the new rights in Northern Ireland are being prepared so as to cater for parents expecting a child on or after 5th April 2015.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The Coalition Agreement committed to further encourage shared parenting. The aim of Statutory Shared Parental Pay is to give new parents more freedom to make choices which best suit their family circumstances and encourage both parents to be involved in their child's upbringing. The Government made the Pay Regulations to create an entitlement to statutory shared parental pay.

7.2 The Amendment Regulations correct drafting errors in the Pay Regulations.

Consolidation

7.3 As this instrument does not change the substance of the regulations concerned there is no plan for consolidation.

8. Consultation outcome

8.1 The Government consulted on a new system of shared parental leave and pay in the Modern Workplaces Consultation which ran from 16 May 2011 to August 2011. The consultation document can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31549/11-699-consultation-modern-workplaces.pdf.

8.2 In light of consultation responses, the Government announced a revised proposal for shared parental leave and pay in November 2012. The Government response is available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82969/12-1267-modern-workplaces-response-flexible-parental-leave.pdf.

8.3 A further consultation on the administrative elements of the system was launched in February 2013 and the Government response was published in November 2013. The consultation document and full Government response can be accessed at:

https://www.gov.uk/government/consultations/consultation-on-the-administration-of-shared-parental-leave-and-pay

9. Guidance

9.1 Guidance on the Pay Regulations (to which the Amendment Regulations relate) has been publicised widely and is available on Gov.UK at https://www.gov.uk/government/topical-events/shared-parental-leave and the attention of interested parties will be drawn to the amendments so that all who may be affected may be made aware of their effects.

10. Impact

10.1 The Amendment Regulations amend the Pay Regulations which are part of a package of legislative measures required to implement the Government's policy on shared parental leave and pay, and other changes to statutory family related leave and pay. A single Impact Assessment was prepared for these as a whole and is online at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/110692/13-651-modern-workplaces-shared-parental-leave-and-pay-impact-assessment2.pdf

10.2 The equivalent annual net cost to business was revised in March 2014 to reflect the Better Regulation Executive's updated inflation assumptions and is available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290066/bis-14-657-modern-workplaces-shared-parental-leave-impact-assessment.pdf

11. Regulating small business

11.1 The legislation applies to small business.

11.2 No special measures apply to small businesses.

12. Monitoring & review

12.1 The Department for Business, Innovation and Skills will conduct a review of the implementation and take up of shared parental leave and statutory shared parental pay no earlier than 2018.

13. Contact

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