

## SCHEDULES

### SCHEDULE 1

Article 13.

#### LEAVE AND PAY RELATED TO BIRTH OR ADOPTION: FURTHER AMENDMENTS

VALID FROM 01/10/2010

##### *The Social Security (Northern Ireland) Order 1989 (NI 13)*

1.—(1) In Schedule 5 (employment-related schemes for pensions or other benefits: equal treatment for men and women), paragraph 5A (unfair paternity leave provisions) is amended as follows.

(2) In sub-paragraph (3), for “or statutory paternity pay” substitute “, ordinary statutory paternity pay or additional statutory paternity pay”.

(3) In sub-paragraph (4), in the definition of “period of paid paternity leave”—

(a) in paragraph (a), for “or (7)” substitute “, (7) or (8)”, and

(b) in paragraph (b), for “or statutory paternity pay” substitute “, ordinary statutory paternity pay or additional statutory paternity pay”.

(4) After sub-paragraph (7) add—

“(8) This sub-paragraph applies if—

(a) the member's absence from work is due to the fact that he is caring for a child, and

(b) in relation to that child, the member satisfies the conditions prescribed—

(i) under section 167ZEA(2)(a)(i) and (ii) of that Act,

(ii) under section 167ZEB(2)(a)(i) and (ii) of that Act, or

(iii) under section 167ZEB(2)(a)(i) and (ii) of that Act as applied by virtue of section 167ZK of that Act (adoption cases not involving placement under the law of the United Kingdom).”.

##### *The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

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2. In section 1(5) (which provides for payment by way of additional contributions out of money appropriated for that purpose of an annual amount equal to statutory sick pay, statutory maternity pay, statutory paternity pay and statutory adoption pay recovered by employers and others), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.

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3. In section 4(1) (payments treated as remuneration and earnings), in paragraph (a), for subparagraphs (iii) and (iv) substitute—

- “(iii) ordinary statutory paternity pay; or
- (iv) additional statutory paternity pay; or
- (v) statutory adoption pay; and”.

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4. In section 4C (power to make provision in consequence of provision made by or by virtue of section 4B(2)), in subsection (11), in the definition of “statutory payment”, for “statutory paternity pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

5. In section 35 (state maternity allowance), in subsection (3)(a) (power by regulations to prescribe cases in which a woman is disqualified from receiving a maternity allowance), for subparagraph (i) substitute—

- “(i) during the maternity allowance period, except in prescribed cases, she does any work in employment as an employed or self-employed earner;
- (ia) during the maternity allowance period she fails without good cause to observe any prescribed rules of behaviour; or”.

6.—(1) Section 161 (the maternity pay period) is amended as follows.

(2) For subsections (2) and (3) substitute—

“(2) Subject to subsections (3) and (7), the maternity pay period shall begin with the 11th week before the expected week of confinement.

(3) Cases may be prescribed in which the first day of the period is to be a prescribed day after the beginning of the 11th week before the expected week of confinement, but not later than the day immediately following the day on which she is confined.”.

(3) In subsection (4), at the beginning insert “ Except in such cases as may be prescribed, ”.

(4) After subsection (7) add—

“(8) In subsections (1), (4) and (6) “week” means a period of 7 days beginning with the day of the week on which the maternity pay period begins.”.

#### Commencement Information

**II** Sch. 1 para. 6 wholly in operation at 1.10.2006; Sch. 1 para. 6 not in operation at date of making see art. 1(3); Sch. 1 para. 6 in operation for certain purposes at 1.9.2006 and wholly in operation at 1.10.2006 by S.R. 2006/344, arts. 2(d), 3(b)

7.—(1) Section 162 (rate of statutory maternity pay) is amended as follows.

(2) After subsection (1) insert—

“(1A) In subsection (1) “week” means any period of 7 days.”.

(3) After subsection (3) add—

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“(4) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of statutory maternity pay, the amount payable by way of statutory maternity pay for any day shall be taken as one seventh of the weekly rate.”.

8.—(1) Section 167 (interpretation of Part XII) is amended as follows.

(2) In subsection (1), omit the definition of “week”.

(3) After that subsection insert—

“(1A) In this Part, except section 161(1), (4) and (6), section 162(1) and paragraph 3(2) of Schedule 13, “week” means a period of 7 days beginning with Sunday or such other period as may be prescribed in relation to any particular case or class of case.”.

#### Commencement Information

**12** Sch. 1 para. 8 wholly in operation at 1.10.2006; Sch. 1 para. 8 not in operation at date of making see art. 1(3); Sch. 1 para. 8 in operation for certain purposes at 1.9.2006 and wholly in operation at 1.10.2006 by S.R. 2006/344, arts. 2(d), 3(b)

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**9.** For the heading to Part XIIZA (statutory paternity pay), substitute “ ORDINARY AND ADDITIONAL STATUTORY PATERNITY PAY ”.

VALID FROM 01/10/2010

**10.** In Part XIIZA, immediately before section 167ZA insert the heading “ Ordinary statutory paternity pay ”.

VALID FROM 01/10/2010

**11.** In section 167ZA (entitlement: birth), in subsections (1) and (4), for “statutory paternity pay” substitute “ ordinary statutory paternity pay ”.

VALID FROM 01/10/2010

**12.** In section 167ZB (entitlement: adoption), in subsections (1), (4) and (6), for “statutory paternity pay” substitute “ ordinary statutory paternity pay ”.

VALID FROM 01/10/2010

**13.** In section 167ZC (entitlement: general), for “statutory paternity pay” (wherever occurring) substitute “ ordinary statutory paternity pay ”.

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- 14.—**(1) Section 167ZD (liability to make payments) is amended as follows.
- (2) In subsection (1), after “payments of” insert “ ordinary ”.
- (3) In subsection (2)—
- (a) for “statutory paternity pay” (where first occurring) substitute “ ordinary statutory paternity pay ”, and
- (b) for “liability for statutory paternity pay” substitute “ liability for ordinary statutory paternity pay or additional statutory paternity pay (or both) ”.

- 15.—**(1) Section 167ZE (rate and period of statutory paternity pay) is amended as follows.
- (2) For “statutory paternity pay” (wherever occurring) substitute “ ordinary statutory paternity pay ”.
- (3) After subsection (10) insert—
- “(10A) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of ordinary statutory paternity pay, the amount payable by way of ordinary statutory paternity pay for any day shall be taken as one seventh of the weekly rate.”.

**Commencement Information**

- I3** Sch. 1 para. 15 wholly in operation at 1.10.2010; Sch. 1 para. 15 not in operation at date of making see art. 1(3); Sch. 1 para. 15(1)(3) in operation at 1.10.2006 by S.R. 2006/344, art. 3(c); Sch. 1 para. 15(2) in operation at 1.10.2010 by S.R. 2010/295, art. 3(d)

VALID FROM 01/10/2010

- 16.** Immediately before section 167ZF insert the heading “ *Ordinary and additional statutory paternity pay: supplementary provisions* ”.

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- 17.** In section 167ZF (restrictions on contracting out), in subsection (2), for “statutory paternity pay” substitute “ ordinary statutory paternity pay or additional statutory paternity pay ”.

- 18.** In section 167ZG (relationship with contractual remuneration), at the end add—
- “(4) In this section “statutory paternity pay” means ordinary statutory paternity pay or additional statutory paternity pay.”.

- 19.—**(1) Section 167ZJ (Part XIIZA: supplementary) is amended as follows.
- (2) In subsection (5), for “section 167ZE” substitute “ sections 167ZE and 167ZEE ”.
- (3) In subsection (10)(f), for “statutory paternity pay” substitute “ ordinary statutory paternity pay or additional statutory paternity pay ”.

- 20.—**(1) Section 167ZN (rate and period of statutory adoption pay) is amended as follows.

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(2) At the beginning of subsection (3) insert “ Except in such cases as may be prescribed, ”.

(3) After subsection (6) insert—

“(6A) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of statutory adoption pay, the amount payable by way of statutory adoption pay for any day shall be taken as one seventh of the weekly rate.”.

#### Commencement Information

**I4** Sch. 1 para. 20 wholly in operation at 1.10.2006; Sch. 1 para. 20 not in operation at date of making see art. 1(3); Sch. 1 para. 20 in operation for certain purposes at 1.9.2006 and wholly in operation at 1.10.2006 by S.R. 2006/344, arts. 2(d), 3(b)

**21.** In section 172 (Assembly control), in subsection (2)(a) (regulations subject to confirmatory procedure), after “section 167ZE(1)” insert “ , sections 167ZEA to 167ZEE ”.

**22.** In Schedule 13 (relationship of statutory maternity pay with benefits and other payments etc.), in paragraph 3 (contractual remuneration), after sub-paragraph (2) insert—

“(2A) In sub-paragraph (2) “week” means a period of 7 days beginning with the day of the week on which the maternity pay period begins.”.

*The Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

**23.** In section 5 (regulations about claims for and payments of benefit) in subsection (4A) for “statutory paternity pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

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**24.** In section 116AA(1) (disclosure of contributions information by Her Majesty's Revenue and Customs), for “statutory paternity pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

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**25.** In section 143(1) (sums payable out of National Insurance Fund), in paragraph (d) for “or statutory paternity pay” substitute “ , ordinary statutory paternity pay or additional statutory paternity pay ”.

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**26.—(1)** Section 145 (adjustments between National Insurance Fund and Consolidated Fund) is amended as follows.

(2) In subsection (1)(b) (adjustments in respect of the operation of legislation relating to statutory sick pay, statutory maternity pay, statutory paternity pay and statutory adoption pay), for sub-paragraphs (iii) and (iv) substitute—

“(iii) ordinary statutory paternity pay;

(iv) additional statutory paternity pay; and

(v) statutory adoption pay.”.

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(3) In subsection (5)(a) (adjustments in respect of certain administrative expenses of the Board), for “statutory paternity pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

*The Employment Rights (Northern Ireland) Order 1996 (NI 16)*

**27.** In Article 2(3) (other definitions), for the definition of “paternity leave” substitute—  
““ordinary or additional paternity leave” means leave under any of Articles 112A to 112BB;”.

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**28.** In Article 59(1) (meaning of “wages” etc.), in sub-paragraph (ca), for “statutory paternity pay” substitute “ ordinary statutory paternity pay or additional statutory paternity pay ”.

**29.** In Article 70C (leave for family and domestic reasons), in paragraph (2), for sub-paragraph (ca) substitute—

“(ca) ordinary or additional paternity leave, or”.

**30.** In Article 103 (ordinary maternity leave), for paragraph (3) substitute—

“(3) Regulations under paragraph (2)—

- (a) shall secure that, where an employee has a right to leave under this Article, she is entitled to an ordinary maternity leave period of at least 26 weeks;
- (b) may allow an employee to choose, subject to prescribed restrictions, the date on which an ordinary maternity leave period starts;
- (c) may specify circumstances in which an employee may work for her employer during an ordinary maternity leave period without bringing the period to an end.”.

**31.** In Article 105 (additional maternity leave), for paragraph (3) substitute—

“(3) Regulations under paragraph (2)—

- (a) may allow an employee to choose, subject to prescribed restrictions, the date on which an additional maternity leave period ends;
- (b) may specify circumstances in which an employee may work for her employer during an additional maternity leave period without bringing the period to an end.”.

**32.** In Article 107A (ordinary adoption leave), after paragraph (2) insert—

“(2A) Regulations under paragraph (2) may specify circumstances in which an employee may work for his employer during an ordinary adoption leave period without bringing the period to an end.”.

**33.** In Article 107B (additional adoption leave), for paragraph (3) substitute—

“(3) Regulations under paragraph (2)—

- (a) may allow an employee to choose, subject to prescribed restrictions, the date on which an additional adoption leave period ends;
- (b) may specify circumstances in which an employee may work for his employer during an additional adoption leave period without bringing the period to an end.”.

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**34.** In the heading to Article 112A (entitlement to paternity leave: birth), after “to” insert “ordinary”.

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**35.** In the heading to Article 112B (entitlement to paternity leave: adoption), after “to” insert “ordinary”.

**36.** In Article 112D (special cases), in paragraph (1) for “112A or 112B” substitute “ 112A, 112AA, 112B or 112BB ”.

**37.—**(1) Article 112E (Chapter III: supplemental) is amended as follows.

(2) For “Article 112A or 112B” (wherever occurring) substitute “ any of Articles 112A to 112BB ”.

(3) Renumber the provision as so amended to become paragraph (1) of the Article and at the end add—

“(2) The persons on whom duties may be imposed by regulations under Article 112AA or 112BB include not only employees exercising rights by virtue of that Article and their employers but also—

- (a) in the case of Article 112AA, the mother of the child in question and any employer or former employer of hers, and
- (b) in the case of Article 112BB, the person by reference to whom the condition in paragraph (1)(c) of that Article is satisfied and any employer or former employer of that person.”.

VALID FROM 01/10/2010

**38.—**(1) Article 120 (employments with normal working hours) is amended as follows.

(2) In paragraph (1)(c), for “paternity leave” substitute “ ordinary or additional paternity leave ”.

(3) In paragraph (2), for “statutory paternity pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

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**39.—**(1) Article 121 (employments without normal working hours) is amended as follows.

(2) In paragraph (3)(b), for “paternity leave” substitute “ ordinary or additional paternity leave ”.

(3) In paragraph (4), for “statutory paternity pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

**40.** In Article 131 (leave for family reasons), in paragraph (3), for paragraph (ca) substitute—  
“(ca) ordinary or additional paternity leave, or”.

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**41.** In Article 138 (replacements), in paragraph (2)(a) after “adoption leave” insert “ or leave under Article 112AA or 112BB (additional paternity leave), ”.

**42.** In Article 251(1A) (orders and regulations – confirmatory procedure) for “112A, 112B, 112G” substitute “ , 112A, 112AA, 112B, 112BB, 112G ”.

*The Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (SI 1999/671)*

**43.**—(1) Article 7 (decisions by officers of Revenue and Customs) is amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraphs (fa) and (g), for “statutory paternity pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”, and

(b) in sub-paragraph (ga), for “statutory paternity or adoption pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay or statutory adoption pay ”.

(3) In paragraph (3)(b), for “statutory paternity pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

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**44.** In Article 10(2)(a) (appeals against decisions of Her Majesty's Revenue and Customs), for “statutory paternity pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

VALID FROM 01/10/2010

**45.** In Article 13 (matters arising as respects decisions), in paragraphs (1)(a)(i) and (4), for “statutory paternity pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

*The Employment (Northern Ireland) Order 2002 (NI 2)*

**46.**—(1) Article 8 (funding of employers' liabilities) is amended as follows.

(2) In paragraph (1), for “statutory paternity pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

(3) In paragraph (2), for “statutory paternity pay” (in both places) substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

(4) In paragraph (3)—

(a) for “a payment of statutory paternity pay” substitute “ a payment of ordinary statutory paternity pay, additional statutory paternity pay ”, and

(b) for “in the case of statutory paternity pay” substitute “ in the case of ordinary statutory paternity pay or additional statutory paternity pay ”.

**47.** In Article 9 (regulations about payment), for “statutory paternity pay” (wherever occurring) substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.



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**48.** In Article 11 (power to require information), for “statutory paternity pay” (in both places) substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

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**49.** In Article 12 (penalties: failure to comply), in paragraph (6), for “statutory paternity pay” substitute “ ordinary statutory paternity pay, additional statutory paternity pay ”.

VALID FROM 01/10/2010

**50.—**(1) Article 13 (penalties: fraud, etc.) is amended as follows.

(2) In paragraphs (1) and (3), for “statutory paternity pay” substitute “ ordinary statutory paternity pay ”.

(3) In paragraphs (2) and (4), after “statutory adoption pay” insert “ or additional statutory paternity pay ”.

(4) In paragraph (5), for “statutory paternity pay” substitute “ ordinary statutory paternity pay ”.

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