

2015 No. 150

SOCIAL SECURITY

**The Statutory Maternity Pay (Curtailment) Regulations
(Northern Ireland) 2015**

Made - - - - *11th March 2015*

Coming into operation - *15th March 2015*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 161(3A), (3B), (3C) and (3D) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), and now vested in it(b).

**PART 1
GENERAL**

Citation and commencement

1. These Regulations may be cited as the Statutory Maternity Pay (Curtailment) Regulations (Northern Ireland) 2015 and shall come into operation on 15th March 2015.

Interpretation

2.—(1) In these Regulations—

“the 1992 Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the 1996 Order” means the Employment Rights (Northern Ireland) Order 1996(c);

“C” means the child in respect of whom an entitlement to—

(a) shared parental leave arises under Article 107E (entitlement to shared parental leave: birth) of the 1996 Order(d); or

(b) statutory shared parental pay arises under section 167ZU (entitlement: birth) of the 1992 Act(e);

“M” means the mother (or expectant mother) of C;

“maternity pay period curtailment date” means, subject to regulation 7(5), the date specified in a maternity pay period curtailment notification;

(a) 1992 c. 7; section 35(3A) to (3D) was inserted by section 6(1) and (2) of the Work and Families Act (Northern Ireland) 2015 (c. 6) (“the 2015 Act”) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(b) See Article 8(b) of S.R. 1999 No. 481

(c) 1996 No. 1919 (N.I. 16)

(d) Article 107E was inserted by Article 2(2) of the 2015 Act

(e) Section 167U was inserted by Article 5(2) of the 2015 Act

“maternity pay period curtailment notification” means a notification given in accordance with regulation 7 and regulation 8(5);

“P” means the father of C, or the person who is married to, or the civil partner or the partner of, M;

“partner” in relation to M, means a person (whether of a different sex or the same sex) who lives with M and C in an enduring family relationship but is not M’s child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew;

“SPL Regulations” means the Shared Parental Leave Regulations (Northern Ireland) 2015(a);

“ShPP Regulations” means the Statutory Shared Parental Pay (General) Regulations (Northern Ireland) 2015(b); and

“statutory maternity pay” has the meaning given in section 160(1) (statutory maternity pay—entitlement and liability to pay) of the 1992 Act.

(2) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Assembly.

Notices

3.—(1) Where a notice is to be given under these Regulations, it may be given—

- (a) where paragraph (2) applies, by electronic communication;
- (b) by post; or
- (c) by personal delivery.

(2) This paragraph applies where the person who is to receive the notice has agreed that the notice may be given to the person by being transmitted to an electronic address and in an electric form specified by the person for the purpose.

(3) Where a notice is to be given under these Regulations it is to be taken to have been given—

- (a) if sent by electronic communication, on the day of transmission;
- (b) if sent by post in an envelope which is properly addressed and sent by prepaid post, on the day on which it is posted; or
- (c) if delivered personally, on the day of delivery.

PART 2

CURTAILMENT OF MATERNITY PAY PERIOD

Curtilment of maternity pay period (statutory shared parental pay: M)

4. M’s maternity pay period shall end on the maternity pay period curtailment date if—

- (a) M gives a maternity pay period curtailment notice (unless the notice is revoked under regulation 8);
- (b) M satisfies the conditions in sub-paragraphs (a) and (d) of regulation 4(2) (entitlement of mother to statutory shared parental pay (birth)) of the ShPP Regulations; and
- (c) P satisfies the conditions in sub-paragraph (b) of regulation 4(3) of the ShPP Regulations.

Curtilment of maternity pay period (statutory shared parental pay: P)

5. M’s maternity pay period shall end on the maternity pay period curtailment date if—

(a) S.R. 2015 No. 93
(b) S.R. 2015 No. 94
(c) 1954 c.33 (N.I.)

- (a) M gives a maternity pay period curtailment notice (unless the notice is revoked under regulation 8);
- (b) P satisfies the conditions in sub-paragraph (a) of regulation 5(2) (entitlement of father or partner to statutory shared parental pay (birth)) of the ShPP Regulations; and
- (c) M satisfies the conditions in sub-paragraphs (b) and (c) of regulation 5(3) of the ShPP Regulations.

Curtailment of maternity pay period (shared parental leave: P)

6. M’s maternity pay period shall end on the maternity pay period curtailment date if—
- (a) M gives a maternity pay period curtailment notice (unless the notice is revoked under regulation 8);
 - (b) P satisfies the condition in sub-paragraph (a) of regulation 5(2) (father’s or partner’s entitlement to shared parental leave) of the SPL Regulations; and
 - (c) M satisfies the conditions in sub-paragraphs (a) and (c) of regulation 5(3) of the SPL Regulations.

Maternity pay period curtailment notice

- 7.—(1) A maternity pay period curtailment notice must—
- (a) be in writing;
 - (b) specify the date on which M’s statutory maternity pay period is to end; and
 - (c) be given to the person who is liable to pay M’s statutory maternity pay.
- (2) The date specified in accordance with paragraph (1)(b) must be—
- (a) the last day of a week;
 - (b) if M has the right to maternity leave under Article 103 (ordinary maternity leave) of the 1996 Order(a), at least one day after the end of the compulsory maternity leave period, or, if M does not have that right, at least two weeks after the end of the pregnancy;
 - (c) at least eight weeks after the date on which M gave the maternity pay period curtailment notice; and
 - (d) at least one week before the last day of the maternity pay period.
- (3) In paragraph (2)(b) “the end of the compulsory maternity leave period” means whichever is the later of—
- (a) the last day of the compulsory maternity leave period provided for in regulations under Article 104(2) (compulsory maternity leave) of the 1996 Order(b); or
 - (b) where section 205 of the Public Health Act 1936(c) (women not to be employed in factories or workshops within four weeks after birth of a child) applies to M’s employment, the last day of the period in which an occupier of a factory is prohibited from knowingly allowing M to be employed in that factory.
- (4) If M has more than one entitlement to statutory maternity pay in relation to C, M must curtail the maternity pay period in relation to each (or none) of those entitlements, and in relation to each of those entitlements M must specify a maternity pay period curtailment date which falls in the same calendar week.
- (5) Where M—

(a) Article 103 was substituted by Article 9 and Part 1 of Schedule 4 to the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9)) (“the 1999 Order”). Article 103(3) was substituted by Article 13(1) and section 30 of Schedule 1 to the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)) and Article 103(4) and (7) was amended by Article 14(2) and (3) of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2))

(b) Article 104(2) was substituted by Article 9 and Part 1 of Schedule 4 to the 1999 Order

(c) 1936 c. 49 as amended by the Statute Law (Repeals) Act 1993 (c. 50), section 1, Schedule 1, Part 14 and the Statute Law (Repeals) Act 2004 (c. 14), section 1, Schedule 1, Part 13

- (a) returns to work before giving a notice in accordance with paragraph (1); and
- (b) subsequently gives such a notice;

the “maternity pay period curtailment date” shall be the last day of the week in which that notice is given (irrespective of the date given in that notice under paragraph (1)).

(6) For the purposes of paragraphs (2)(a) and (5), “week” has the meaning given in section 161(8) of the 1992 Act^(a) (the maternity pay period).

(7) In this regulation, M is treated as returning to work where statutory maternity pay is not payable to her in accordance with 161(4) or (6) of the 1992 Act^(b).

Revocation (maternity pay period curtailment notice)

8.—(1) Subject to paragraph (2), M may revoke a maternity pay period curtailment notice by giving a notice (“a revocation notice”) before the maternity pay period curtailment date if—

- (a) she gave the maternity pay period curtailment notice before the birth of C; or
- (b) P dies.

(2) Revocation is effective under paragraph (1) where M gives a revocation notice to the person who is liable to pay M’s statutory maternity pay that—

- (a) if given under paragraph (1)(a), is given within six weeks of the date of C’s birth; or
- (b) if given under paragraph (1)(b), is given within a reasonable period from the date of P’s death.

(3) A revocation notification must—

- (a) be in writing;
- (b) state that M revokes the maternity pay period curtailment notice; and
- (c) if given under paragraph (1)(b), state the date of P’s death.

(4) Where in accordance with regulation 7(4) M has given a maternity pay period curtailment notice to more than one person, M must give a revocation notice to each of those persons.

(5) M may not give a maternity allowance period curtailment notification in respect of the same maternity pay period subsequent to giving a revocation notification unless the revocation was made in accordance with paragraph (1)(a).

Sealed with the Official Seal of the Department for Social Development on 11th March 2015

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

(a) Section 161(8) was added by paragraph 6(4) of Schedule 1 to S.I. 2006/1947 (N.I. 16)
(b) Section 161(4) was amended by paragraph 6(3) of Schedule 1 to S.I. 2006/1947

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations allow eligible women to curtail their statutory maternity pay in accordance with section 161(3A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the 1992 Act”) in order to enable them to take statutory shared parental pay in accordance with section 167ZU of the 1992 Act. The Regulations also allow eligible women to curtail their statutory maternity pay in accordance with section 161(3A) of the 1992 Act in order to allow their partner (which includes their spouse or the child’s father) to take statutory shared parental pay in accordance with section 167ZU of the 1992 Act, or shared parental leave in accordance with Article 107E of the Employment Rights Order (Northern Ireland) 1996.

Regulation 3 prescribes how notices may be given under these Regulations.

Regulation 4 applies to a woman curtailing her statutory maternity pay in order to take statutory shared parental pay.

Regulation 5 applies to a woman curtailing her statutory maternity pay so that her partner can take statutory shared parental pay.

Regulation 6 allows a woman who is not eligible for statutory maternity leave to curtail her statutory maternity pay so that her partner can take shared parental leave. In these circumstances, an eligible partner will be entitled to 52 weeks of shared parental leave less the amount of statutory maternity pay the child’s mother has taken at the point of curtailing the maternity pay period.

Regulation 7 prescribes the requirements with which a maternity pay period curtailment notice must comply.

Regulation 8 allows a woman to revoke a notice to curtail her statutory maternity pay in specified circumstances and subject to certain conditions being satisfied.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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