
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 92

EMPLOYMENT

WORK AND FAMILIES

**The Statutory Paternity Pay and Statutory
Adoption Pay (Parental Orders and Prospective
Adopters) Regulations (Northern Ireland) 2015**

Made - - - - *2nd March 2015*
Coming into operation *15th March 2015*

The Department for Employment and Learning makes the following regulations in exercise of the powers conferred by sections 167ZB(2)(a), 167ZBA(2)(b), 167ZC(1A) and (3)(a), (c), (d), (f) and (g), 167ZD(2) and (3), 167ZE(2), (3), (7) and (8), 167ZG(3), 167ZJ(1), (3) (4), (7) and (8), 167ZL(8) (b) to (d), (f) and (g), 167ZLA(2)(b), 167ZM(2) and (3), 167ZN(2), (5) and (6), 167ZP(6), 167ZS(1), (3), (4), (7) and (8) and 171(4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 ^{M1}, section 5(1)(g), (j) and (q) of the Social Security Administration (Northern Ireland) Act 1992 ^{M2} and Articles 9(1) and (2)(c) and 16(1) of the Employment (Northern Ireland) Order 2002 ^{M3} and with the concurrence of the Commissioners for Her Majesty's Revenue and Customs, in so far as such concurrence is required.

Marginal Citations

- M1** 1992 c. 7; sections 167ZA to 167ZJ were inserted by the Employment (Northern Ireland) Order 2002 (No 2836 (N.I. 2)), Article 5 and sections 167ZL to 167ZT by Article 6 of that Order; sections 167ZB, 167ZC, 167ZE, 167ZL, 167ZN were amended by sections 9 and 12 of the [Work and Families \(Northern Ireland\) Act 2015 \(c. 1\)](#); section 167ZB and 167ZL are modified in so far as they apply to parental order cases by S.R.2015 No. 90 see sections 167ZJ(1) and 167ZS(1) for the definition of 'prescribed'.
- M2** 1992 c. 8.
- M3** S.I. 2002/2836 (N.I. 2). Articles 8, 9 and 11 were amended by 2015 c. 1, [Schedule 1](#), paragraph 6(2), (3) and (4).

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations (Northern Ireland) 2015 and come into operation on 15th March 2015.

Interpretation

2. In these Regulations—

“Administration Regulations” means the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations (Northern Ireland) 2002 ^{M4};

[^{F1}“intended parent”, in relation to a child, means a person who, on the day of the child’s birth—

- (a) applies, or intends to apply during the period of 6 months beginning with that day—
 - (i) with another person for an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of the child; or
 - (ii) as the sole applicant for an order under section 54A of that Act in respect of the child; and
- (b) expects the court to make an such order in respect of the child;]

^{F2} ...

“Pay Regulations” means the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations (Northern Ireland) 2002 ^{M5}.

[^{F1}“section 54 parental order parent” means a person—

- (a) on whose application the court has made an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of a child; or
- (b) who is an intended parent of a child by reference to an application or intended application for such an order;]

[^{F1}“section 54A parental order parent” means a person—

- (a) on whose application the court has made an order under section 54A of the Human Fertilisation and Embryology Act 2008 in respect of a child; or
- (b) who is an intended parent of a child by reference to an application or intended application for such an order.]

F1 Words in reg. 2 inserted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(2)(a)**

F2 Words in reg. 2 omitted (3.1.2019) by virtue of [The Human Fertilisation and Embryology Act 2008 \(Remedial Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(2)(b)**

Marginal Citations

M4 S.R. 2002 No. 379.

M5 S.R. 2002 No. 378; amended by S.R. 2004 No. 132, S.R. 2005 No. 167 and S.R. 2015 No. 89.

3.—(1) The amendments made in Part 2 and 4 of these Regulations have effect only in relation to children matched with a person who is notified of having been matched on or after 5th April 2015.

(2) For the purposes of paragraph (1)—

- (a) a person is matched with a child for adoption when an adoption agency decides that that person would be a suitable adoptive parent for the child;
- (b) in a case where sub-paragraph (a) applies, a person is notified as having been matched with a child on the date that person receives notification of the agency's decision, under regulation 11(2)(d) of the Adoption Agencies Regulations (Northern Ireland) 1989 ^{M6}, regulation 33(3)(a) of the Adoption Agencies Regulations 2005 ^{M7}, regulation 28(3) of the Adoption Agencies (Wales) Regulations 2005 ^{M8} or regulation 8(5) of the Adoption Agencies (Scotland) Regulations 2009 ^{M9};
- (c) a person is matched with a child where each of the following conditions is met—
 - (i) that person is an approved foster parent and an approved prospective adopter, and the child is, or is expected to be, placed by the authority ^{M10} with that person under Article 27(2)(a) of the Children (Northern Ireland) Order 1995 ^{M11};
 - (ii) the authority—
 - (aa) is considering adoption for the child, or
 - (bb) is satisfied that adoption is in the best interests of the child, and
 - (iii) the authority is considering whether that person would be a suitable adoptive parent for that child;
- (d) in a case where sub-paragraph (c) applies, a person is notified as having been matched with a child on the date that that person receives notification from the authority that the conditions in that paragraph have been met;
- (e) a person is also matched with a child for adoption when a decision has been made in accordance with regulation 22A of the Care Planning, Placement and Case Review (England) Regulations 2010 ^{M12} and an adoption agency has identified that person with whom the child is to be placed in accordance with regulation 12B of the Adoption Agencies Regulations 2005 ^{M13};
- (f) in a case where sub-paragraph (e) applies, a person is notified as having been matched with a child on the date on which that person receives notification in accordance with regulation 12B(2)(a) of the Adoption Agencies Regulations 2005.

(3) In paragraph (2) “adoption agency” has the meaning given—

- (a) in relation to Northern Ireland, by Article 3(3) of the Adoption (Northern Ireland) Order 1987 ^{M14};
- (b) in relation to England and Wales, by section 2 of the Adoption and Children Act 2002 ^{M15}, and
- (c) in relation to Scotland, by section 119(1) of the Adoption and Children (Scotland) Act 2007 ^{M16}.

Marginal Citations

M6 S.R. 1989 No. 253.

M7 S.I. 2005/389.

M8 S.I. 2005/1313.

M9 S.S.I. 2009/154.

- M10** “Approved foster parent”, “approved prospective adopter” and “authority” are defined, in relation to statutory paternity pay: adoption and statutory adoption pay, respectively, in sections 167ZBA(5) and 167ZLA(5) of 1992 c. 7, as inserted by 2015 c. 1 (N.I.), **section 9(2)** and (4).
- M11** S.I. 1995/755 (N.I. 2).
- M12** S.I. 2010/959; amended for relevant purposes by S.I. 2014/1556.
- M13** Regulation 12B was inserted by S.I. 2014/1556.
- M14** S.I. 1987/2203 (N.I. 22); Article 3(3) was amended by S.I. 1994/429 (N.I. 2).
- M15** 2002 c. 38.
- M16** 2007 asp 4.

PART 2

AMENDMENT OF THE PAY REGULATIONS

4.—(1) Regulation 2 (interpretation) of the Pay Regulations is amended as follows.

(2) For paragraph (2) substitute—

“(2) For the purposes of these Regulations—

- (a) a person is matched with a child for adoption when an adoption agency decides that that person would be a suitable adoptive parent for the child;
- (b) in a case where sub-paragraph (a) applies, a person is notified as having been matched with a child on the date that person receives notification of the agency's decision, under regulation 11(2)(d) of the Adoption Agencies Regulations (Northern Ireland) 1989, 33(3)(a) of the Adoption Agencies Regulations 2005^{M17}, regulation 28(3) of the Adoption Agencies (Wales) Regulations 2005 or regulation 8(5) of the Adoption Agencies (Scotland) Regulations 2009;
- (c) a person is also matched with a child where each of the following conditions is met—
 - (i) that person is an approved foster parent and an approved prospective adopter, and the child is, or is expected to be, placed by the authority with that person under Article 27(2)(a) of the Children (Northern Ireland) Order 1995;
 - (ii) the authority—
 - (aa) is considering adoption for the child; or
 - (bb) is satisfied that adoption is in the best interests of the child, and
 - (iii) the authority is considering whether that person would be a suitable adoptive parent for that child;
- (d) in a case where sub-paragraph (c) applies, a person is notified of being matched with a child on the date on which that person receives notification from the authority that the conditions in that sub-paragraph have been met;
- (e) a person is also matched with a child for adoption when a decision has been made in accordance with regulation 22A of the Care Planning, Placement and Case Review (England) Regulations 2010 and an adoption agency has identified that person with whom the child is to be placed in accordance with regulation 12B of the Adoption Agencies Regulations 2005;
- (f) in a case where sub-paragraph (e) applies, a person is notified as having been matched with a child on the date on which that person receives notification

in accordance with regulation 12B(2)(a) of the Adoption Agencies Regulations 2005.”.

(3) After paragraph (2), as substituted by this regulation, insert—

“(3) A reference (however expressed) in these Regulations to “placed for adoption” means—

- (a) placed for adoption by virtue of regulation 12 of the Adoption Agencies Regulations (Northern Ireland) 1989;
- (b) placed by an authority with a person who is an approved foster parent who is also an approved prospective adopter where the authority—
 - (i) is considering adoption for the child, or
 - (ii) is satisfied that adoption is in the best interests of the child,and is considering whether that person would be a suitable adoptive parent for that child;
- (c) placed for adoption under the Adoption and Children Act 2002 or the Adoption and Children (Scotland) Act 2007; or
- (d) placed in accordance with section 22C of the Children Act 1989^{M18} with a local authority foster parent who is also a prospective adopter.

(4) In paragraph (3)(d)—

“the local authority foster parent” means a person approved as a local authority foster parent in accordance with regulations made by virtue of paragraph 12F of Schedule 2 to the Children Act 1989;

“the prospective adopter” means a person who has been approved as suitable to adopt a child and has been notified of that decision in accordance with regulation 30B(4) of the Adoption Agencies Regulations 2005.”.

Marginal Citations

M17 S.I. 2005/389.

M18 1989 c. 41; section 22C was inserted by section 8(1) of the [Children and Young Persons Act 2008](#) (c. 23).

5.—(1) Regulation 22 (adoption pay period in cases where adoption is disrupted) of the Pay Regulations is amended as follows.

(2) Paragraph (1)(a)(ii) is substituted by—

“(ii) the child is returned after being placed, or”.

(3) After paragraph (4) insert—

“(5) In paragraph (1) “returned after being placed” means—

- (a) returned to the authority under Article 31(3) of the Adoption (Northern Ireland) Order 1987;
- (b) where the child is placed for adoption in the circumstances described in paragraph (b) of the definition of “placed for adoption” in regulation 2(3), returned to the authority following termination of the placement;
- (c) returned to the adoption agency under sections 31 to 35 of the Adoption and Children Act 2002;

- (d) in Scotland, returned to the adoption agency, adoption society or nominated person in accordance with section 25(6) of the Adoption and Children (Scotland) Act 2007; or
- (e) where the child is placed in accordance with section 22C of the Children Act 1989, returned to the adoption agency following termination of the placement.”

PART 3

APPLICATION AND MODIFICATION OF THE PAY REGULATIONS IN PARENTAL ORDER CASES

Application of the Pay Regulations to intended parents and parental order parents

6.—^{F3}(1) The provisions of the Pay Regulations, in so far as they apply to statutory paternity pay (adoption), shall apply to a section 54 parental order parent with the modifications set out in this Part of these Regulations.

(1A) The provisions of the Pay Regulations, in so far as they apply to statutory adoption pay, shall apply to—

- (a) a section 54 parental order parent; and
- (b) a section 54A parental order parent,

with the modifications set out in this Part of these Regulations.]

(2) In this regulation—

“statutory adoption pay” means statutory adoption pay payable in accordance with the provisions of Part 12ZB of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“statutory paternity pay (adoption)” means statutory paternity pay payable in accordance with the provisions of Part 12ZA of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 where the conditions specified in section 167ZB(2) of that Act are satisfied.

F3 Reg. 6(1)(1A) substituted for reg. 6(1) (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), [Sch. 2 para. 11\(3\)](#)

7. In regulation 2 (interpretation) of the Pay Regulations as they apply to an intended parent or a parental order parent—

(a) paragraph (1) shall read as if—

- (i) the definition of “adopter” were omitted;
- (ii) there were the following definitions—

^{F4}“intended parent”, in relation to a child, means a person who, on the day of the child’s birth—

- (a) applies, or intends to apply during the period of 6 months beginning with that day—
 - (i) with another person for an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of the child; or
 - (ii) as the sole applicant for an order under section 54A of that Act in respect of the child; and

(b) expects the court to make such an order in respect of the child;]
“Parent A” in relation to a child means [^{F5}the section 54 parental order parent] who has elected to be Parent A;

^{F6} ...

[^{F7}“section 54 parental order parent” means a person—

- (a) on whose application the court has made an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of a child; or
- (b) who is an intended parent of a child by reference to an application or intended application for such an order;]

[^{F7}“section 54A parental order parent” means a person—

- (a) on whose application the court has made an order under section 54A of the Human Fertilisation and Embryology Act 2008 in respect of a child; or
- (b) who is an intended parent of a child by reference to an application or intended application for such an order;]

“statutory shared parental pay” means statutory shared parental pay payable in accordance with Part 12ZC of the Act ^{M19};”;

(b) paragraph (2) shall apply as if that paragraph read—

“(2) [^{F8}A section 54 parental order parent] elects to be Parent A in relation to a child if that person (A) agrees with [^{F9}the other section 54 parental order parent] of the child (B) that A and not B will be parent A.”.

- F4** Words in reg. 7(a)(ii) inserted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), [Sch. 2 para. 11\(4\)\(a\)\(i\)](#)
- F5** Words in reg. 7(a)(ii) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), [Sch. 2 para. 11\(4\)\(a\)\(ii\)](#)
- F6** Words in reg. 7(a)(ii) omitted (3.1.2019) by virtue of [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), [Sch. 2 para. 11\(4\)\(a\)\(iii\)](#)
- F7** Words in reg. 7(a)(ii) inserted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), [Sch. 2 para. 11\(4\)\(a\)\(iv\)](#)
- F8** Words in reg. 7(b) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), [Sch. 2 para. 11\(4\)\(b\)\(i\)](#)
- F9** Words in reg. 7(b) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), [Sch. 2 para. 11\(4\)\(b\)\(ii\)](#)

Marginal Citations

M19 Part 12ZC was inserted by [2015 c. 1, section 5\(2\)](#).

8. In regulation 3 (application) of the Pay Regulations [^{F10}as they apply to a section 54 parental order parent] —

(a) paragraph (1)(b) shall read as if sub-paragraphs (i) and (ii) were omitted and replaced by—

“whose expected week of birth begins on or after 5th April 2015”.

(b) paragraph (2) shall read as if sub-paragraphs (a) and (b) were omitted and replaced by—

“whose expected week of birth begins on or after 5th April 2015”.

Changes to legislation: There are currently no known outstanding effects for the The Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations (Northern Ireland) 2015. (See end of Document for details)

F10 Words in reg. 8 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(5)**

[^{F11}**8A.** Regulation 3 (application) of the Pay Regulations as they apply to a section 54A parental order parent shall read as if—

- (a) paragraph (1) were omitted; and
- (b) for paragraph (2) there were substituted—

“(2) Subject to the provisions of Part 12ZB of the Act (statutory adoption pay) and of these Regulations, there is entitlement to statutory adoption pay in respect of children whose expected week of birth begins on or after the day which follows the last day of the period of 120 days beginning with the day on which the Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 comes into force.”]

F11 Reg. 8A inserted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(6)**

9. In regulation 11 (conditions of entitlement) of the Pay Regulations [^{F12}as they apply to a section 54 parental order parent] —

- (a) paragraph (1) shall apply as if sub-paragraphs (a) and (b) were omitted and replaced by—
 - “(a) is [^{F13}a section 54] parental order parent in relation to the child;
 - (b) is married to, the civil partner or the partner of Parent A; and
 - (c) has or expects to have the main responsibility for the upbringing of the child (apart from the responsibility of Parent A).”
- (b) paragraph (2) shall read as if the words “the adopter” in both places where those words occur were “Parent A”;
- (c) paragraph (2A) ^{M20} shall read as if the words “the adopter” and “the adopter's” were respectively “Parent A” and “Parent A's”.

F12 Words in reg. 9 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(7)(a)**

F13 Words in reg. 9(a) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(7)(b)**

Marginal Citations

M20 Inserted by S.R. 2004 No. 132, **regulation 2(2)(b)**.

10. Regulation 11A ^{M21} (notice of entitlement to statutory paternity pay (adoption)) of the Pay Regulations [^{F14}as they apply to a section 54 parental order parent] shall apply as if paragraphs (a) and (b) read—

- “(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 paragraph (a), as soon as reasonably practicable.”.

F14 Words in reg. 10 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(8)**

Marginal Citations

M21 Inserted by S.R. 2015 No. 89, regulation 7.

11. In regulation 12 (period of payment of statutory paternity pay (adoption)) of the Pay Regulations [^{F15}as they apply to a section 54 parental order parent] —

(a) paragraph (1) shall apply as if that paragraph read—

“(1) Subject to regulation 14, a person entitled to statutory paternity pay (adoption) may choose the statutory pay period to begin—

- (a) on the date on which the child is born or, where the person is at work on that day, the following day;
- (b) the date falling such number of days after the date on which the child is born as the person may specify; or
- (c) a predetermined date, specified by the person which is later than the expected week of the child's birth.”;

(b) paragraph (2) shall not apply;

(c) paragraph (4) ^{M22} shall apply as if sub-paragraphs (a) to (c) read—

- “(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 the employee 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.”.

F15 Words in reg. 11 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(9)**

Marginal Citations

M22 Substituted by S.R. 2015 89, regulation 8.

12. In regulation 13 (additional notice requirements for statutory paternity pay (adoption)) of the Pay Regulations [^{F16}as they apply to a section 54 parental order parent] —

- (a) paragraph (1) shall read as if the words “the date on which the placement occurred” were “the date on which the child was born”;
- (b) paragraph (2) shall read as if the words “is placed for adoption” were “is born”.

F16 Words in reg. 12 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(10)**

13. In regulation 14 (qualifying period for statutory paternity pay (adoption)) of the Pay Regulations [^{F17}as they apply to a section 54 parental order parent] shall read as if the words “of 56 days” to the end were omitted and replaced by—

“which begins on the date of the child's birth and ends—

- (a) except in the case referred to in paragraph (b), 56 days after that date;
- (b) in a case where the child is born before the first day of the expected week of its birth, 56 days after that day.”.

F17 Words in reg. 13 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(11)**

14. In regulation 15 (evidence of entitlement for statutory paternity pay (adoption)) of the Pay Regulations [^{F18}as they apply to a section 54 parental order parent] —

- (a) paragraph (2)(b) shall apply as if that paragraph read—
 - “(b) the expected week of the child's birth;”;
- (b) paragraph (2)(e) shall apply as if that paragraph read—
 - “(e) the date on which the child was born;”;
- (c) paragraph (3) shall apply as if sub-paragraphs (a) and (b) ^{M23} read—
 - (a) in or before the 15th week before the expected week of the child's birth;
 - (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 reasonably practicable.”;
- (d) paragraph (4) shall read as if the words “child's placement” were “child's birth”.

F18 Words in reg. 14 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(12)**

Marginal Citations

M23 Inserted by S.R. 2015 No. 94, regulation 9

15. In regulation 16 (entitlement to statutory paternity pay (adoption) where there is more than one employer) of the Pay Regulations [^{F19}as they apply to a section 54 parental order parent] , paragraph (b) shall read as if the words “in which the adopter is notified of being matched with the child” were “immediately preceding the 14th week before the expected week of the child's birth”.

F19 Words in reg. 15 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(13)**

16. In regulation 20 (avoidance of liability for statutory paternity pay) of the Pay Regulations [^{F20}as they apply to a section 54 parental order parent] , paragraph (2)(a) shall read as if the words “or, as the case may be, the placement of the child for adoption” were omitted.

F20 Words in reg. 16 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(14)**

17.—(1) In regulation 21 (adoption pay period) of the Pay Regulations [^{F21}as they apply to a section 54 parental order parent or a section 54A parental order parent] , paragraph (1) shall read as if that paragraph read—

“(1) The adoption pay period in respect of a person entitled to statutory adoption pay shall begin on the day on which the child is born or, where the person is at work on that day, the following day.”.

(2) Paragraph (2), (3), (4) and (6) shall not apply.

F21 Words in reg. 17 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(15)**

18. In regulation 22 (adoption pay period in cases where adoption is disrupted) of the Pay Regulations [^{F22}as they apply to a section 54 parental order parent] —

(a) paragraph (1) shall apply as if that paragraph read—

“(1) The adoption pay period shall terminate in accordance with the provisions of paragraph (2) where—

(a) the child dies;

[^{F23}(b) the section 54 parental order parent who is entitled to statutory adoption pay does not apply for an order under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of the child within the time limit set by subsection (3) of that section;]

(c) the person's application for [^{F24}an order under that section] in respect of the child is refused, withdrawn or otherwise terminated and any time limit for an appeal or a new application has expired;”;

(b) in paragraph (3)—

(i) sub-paragraph (a) shall apply as if the reference to paragraph (1)(a)(i) were a reference to paragraph (1)(a);

(ii) sub-paragraph (b) shall apply as if that sub-paragraph read—

“(b) in a case falling within paragraph (1)(b) the week during which the time limit in section 54(3) of the Human Fertilisation and Embryology Act 2008 for an application for [^{F25}an order under that section] for the child expires;”;

(iii) sub-paragraph (c) shall apply as if that sub-paragraph read—

“(c) in a case falling within paragraph (1)(c) the week during which the person's application for [^{F26}an order under that section] is refused, withdrawn or otherwise terminated without the order being granted.”.

- F22** Words in reg. 18 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(16)(a)**
- F23** Words in reg. 18(a) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(16)(b)**
- F24** Words in reg. 18(a) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(16)(c)**
- F25** Words in reg. 18(b)(ii) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(16)(d)**
- F26** Words in reg. 18(b)(iii) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(16)(e)**

[^{F27}**18A.** In regulation 22 (adoption pay period in cases where adoption is disrupted) of the Pay Regulations as they apply to a section 54A parental order parent—

(a) paragraph (1) shall apply as if that paragraph read—

“(1) The adoption pay period shall terminate in accordance with the provisions of paragraph (2) where—

- (a) the child dies;
- (b) the section 54A parental order parent does not apply for an order under section 54A of the Human Fertilisation and Embryology Act 2008 in respect of the child within the time limit set by subsection (2) of that section; or
- (c) the section 54A parental order parent’s application for an order under that section in respect of the child is refused, withdrawn or otherwise terminated and any time limit for an appeal or a new application has expired.”; and

(b) in paragraph (3)—

(i) sub-paragraph (a) shall apply as if the reference to paragraph (1)(a)(i) were a reference to paragraph (1)(a);

(ii) sub-paragraph (b) shall apply as if that sub-paragraph read—

“(b) in a case falling within paragraph (1)(b) the week during which the time limit in section 54A(2) of the Human Fertilisation and Embryology Act 2008 for an application for an order under that section for the child expires;” and

(iii) sub-paragraph (c) shall apply as if that sub-paragraph read—

“(c) in a case falling within paragraph (1)(c) the week during which the section 54A parental order parent’s application for an order under that section is refused, withdrawn or otherwise terminated without the order being granted.”.]

- F27** Reg. 18A inserted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(17)**

19. In regulation 23 (additional notice requirements for statutory adoption pay) of the Pay Regulations [^{F28}as they apply to a section 54 parental order parent or a section 54A parental order parent] —

(a) paragraph (1) shall read as if the words “the date on which the child is expected to be placed for adoption” were “the expected week of the child’s birth”;

- (b) paragraph (2) shall read as if—
- (i) the words from “Where the choice” to “sub-paragraph (a) of that paragraph,” were omitted;
 - (ii) the words “the date the child is placed for adoption” were “the date on which the child is born”.

F28 Words in reg. 19 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(18)**

20. In regulation 24 (evidence of entitlement to statutory adoption pay) of the Pay Regulations [^{F29}as they apply to a section 54 parental order parent] —

- (a) in paragraph (1), sub-paragraph (a) shall apply as if that sub-paragraph read—
- “(a) a statutory declaration specified in paragraph (2) where the person who will be liable to pay the statutory adoption pay requests it in accordance with paragraph (3); and”;
- (b) paragraph (2) shall apply as if that paragraph read—
- “(2) The statutory declaration referred to in paragraph (1)(a) is a statutory declaration stating that the person making the declaration—
- (a) has applied, or intends to apply, under section 54 of the Human Fertilisation and Embryology Act 2008 with another person for a [^{F30}an order under that section] in respect of the child within the time limit for making such an application; and
 - (b) expects the court to make a [^{F31}an order under that section] on that application in respect of the child.”;
- (c) paragraph (3) shall apply as if that paragraph read—
- “(3) The declaration referred to—
- (a) in paragraph (1)(a) shall be provided to the person liable to pay statutory adoption pay within 14 days of that person requesting that declaration where the person requests it within 14 days of receiving the notice under section 167ZL(6) of the Act;
 - (b) in paragraph (1)(b) shall be provided to the person liable to pay statutory adoption pay at least 28 days before the beginning of the adoption pay period, or if that is not reasonably practicable, as soon as reasonably practicable after that date.”.

F29 Words in reg. 20 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(19)(a)**

F30 Words in reg. 20(b) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(19)(b)(i)**

F31 Words in reg. 20(b) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(19)(b)(ii)**

[^{F32}**20A.** For regulation 24 (evidence of entitlement to statutory adoption pay) of the Pay Regulations as they apply to a section 54A parental order parent substitute—

“**24.**—(1) A section 54A parental order parent shall provide evidence of his or her entitlement to statutory adoption pay by providing to the person who will be liable to pay it (“E”) a statutory declaration specified in paragraph (2) where E requests it in accordance with paragraph (3).

(2) The statutory declaration referred to in paragraph (1) is a statutory declaration stating that the person making the declaration—

- (a) has applied, or intends to apply, under section 54A of the Human Fertilisation and Embryology Act 2008 for an order under that section in respect of the child within the time limit for making such an application; and
- (b) expects the court to make an order under that section on that application in respect of the child.

(3) The declaration referred to in paragraph (1) shall be provided to E within 14 days of E requesting that declaration where E requests it within 14 days of receiving the notice under section 171ZL(6) of the Act.”.]

F32 Reg. 20A inserted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(20)**

21. In regulation 25 (entitlement to statutory adoption pay where there is more than one employer) of the Pay Regulations [^{F33}as they apply to a section 54 parental order parent or a section 54A parental order parent] , paragraph (b) shall read as if the words “in which he is notified of being matched with the child” were “immediately preceding the 14th week before the expected week of the child's birth”.

F33 Words in reg. 21 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(21)**

22. In regulation 29 (termination of employment before start of adoption pay period) of the Pay Regulations a [^{F34}as they apply to a section 54 parental order parent or a section 54A parental order parent] , paragraph (1) shall apply as if—

- (a) the words “chosen in accordance with regulation 21” were omitted;
- (b) the words “14 days before the expected date of placement” to the end were “on the day on which the child is born.”.

F34 Words in reg. 22 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(22)**

23. In regulation 30 (avoidance of liability for statutory adoption pay) of the Pay Regulations [^{F35}as they apply to a section 54 parental order parent or a section 54A parental order parent] , in paragraph (2), sub-paragraph (a) shall read as if the words “in which he was notified of having been matched with the child for adoption” read “immediately preceding the 14th week before the expected week of the child's birth”.

F35 Words in reg. 23 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(23)**

24. In regulation 40 (normal weekly earnings) of the Pay Regulations [^{F36}as they apply to a section 54 parental order parent or a section 54A parental order parent] , in paragraph (2), the definition of “the appropriate date” shall read—

““the appropriate date” means in relation to statutory paternity pay (adoption) and statutory adoption pay , the first day of the 14th week before the expected week of the child's birth or the first day in the week in which the child is born, whichever is earlier;”.

F36 Words in reg. 24 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), [Sch. 2 para. 11\(24\)](#)

PART 4

AMENDMENT OF THE ADMINISTRATION REGULATIONS

25. In regulation 11 (provision of information relating to entitlement to statutory paternity pay or statutory adoption pay) of the Administration Regulations—

(a) for paragraph (4), substitute—

“(4) For the purposes of paragraph (3)(b)(ii), an adopter is notified as having been matched with a child—

(a) on the date that person receives notification of the adoption agency's decision, under regulation 11(2)(d) of the Adoption Agencies Regulations (Northern Ireland) 1989 ^{M24}, regulation 33(3)(a) of the Adoption Agencies Regulations 2005 ^{M25}, regulation 28(3) of the Adoption Agencies (Wales) Regulations 2005 ^{M26} or regulation 8(5) of the Adoption Agencies (Scotland) Regulations 2009 ^{M27};

(b) on the date on which that person receives notification from the authority that the following conditions have been met—

(i) that the person is an approved foster parent and an approved prospective adopter, and the child is, or is expected to be, placed by the authority ^{M28} with that person under Article 27(2)(a) of the Children (Northern Ireland) Order 1995 ^{M29};

(ii) the authority—

(aa) is considering adoption for the child; or

(bb) is satisfied that adoption is in the best interests of the child, and

(iii) the authority is considering whether that person would be a suitable adoptive parent for that child; or

(c) on the date on which that person receives notification in accordance with regulation 12B(2)(a) of the Adoption Agencies Regulations 2005.”;

(b) after paragraph (4) insert—

“(5) In this regulation “adoption agency” has the meaning given—

(a) in relation to Northern Ireland, by Article 3(3) of the Adoption (Northern Ireland) Order 1987 ^{M30},

(b) in relation to England and Wales, by section 2 of the Adoption and Children Act 2002 ^{M31}; and

Changes to legislation: There are currently no known outstanding effects for the The Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations (Northern Ireland) 2015. (See end of Document for details)

(c) in relation to Scotland, by section 119(1) of the Adoption and Children (Scotland) Act 2007 ^{M32}.”

Marginal Citations

- M24** S.R. 1989 No. 253.
M25 S.I. 2005/389, amended by S.I. 2014/1556; there are other amending instruments but none is relevant.
M26 S.I. 2005/1313.
M27 S.S.I. 2009/154.
M28 “Approved foster parent”, “approved prospective adopter” and “authority” are defined, in relation to statutory paternity pay: adoption and statutory adoption pay, respectively, in section 167ZBA(5) and 167ZLA(5) of 1992 c. 7, as inserted by 2015 c. 1 (N.I.), **section 9(2)** and (4)
M29 S.I. 1995 775 (N.I. 2)
M30 1987 No. 2203 (N.I. 22): Article 3(3) was amended by S.I. 1994/429 (N.I.2).
M31 2002 c.38.
M32 2007 asp 4.

PART 5

MODIFICATION OF THE ADMINISTRATION REGULATIONS IN PARENTAL ORDER CASES

26. In the case of entitlement to statutory paternity pay or statutory adoption pay under section 167ZB or 167ZL of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 [^{F37}as those sections apply to a section 54 parental order parent or a section 54A parental order parent]^{M33}—

- (a) paragraph (3)(b)(ii) of regulation 11 (provision of information) of the Administration Regulations shall read as if the words from “the end of the seven day period that starts on the date on which the adopter is notified of having been matched with the child” were—
“the day the employee gave notice of the employee's intended absence or the end of the fifteenth week before the expected week of birth, whichever is later.”;
- (b) paragraph (4) and (5) of that regulation shall not apply.

F37 Words in reg. 26 substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 2 para. 11(25)**

Marginal Citations

- M33** Section 167ZB and 167ZL of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 are modified in so far as they apply to parental order cases by S.R.2015 No. 90.

Changes to legislation: *There are currently no known outstanding effects for the The Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations (Northern Ireland) 2015. (See end of Document for details)*

Sealed with the Official Seal of the Department for Employment and Learning on 2nd March 2015.

L.S.

Dr Stephen Farry
Minister for Employment and Learning

The Commissioners for Her Majesty's Revenue and Customs concur

Jim Harra
Edward Troup
Two of the Commissioners for Her Majesty's
Revenue and Customs

Changes to legislation: There are currently no known outstanding effects for the The Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations (Northern Ireland) 2015. (See end of Document for details)

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2 of these Regulations amends the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations (Northern Ireland (S.R. 2002 No.379) (“the Pay Regulations”) to make provision for a new right to statutory adoption pay for people who are fostering a child with a view to adopting that child, provided that specified conditions are met. The amendments made also provide new rights to statutory paternity pay for the spouses, civil partners and partners of these prospective adopters.

Part 3 of these Regulations make provision for an entitlement to statutory adoption pay and statutory paternity pay (adoption) in respect of cases which involve a person who has applied with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008. Under that section a court may make an order providing for a child of a surrogate mother to be treated as the child of the applicants if certain conditions are satisfied.

Part 3 should be read in conjunction with the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Application of Parts 12ZA, 12ZB and 12ZC to Parental Order Cases) Regulations 2015(S.R. 2015 No. 90). This Part should also be read in conjunction with the Pay Regulations which this Part applies with modifications.

Part 4 amends the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations (Northern Ireland) 2002 (S.R. 2002 No.378) (“the Administration Regulations”) in order to cater for the situation where statutory paternity pay or statutory adoption pay is paid to approved foster parents who are prospective adopters.

Part 5 modifies the Administration Regulations in a case where statutory paternity pay or statutory adoption pay is paid to a person who has applied with another person for a parental order.

An impact assessment has not been prepared for these Regulations. These Regulations are part of a package of legislative measures and the relevant impacts were assessed within the document ‘Sharing parental rights, extending flexibility at work – public consultation’, published in May 2013 (www.delni.gov.uk/index/consultation-zone/archived-consultations/archived-consultations-2013/working-parents-rights.htm), and supplemented by a further publication in April 2014 (www.delni.gov.uk/index/publications/equality-good-relations/shared-parental-leave-and-pay.htm).

Changes to legislation:

There are currently no known outstanding effects for the The Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations (Northern Ireland) 2015.