

## **EXPLANATORY MEMORANDUM TO**

### **The Statutory Paternity Pay, Statutory Adoption Pay and Statutory Shared Parental Pay (Amendment) Regulations (Northern Ireland) 2016**

**S.R. 2016 No. 133**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department for Employment and Learning to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 167ZJ(1) and (5), 167ZS(1) and (5) and 167ZZ7(1) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1. These Regulations amend the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations (Northern Ireland) 2002 and the Statutory Shared Parental Pay (General) Regulations (Northern Ireland) 2015.
- 2.2. The amendments will allow the "rounding up" of the first week of the 26 week period that is used to determine if an employee qualifies for Statutory Shared Parental Pay, Statutory Paternity Pay and Statutory Adoption Pay (the "Continuity of Employment Test"). This is to ensure consistency with the Continuity of Employment Test for Statutory Maternity Pay, which already allows for the rounding up of the first week.

#### **3. Background**

- 3.1. A qualifying condition for Statutory Maternity Pay, Statutory Paternity Pay, Statutory Adoption Pay and Statutory Shared Parental Pay is that an employee must satisfy a Continuity of Employment Test; that being they must have worked for their employer for 26 weeks at the "qualifying week" (which is the 15th week before a child's expected date of birth or the week in which the employee is notified of being matched with a child for adoption).
- 3.2. Since the introduction of the new shared parental rights in 2015 it has become apparent that a discrepancy exists between, on the one hand, how the Continuity of Employment Test is framed in the legislation for Statutory Paternity Pay, Statutory Adoption Pay and Statutory Shared Parental Pay (which does not allow the first week of the relevant 26 week period to be rounded up) and how the Continuity of Employment Test is framed in the legislation which governs Statutory Maternity Pay (which does allow the rounding up of the first week of the relevant 26 week period). There is no policy justification for the difference in treatments, which only came to light after the introduction of shared parental leave and pay.

- 3.3. This means that a very small number of employees who change jobs in the first week of the relevant 26 week period are technically not currently entitled to Statutory Paternity Pay, Statutory Adoption Pay and Statutory Shared Parental Pay even though they would have been entitled to Statutory Maternity Pay. This Statutory Rule will address that anomaly by amending the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations (Northern Ireland) 2002 and the Statutory Shared Parental Pay (General) Regulations (Northern Ireland) 2015 to allow rounding up of the first week of the relevant 26 week period for these types of family-related statutory payments.

#### **4. Consultation**

- 4.1. A public consultation has not been carried out in relation to the proposed Statutory Rule as it only makes minor, technical amendments.

#### **5. Equality Impact**

- 5.1. A separate Equality Impact Assessment is not considered necessary as the amendments are of a minor technical nature. The implementation of this Statutory Rule neither involves commencement of a new policy nor change to an existing one.

#### **6. Regulatory Impact**

- 6.1. The impacts of the proposed amendments are considered negligible. A separate Regulatory Impact Assessment has not been prepared as the changes will be of a minor and technical nature.
- 6.2. To the extent that the proposed amendments relate to the introduction of Shared Parental Leave and Pay, the relevant impact assessment is contained within the publication “Sharing parental rights, extending flexibility at work – public consultation”, published in May 2013.

#### **7. Financial Implications**

- 7.1. Estimated costs to the Exchequer in respect of the Regulations are considered negligible.
- 7.2. There are no costs to government arising from these Regulations, except for a very small number of government employees who may in future meet the Continuity of Employment Test where they might otherwise not have qualified. Where such rights are exercised, costs are deemed negligible, as for employers generally.

#### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. The Department is satisfied that the Regulations are compliant with section 24 of the Northern Ireland Act 1998.
- 8.2. The Statutory Rule makes minor positive amendments to Regulations which impact on family life by providing improved options with regard to childcare for parents who have changed job during the first week of the 26 week period Continuity of Employment Test period. Negative impacts on the right to family life are not considered to arise.

#### **9. EU Implications**

- 9.1. Not applicable.

## **10. Parity or Replicatory Measure**

- 10.1. The Statutory Rule corresponds to amendments affecting Great Britain contained in The Statutory Paternity Pay, Statutory Adoption Pay and Statutory Shared Parental Pay (Amendment) Regulations 2015.

## **11. Additional Information**

- 11.1. Not applicable.