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DRAFT STATUTORY INSTRUMENTS

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**2020 No.**

**The Statutory Parental Bereavement  
Pay (General) Regulations 2020**

**PART 3**

**CONDITIONS OF ENTITLEMENT RELATING  
TO EMPLOYMENT AND EARNINGS**

**Treatment of persons as employees**

**11.**—(1) A person is treated as an employee for the purposes of Part 12ZD of the 1992 Act (even though not falling within the definition of ‘employee’ in section 171ZZ14(2) of that Act) where, and in so far as, that person is treated as an employed earner by virtue of the Social Security (Categorisation of Earners) Regulations 1978(1) (but see paragraph (3)).

(2) A person shall not be treated as an employee for the purposes of Part 12ZD of the 1992 Act (even though falling within the definition of ‘employee’ in section 171ZZ14(2) of that Act) where, and in so far as, that person is not treated as an employed earner by virtue of those Regulations (but see paragraph (3)).

(3) Paragraphs (1) and (2) shall have effect in relation to a person who—

- (a) is under the age of 16, and
- (b) would, or as the case may be, would not have been treated as an employed earner by virtue of those Regulations had they been over that age,

as they have effect in relation to a person who is, or as the case may be, is not treated as an employed earner by virtue of those Regulations.

(4) A person is treated as an employee for the purposes of Part 12ZD of the 1992 Act (even though not falling within the definition of ‘employee’ in section 171ZZ14(2) of that Act) where that person is in employed earner’s employment under a contract of apprenticeship.

(5) A person is not to be treated as an employee for the purposes of Part 12ZD of the 1992 Act (even though falling within the definition of ‘employee’ in section 171ZZ14(2) of that Act) where that person is in employed earner’s employment but that person’s employer—

- (a) does not fulfil the conditions prescribed in regulation 145(1) (conditions as to residence or presence) of the Social Security (Contributions) Regulations 2001(2) in so far as that provision relates to residence or presence in Great Britain, or
- (b) is a person who, by reason of any international treaty to which the United Kingdom is a party or of any international convention binding the United Kingdom—
  - (i) is exempt from the provisions of the 1992 Act, or

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(1) S.I. 1978/1689, amended by the National Insurance Contributions Act 2015 (c.5), section 6 and by S.I. 1980/1713, 1990/1894, 1994/726, 1998/1728, 2003/736, 2003/2420, 2004/770, 2005/3133, 2006/1530, 2012/816, 2014/635, 2015/478; there are other amendments but none is relevant.

(2) S.I. 2001/1004; regulation 145 was amended by S.I. 2012/817.

(ii) is a person against whom the provisions of the 1992 Act are not enforceable.