
DRAFT STATUTORY INSTRUMENTS

2020 No.

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

PART 4

PAYMENT OF STATUTORY PARENTAL BEREAVEMENT PAY

Liability of the Commissioners to pay statutory parental bereavement pay

25.—(1) Despite section 171ZZ8(1) of the 1992 Act (liability to make payments of statutory parental bereavement pay is liability of the employer), where the conditions in regulation 24(1)(a) and (b) are satisfied, liability to make payments of statutory parental bereavement pay to a person is to be the liability of the Commissioners and not the employer for—

- (a) any week in respect of which the employer was liable to pay statutory parental bereavement pay to that person but did not do so, and
- (b) for any subsequent week that person is entitled to payments of statutory parental bereavement pay.

(2) Despite section 171ZZ8(1) of the 1992 Act, liability to make payments of statutory parental bereavement pay to a person is to be a liability of the Commissioners and not the employer as from the week in which the employer first becomes insolvent (see paragraphs (3) and (4)) until the last week that person is entitled to payment of statutory parental bereavement pay.

(3) For the purposes of paragraph (2) an employer shall be taken to be insolvent if, and only if, in England and Wales—

- (a) the employer has been adjudged bankrupt or has made a composition or arrangement with its creditors,
- (b) the employer has died and the employer's estate falls to be administered in accordance with an order made under section 421 of the Insolvency Act 1986⁽¹⁾, or
- (c) where an employer is a company or a limited liability partnership—
 - (i) a winding-up order is made or a resolution for a voluntary winding-up is passed (or, in the case of a limited liability partnership, a determination for voluntary winding-up has been made) with respect to it,
 - (ii) it enters administration,
 - (iii) a receiver or manager of its undertaking is duly appointed,
 - (iv) possession is taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company or limited liability partnership comprised in or subject to the charge, or

⁽¹⁾ 1986 c. 45; section 421 was amended by the Insolvency Act 2000 (c. 39), section 12, the Constitutional Reform Act 2005 (c. 4), Schedule 4, Part 1, paragraphs 185 and 192 and S.I. 2002/1037, 2017/702 and 2019/146.

- (v) a voluntary arrangement proposed for the purposes of Part 1 of the Insolvency Act 1986 is approved under that Part.
- (4) For the purposes of paragraph (2) an employer shall be taken to be insolvent if, and only if, in Scotland—
- (a) an award of sequestration is made on the employer’s estate,
 - (b) the employer executes a trust deed for its creditors,
 - (c) the employer enters into a composition contract,
 - (d) the employer has died and a judicial factor appointed under section 11A of the Judicial Factors (Scotland) Act 1889(2) is required by that section to divide the employer’s insolvent estate among the employer’s creditors, or
 - (e) where the employer is a company or a limited liability partnership—
 - (i) a winding-up order is made or a resolution for voluntary winding-up is passed (or in the case of a limited liability partnership, a determination for a voluntary winding-up is made) with respect to it,
 - (ii) it enters administration,
 - (iii) a receiver of its undertaking is duly appointed, or
 - (iv) a voluntary arrangement proposed for the purposes of Part I of the Insolvency Act 1986 is approved under that Part.

(2) 1889 c. 39; section 11A was inserted by the Bankruptcy (Scotland) Act 1985 (c. 66), Schedule 7, paragraph 4 and amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), Schedule 5, paragraph 5 and Schedule 6, and the Bankruptcy (Scotland) Act 2016 (asp 21), Schedule 8, paragraph 1.