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DRAFT STATUTORY INSTRUMENTS

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**2010 No.**

The Additional Statutory Paternity  
Pay (General) Regulations 2010

PART 4

ADDITIONAL STATUTORY PATERNITY PAY: PROVISIONS APPLICABLE  
TO BOTH ADDITIONAL STATUTORY PATERNITY PAY (BIRTH)  
AND ADDITIONAL STATUTORY PATERNITY PAY (ADOPTION)

**Avoidance of liability for additional statutory paternity pay**

**23.**—(1) A former employer shall be liable to make payments of additional statutory paternity pay to a former employee in any case where the employee had been employed for a continuous period of at least eight weeks and the employee's contract of service was brought to an end by the former employer solely, or mainly, for the purpose of avoiding liability for additional statutory paternity pay or ordinary statutory paternity pay, or both.

(2) In a case falling within paragraph (1)—

- (a) the employee shall be treated as if they had been employed for a continuous period ending with the earliest date that they could have been entitled to additional statutory paternity pay; and
- (b) their normal weekly earnings shall be calculated by reference to their normal weekly earnings for the period of eight weeks ending with the last day in respect of which they were paid under their former contract of service.