

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 - Statutory Rights to Leave and Pay

Statutory shared parental pay

Section 119: Statutory shared parental pay

Section 171ZU: Entitlement: birth

531. This section deals with entitlement to statutory shared parental pay in relation to birth.
532. Subsection (1) confers power on the Secretary of State to make regulations to provide that where the conditions in subsection (2) are satisfied, the mother of a child (the “claimant mother”) is entitled to payments to be known as “statutory shared parental pay”.
533. The condition in subsection (2)(a) is that the claimant mother and another person (“P”) satisfy certain prescribed conditions as to caring or intending to care for the child.
534. The condition in subsection (2)(b) is that P must meet certain prescribed conditions as to employment or self-employment, earnings and relationship with the claimant mother or child. The conditions in subsection (2)(c), (d) and (e) require the claimant mother to have met prescribed conditions regarding a continuous length of employment, earnings and entitlement to be in employment. The condition in subsection (2)(f) is that, if regulations so provide, the claimant mother continues in employed earner’s employment until such a time as specified.
535. The condition in subsection (2)(g) is that the claimant mother became entitled to receive statutory maternity pay in respect of the child. The condition in subsection (2)(h) relates to the reduction of the maternity pay period applying to the claimant mother.
536. The condition in subsection (2)(i) and (j) is that the claimant mother has given notice of the total number of weeks which she would be entitled to claim statutory shared parental pay, the number of weeks she intends to claim the pay and the number of weeks P intends to claim the pay and the periods during which the claimant mother intends to claim the pay.
537. The condition in subsection (2)(k) is that the notices under subsection (2)(i) and (j) are given by such a time as may be prescribed and satisfy certain prescribed conditions as to form and content
538. The condition in subsection (2)(l) is that P consents to the amount of statutory shared parental pay the claimant mother intends to claim.
539. The condition in subsection (2)(m) is that it must be the claimant mother’s intention to care for the child during each week in which statutory shared parental pay is paid to her.

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(c.6) which received Royal Assent on 13 March 2014*

540. The conditions in subsection (2)(n) and (o) state the claimant mother must be absent from work for each week that statutory shared parental pay is paid to her. Where she is an employee, she must be absent from work on shared parental leave.
541. Subsection (3) confers power on the Secretary of State to make regulations to provide that where the conditions in subsection (4) are satisfied, a person (“the claimant”) is entitled to payments to be known as “statutory shared parental pay”.
542. The condition in subsection (4)(a) is that the claimant and another person who is the mother of a child satisfy certain prescribed conditions as to caring or intending to care for the child. The condition in subsection (4)(b) is that the claimant must satisfy certain prescribed conditions as to the relationship with the child or the child’s mother.
543. The condition in subsection (4)(c) is that the child’s mother meets prescribed conditions as to employment or self-employment and earnings. The conditions in subsection (4) (d), (e) and (f) are that the claimant has met prescribed conditions relating to a continuous length of employment, earnings and entitlement to be in that employment. The condition in subsection (4)(g) is that the claimant, if so prescribed, must continue in employed earner’s employment until such a time as specified in regulations.
544. The condition in subsection (4)(h) is that the mother of the child must have been entitled as a result of the birth of the child to receive either maternity allowance or statutory maternity pay. The condition in subsection (4)(i) relates to the reduction of the maternity pay period or the maternity allowance period applying to the mother.
545. The condition in subsection (4)(j) and (k) is that the claimant has given notice of the total number of weeks which the claimant would be entitled to claim statutory shared parental pay, the number of weeks the claimant intends to claim the pay and the number of weeks the child’s mother intends to claim the pay and the periods during which the claimant intends to claim the pay.
546. The condition in subsection (4)(l) is that the notices are submitted by such a time as may be prescribed and satisfy prescribed conditions as to form and content. The condition in subsection (4)(m) is that the mother of the child must consent to the amount of statutory shared parental pay that the claimant intends to claim.
547. The condition in subsection (4)(n) is that it is the claimant’s intention to care for the child during each week in which statutory shared parental pay is paid to the claimant.
548. The condition in subsection (4)(o) and (p) is that the claimant must be absent from work for each week that statutory shared parental pay is paid to the claimant. If the claimant is an employee, the claimant must be absent from work on shared parental leave.
549. Subsection (5) provides for the Secretary of State to make regulations to determine the extent of a person’s entitlement to statutory shared parental pay in respect of a child, and the times at which this is to be paid.
550. Subsections (6) and (7) provide the extent of a person’s entitlement to statutory shared parental pay cannot exceed the length of the maternity pay period (currently 39 weeks) less the number of weeks that maternity allowance or maternity pay is payable to the mother up to her return to work or the number of weeks by which the maternity pay period or maternity allowance period has been reduced (where the mother reduces these periods before returning to work). Subsection (7) defines the meaning of “relevant week”.
551. Subsection (8) specifies that for the purposes of the calculation under subsection (6)(b), part of a week is to be treated as a full week.
552. Subsection (9) specifies that provision under subsection (5)(a) is to ensure that where two people are both entitled to statutory shared parental pay in respect of the same child, the total number of weeks taken by both does not exceed the number of weeks as specified in the calculation described under subsection (6). Subsection (10) specifies

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that provision under subsection (5)(b) as to when statutory shared parental pay is payable is to ensure that payments of statutory shared parental pay cannot be made to a person after such period as may be prescribed. Subsection (11) further specifies that the provision as to when statutory shared parental pay is payable is to ensure that no payment of statutory shared parental pay may be made to the mother of the child before the end of the mother's maternity pay period.

553. Subsection (12) provides for regulations to enable a person who is entitled to statutory shared parental pay to vary the period or periods during which the person intends to claim such pay without varying the overall amount of statutory shared parental pay the person intends to take, provided certain conditions are satisfied. These conditions are specified in subsection (13). They require the person who intends to claim statutory shared parental pay to give notice of their intention to vary the period or periods during which they intend to claim the pay to the person who will be liable to pay it. This notice must be given by such time and satisfying certain conditions as to form and content as may be prescribed.
554. Subsection (14) provides for regulations to enable a person who is entitled to statutory shared parental pay to vary the number of weeks that the person intends to claim, providing certain conditions are satisfied. These conditions are specified in subsection (15). They require that the person must give notice of certain specified information to the person who will be liable to pay the statutory shared parental pay. The consent of the other person eligible for statutory shared parental pay in respect of the same child must also be obtained. This notice must be given by such time as may be prescribed and satisfying certain conditions as to form and content.
555. Subsection (16) specifies that a person's entitlement to statutory shared parental pay under this section is not affected by the birth of more than one child as a result of the same pregnancy.