

**2020 No. 450**

**SOCIAL SECURITY**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Maternity Allowance, Statutory Maternity Pay, Statutory Paternity Pay, Statutory Adoption Pay, Statutory Shared Parental Pay and Statutory Parental Bereavement Pay (Normal Weekly Earnings etc.) (Coronavirus) (Amendment) Regulations 2020**

<i>Made</i> - - - -	<i>23rd April 2020</i>
<i>Laid before Parliament</i>	<i>24th April 2020</i>
<i>Coming into force</i> - -	<i>25th April 2020</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 35A(5)(a), 171(6), 171ZJ(8), 171ZS(8), 171ZZ4(8), 171ZZ14(8) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(a).

Regulation 3 and regulations 5 to 7 are made with the concurrence of the Commissioners for Her Majesty's Revenue and Customs(b).

In accordance with section 173(1)(a) of the Social Security Administration Act 1992(c), it appears to the Secretary of State that by reason of the urgency of this matter it is inexpedient to refer the proposals in respect of these Regulations to the Social Security Advisory Committee.

**Citation and commencement**

1. These Regulations may be cited as the Maternity Allowance, Statutory Maternity Pay, Statutory Paternity Pay, Statutory Adoption Pay, Statutory Shared Parental Pay and Statutory Parental Bereavement Pay (Normal Weekly Earnings etc.) (Coronavirus) (Amendment) Regulations 2020 and come into force on 25th April 2020.

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(a) 1992 c. 4 ("the 1992 Act"). Section 35A was inserted by section 53(3) of the Welfare Reform and Pensions Act 1999 (c.30). Section 171ZJ was inserted by section 2 of the Employment Act 2002 (c.22). Section 171ZS was inserted by section 4 of the Employment Act 2002. Section 171ZZ4 was inserted by section 119(1) of the Children and Families Act 2014 (c.6). Section 171ZZ14 was inserted by paragraph 5 of Schedule 1 to the Parental Bereavement (Leave and Pay) Act 2018 (c.24). Section 175(4) was amended by paragraph 29(4) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2). See sections 122(1), 171(1), 171ZJ(1), 171ZS(1), 171ZZ4(1) and 171ZZ14(1) for the respective definitions of "prescribed".

(b) See respectively sections 171(7), 171ZJ(12), 171ZS(12), 171ZZ4(12) and 171ZZ14(12) of the 1992 Act.

(c) 1992 c. 5.

## Application

2.—(1) The amendments made by regulation 3 and regulations 5 to 7 apply only in relation to the calculation of normal weekly earnings for the purpose of determining—

- (a) the entitlement of a person to any of the statutory payments; or
- (b) the rate at which any of the statutory payments are to be paid to that person,

in a case where the first day of the period in respect of which the statutory payment is to be made is on or after the day on which these Regulations come into force.

(2) In paragraph (1), “statutory payments” means the following payments under the Social Security Contributions and Benefits Act 1992<sup>(a)</sup> (“the 1992 Act”)—

- (a) statutory maternity pay;
- (b) statutory paternity pay;
- (c) statutory adoption pay;
- (d) statutory shared parental pay; and
- (e) statutory parental bereavement pay.

(3) The amendments made by regulation 4 apply only in relation to the calculation of the average weekly amount of specified payments made to a woman for the purpose of determining—

- (a) the entitlement of the woman to a maternity allowance under the 1992 Act; or
- (b) the rate at which that allowance is to be paid to the woman,

in a case where the first day of the period in respect of which payment of that allowance is to be made is on or after the day on which these Regulations come into force.

## Amendment of the Statutory Maternity Pay (General) Regulations 1986

3. In regulation 21 of the Statutory Maternity Pay (General) Regulations 1986<sup>(b)</sup> (normal weekly earnings), after paragraph (7) insert—

“(8) Paragraph (9) applies where for all or part of the relevant period—

- (a) a woman is a furloughed employee;
- (b) the woman’s employer has claimed and is in receipt of financial support in respect of the woman’s earnings under the Coronavirus Job Retention Scheme; and
- (c) the woman’s earnings are lower than they would otherwise have been as a result of that woman being a furloughed employee.

(9) Where this paragraph applies, the woman’s normal weekly earnings are to be calculated as if, during the parts of the relevant period when the woman was a furloughed employee, she was paid the amount which she would have derived from her employment had she not been a furloughed employee.

(10) For the purposes of paragraphs (8) and (9)—

“Coronavirus Job Retention Scheme” (“the Scheme”) means any scheme to provide for payments to be made to employers on a claim made in respect of them incurring costs of employment in respect of furloughed employees arising from the health, social and economic emergency in the United Kingdom resulting from coronavirus and coronavirus disease and contained in such Directions as may be issued from time to time pursuant to section 76 of the Coronavirus Act 2020<sup>(c)</sup>;

“coronavirus” and “coronavirus disease” have the meanings given in section 1 of that Act;

“furloughed employee” has the meaning given for the purposes of the Scheme.”.

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(a) Section 4C was inserted by section 1(1) of the National Insurance Contributions Act 2006 (c. 10).

(b) S.I. 1986/1960. Relevant amending instrument is S.I. 2005/729.

(c) 2020 c. 7.

#### **Amendment of the Social Security (Maternity Allowance) (Earnings) Regulations 2000**

**4.** In regulation 6 of the Social Security (Maternity Allowance) (Earnings) Regulations 2000<sup>(a)</sup> (determination of average weekly amount of specified payments), after paragraph (3) insert—

“(4) Paragraph (5) applies in respect of a week where—

- (a) a woman is a furloughed employee;
- (b) the woman’s employer has claimed and is in receipt of financial support in respect of the woman’s earnings under the Coronavirus Job Retention Scheme; and
- (c) the woman’s earnings are lower than they would otherwise have been as a result of that woman being a furloughed employee.

(5) Where any of the weeks in the period of 13 weeks referred to in paragraph (1)(a) or (b) is a week to which this paragraph applies, the average weekly amount of the specified payments are to be determined as if for that week she were paid the amount she would have derived from her employment had she not been a furloughed employee.

(6) For the purposes of paragraphs (4) and (5)—

“Coronavirus Job Retention Scheme” (“the Scheme”) means any scheme to provide for payments to be made to employers on a claim made in respect of them incurring costs of employment in respect of furloughed employees arising from the health, social and economic emergency in the United Kingdom resulting from coronavirus and coronavirus disease and contained in such Directions as may be issued from time to time pursuant to section 76 of the Coronavirus Act 2020;

“coronavirus” and “coronavirus disease” have the meanings given in section 1 of that Act.

“furloughed employee” has the meaning given for the purposes of the Scheme.”.

#### **Amendment of the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002**

**5.** In regulation 40 of the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002<sup>(b)</sup> (normal weekly earnings), after paragraph (7) insert—

“(8) Paragraph (9) applies where for all or part of the relevant period—

- (a) a person is a furloughed employee;
- (b) the person’s employer has claimed and is in receipt of financial support in respect of the person’s earnings under the Coronavirus Job Retention Scheme; and
- (c) the person’s earnings are lower than they would otherwise have been as a result of that person being a furloughed employee.

(9) Where this paragraph applies, the person’s normal weekly earnings are to be calculated as if, during the parts of the relevant period when the person was a furloughed employee, the person was paid the amount which they would have derived from their employment had they not been a furloughed employee.

(10) For the purposes of paragraphs (8) and (9)—

“Coronavirus Job Retention Scheme” (“the Scheme”) means any scheme to provide for payments to be made to employers on a claim made in respect of them incurring costs of employment in respect of furloughed employees arising from the health, social and economic emergency in the United Kingdom resulting from coronavirus and coronavirus disease and contained in such Directions as may be issued from time to time pursuant to section 76 of the Coronavirus Act 2020;

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<sup>(a)</sup> S.I. 2000/688. Relevant amending instruments are S.I. 2002/2690 and 2003/659.

<sup>(b)</sup> S.I. 2002/2822.

“coronavirus” and “coronavirus disease” have the meanings given in section 1 of that Act;

“furloughed employee” has the meaning given for the purposes of the Scheme.”.

#### **Amendment of the Statutory Shared Parental Pay (General) Regulations 2014**

**6.** In regulation 32 of the Statutory Shared Parental Pay (General) Regulations 2014<sup>(a)</sup> (normal weekly earnings of a claimant for statutory shared parental pay), after paragraph (6) insert—

“(6A) Paragraph (6B) applies where for all or part of the relevant period—

- (a) a person is a furloughed employee;
- (b) the person’s employer has claimed and is in receipt of financial support in respect of the person’s earnings under the Coronavirus Job Retention Scheme; and
- (c) the person’s earnings are lower than they would otherwise have been as a result of that person being a furloughed employee.

(6B) Where this paragraph applies, the person’s normal weekly earnings are to be calculated as if, during the parts of the relevant period when the person was a furloughed employee, they were paid the amount which they would have derived from their employment had they not been a furloughed employee.

(6C) For the purposes of paragraphs (6A) and (6B)—

“Coronavirus Job Retention Scheme” means any scheme to provide for payments to be made to employers on a claim made in respect of them incurring costs of employment in respect of furloughed employees arising from the health, social and economic emergency in the United Kingdom resulting from coronavirus and coronavirus disease and contained in such Directions as may be issued from time to time pursuant to section 76 of the Coronavirus Act 2020;

“coronavirus” and “coronavirus disease” have the meanings given in section 1 of that Act;

“furloughed employee” has the meaning given for the purposes of the Scheme.”.

#### **Amendment of the Statutory Parental Bereavement Pay (General) Regulations 2020**

**7.** In regulation 19 of the Statutory Parental Bereavement Pay (General) Regulations 2020<sup>(b)</sup> (normal weekly earnings), after paragraph (8) insert—

“(8A) Paragraph (8B) applies where for all or part of the relevant period—

- (a) a person is a furloughed employee;
- (b) the person’s employer has claimed and is in receipt of financial support in respect of the person’s earnings under the Coronavirus Job Retention Scheme; and
- (c) the person’s earnings are lower than they would otherwise have been as a result of that person being a furloughed employee.

(8B) Where this paragraph applies, the person’s normal weekly earnings are to be calculated as if, during the parts of the relevant period when the person was a furloughed employee, they were paid the amount which they would have derived from their employment had they not been a furloughed employee.

(8C) For the purposes of paragraphs (8A) and (8B)—

“Coronavirus Job Retention Scheme” (“the Scheme”) means any scheme to provide for payments to be made to employers on a claim made in respect of them incurring costs of employment in respect of furloughed employees arising from the health, social and economic emergency in the United Kingdom resulting from coronavirus and

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(a) S.I. 2014/3051.

(b) S.I. 2020/233.

coronavirus disease and contained in such Directions as may be issued from time to time pursuant to section 76 of the Coronavirus Act 2020;

“coronavirus” and “coronavirus disease” have the meanings given in section 1 of that Act;

“furloughed employee” has the meaning given for the purposes of the Scheme.”.

Signed by authority of the Secretary of State for Work and Pensions

*Stedman-Scott*  
Parliamentary Under-Secretary of State  
Department for Work and Pensions

23rd April 2020

The Commissioners for Her Majesty’s Revenue and Customs hereby concur

*Justin Holiday*  
*Angela MacDonald*

23rd April 2020

Two of the Commissioners for Her Majesty’s Revenue and Customs

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Statutory Maternity Pay (General) Regulations 1986 (S.I. 1986/1960), the Social Security (Maternity Allowance) (Earnings) Regulations 2000 (S.I. 2000/688), the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002 (S.I. 2002/2822), the Statutory Shared Parental Pay (General) Regulations 2014 (S.I. 2014/3051) and the Statutory Parental Bereavement Pay (General) Regulations 2020 (S.I. 2020/233).

The amendments in regulation 3 and regulations 5 to 7 apply for calculating a person’s normal weekly earnings for the purposes of determining entitlement to, and rate of payment of, respectively, statutory maternity pay, statutory paternity pay, statutory adoption pay, statutory shared parental pay and statutory parental bereavement pay. The amendments in regulation 4 apply for calculating the average weekly amount of specified payments made to a woman for the purpose of determining entitlement to, and rate of payment of, a maternity allowance. Regulation 2 provides that these amendments are to apply where the first day of the period in respect of which payment of any of the benefits is to be made is on or after the day on which these Regulations come into force.

The amendments apply where a person is a furloughed employee for the purposes of the Coronavirus Job Retention Scheme which is set out in the Schedule to the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction made on 15th April 2020(a). The claimant’s normal weekly earnings for the purpose of determining entitlement to, or the amount of, the statutory payments listed in regulation 2(2) (or in the case of maternity allowance, the average amount of the specified payment for determining entitlement to, or the amount of, that allowance) are to be calculated as if the person had not been a furloughed employee for all or part of the relevant period.

Hard copies of the Coronavirus Job Retention Scheme can be obtained from CJRS Policy, 3C/15 100 Parliament Street, Westminster, London SW1A 2BQ.

No regulatory impact assessment has been produced for these Regulations in view of the urgency required to provide additional financial support to those unable to work as a result of coronavirus.

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(a) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/879484/200414\\_CJRS\\_DIRECTION\\_-33\\_FINAL\\_Signed.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/879484/200414_CJRS_DIRECTION_-33_FINAL_Signed.pdf).

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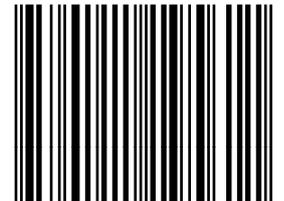


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