

Status: Point in time view as at 15/03/2015.

Changes to legislation: Social Security Contributions and Benefits (Northern Ireland) Act 1992, PART XIIZA is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Social Security Contributions and Benefits (Northern Ireland) Act 1992

1992 CHAPTER 7

[^{F1}PART XIIZA

[^{F2}ORDINARY AND ADDITIONAL STATUTORY PATERNITY PAY]

Textual Amendments

- F1** Pt. XIIZA (ss. 167ZA-167ZK) inserted (8.12.2002) by [The Employment \(Northern Ireland\) Order 2002 \(S.I. 2002/2836 \(N.I. 2\)\)](#), arts. 1(2), **5**; S.R. 2002/356, **art. 2(2)**, Sch. 1 Pt. II
- F2** Pt. 12ZA heading substituted (1.10.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), **Sch. 1 para. 9**; S.R. 2010/295, art. 3(d)

[^{F3}Ordinary statutory paternity pay]

Textual Amendments

- F3** S. 167ZA cross-heading inserted (1.10.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), **Sch. 1 para. 10**; S.R. 2010/295, art. 3(d)

167ZA Entitlement: birth

- (1) Where a person satisfies the conditions in subsection (2) below, he shall be entitled in accordance with the following provisions of this Part of this Act to payments to be known as “[^{F4}ordinary statutory paternity pay]”.
- (2) The conditions are—
- (a) that he satisfies prescribed conditions—
 - (i) as to relationship with a newborn child, and
 - (ii) as to relationship with the child’s mother;

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- (b) that he has been in employed earner's employment with an employer for a continuous period of at least 26 weeks ending with the relevant week;
 - (c) that his normal weekly earnings for the period of 8 weeks ending with the relevant week are not less than the lower earnings limit in force under section 5(1)(a) above at the end of the relevant week; and
 - (d) that he has been in employed earner's employment with the employer by reference to whom the condition in paragraph (b) above is satisfied for a continuous period beginning with the end of the relevant week and ending with the day on which the child is born.
- (3) The references in subsection (2) above to the relevant week are to the week immediately preceding the 14th week before the expected week of the child's birth.
- (4) A person's entitlement to [^{F4}ordinary statutory paternity pay] under this section shall not be affected by the birth, or expected birth, of more than one child as a result of the same pregnancy.
- (5) In this section, "newborn child" includes a child stillborn after twenty-four weeks of pregnancy.

Textual Amendments

- F4** Words in s. 167ZA(1)(4) substituted (1.10.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), **Sch. 1 para. 11**; S.R. 2010/295, art. 3(d)

167ZB Entitlement: adoption

- (1) Where a person satisfies the conditions in subsection (2) below, he shall be entitled in accordance with the following provisions of this Part of this Act to payments to be known as "^{F5}ordinary statutory paternity pay>".
- (2) The conditions are—
- (a) that he satisfies prescribed conditions—
 - (i) as to relationship with a child who is placed for adoption, under the law of any part of the United Kingdom, and
 - (ii) as to relationship with a person with whom the child is so placed for adoption;
 - (b) that he has been in employed earner's employment with an employer for a continuous period of at least 26 weeks ending with the relevant week;
 - (c) that his normal weekly earnings for the period of 8 weeks ending with the relevant week are not less than the lower earnings limit in force under section 5(1)(a) above at the end of the relevant week;
 - (d) that he has been in employed earner's employment with the employer by reference to whom the condition in paragraph (b) above is satisfied for a continuous period beginning with the end of the relevant week and ending with the day on which the child is placed for adoption; and
 - (e) where he is a person with whom the child is placed for adoption, that he has elected to receive statutory paternity pay.
- (3) The references in subsection (2) above to the relevant week are to the week in which the adopter is notified of being matched with the child for the purposes of adoption.

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- (4) A person may not elect to receive [^{F5}ordinary statutory paternity pay] if he has elected in accordance with section 167ZL below to receive statutory adoption pay.
- (5) Regulations may make provision about elections for the purposes of subsection (2) (e) above.
- (6) A person's entitlement to [^{F5}ordinary statutory paternity pay] under this section shall not be affected by the placement for adoption of more than one child as part of the same arrangement.
- (7) In this section, “adopter”, in relation to a person who satisfies the condition under subsection (2)(a)(ii) above, means the person by reference to whom he satisfies that condition.

Textual Amendments

- F5** Words in s. 167ZB(1)(4)(6) substituted (1.10.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), [Sch. 1 para. 12](#); S.R. 2010/295, art. 3(d)

[^{F6}167ZBA] **Entitlement: prospective adopters with whom looked after children are placed**

- (1) Subsection (3) applies in a case involving a child who is looked after by an authority and who is placed by the authority under Article 27(2)(a) of the Children (Northern Ireland) Order 1995, in the circumstances mentioned in paragraph (2), with an approved foster parent who is also an approved prospective adopter.
- (2) The circumstances are that—
 - (a) the authority—
 - (i) is considering adoption for the child, or
 - (ii) has decided by virtue of regulation 11 of the Adoption Agencies Regulations (Northern Ireland) 1989 that it is satisfied that adoption is in the best interests of the child, and
 - (b) such conditions as may be prescribed are satisfied.
- (3) Section 167ZB has effect as if the following references or definitions were such references or definitions as may be prescribed—
 - (a) the references in subsection (2) to a child being placed for adoption under the law of any part of the United Kingdom,
 - (b) the reference in subsection (3) to the week in which the adopter is notified of being matched with the child for the purposes of adoption,
 - (c) the reference in subsection (6) to placement for adoption,
 - (d) the definition of “adopter” in subsection (7).
- (4) Where, by virtue of subsections (1) to (3), a person becomes entitled to statutory paternity pay in connection with the placement of a child as mentioned in those subsections, the person may not become entitled to payments of statutory paternity pay in connection with the placement of the child for adoption.
- (5) In this section—

“approved foster parent” means a person approved as a foster parent by the authority under regulation 3 of the Foster Placement (Children) Regulations (Northern Ireland) 1996,

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“approved prospective adopter” means a person considered by the authority by virtue of the Adoption Agencies Regulations (Northern Ireland) 1989 to be a person suitable to adopt a child,

“authority” has the same meaning as in the Children (Northern Ireland) Order 1995 (see Article 2(2) and (3) of the Order),

“child who is looked after by an authority” has the same meaning as in that Order (see Articles 2(7)(b) and 25 of the Order).

- (6) The Department may by order amend the definition of, or substitute another definition for the definition of, “approved foster parent” or “approved prospective adopter” for the time being contained in subsection (5), in consequence of any modification or replacement of the regulations referred to in the definition.]

Textual Amendments

F6 S. 167ZBA inserted (15.3.2015) by [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\), ss. 9\(2\), 23\(1\); S.R. 2015/86, art. 3\(1\)\(g\)](#)

167ZC Entitlement: general

- (1) A person shall be entitled to payments of [F7ordinary statutory paternity pay] in respect of any period [F8only if he gives the person who will be liable to pay it notice of the week or weeks in respect of which he expects there to be liability to pay him statutory paternity pay.]

[Regulations may provide for the time by which notice under subsection (1) is to be F9(1A) given.]

- (2) The notice shall be in writing if the person who is liable to pay the [F7ordinary statutory paternity pay] so requests.
- (3) The Department may by regulations—
- (a) provide that subsection (2)(b), (c) or (d) of section 167ZA or 167ZB above shall have effect subject to prescribed modifications in such cases as may be prescribed;
 - (b) provide that subsection (1) above shall not have effect, or shall have effect subject to prescribed modifications, in such cases as may be prescribed;
 - (c) impose requirements about evidence of entitlement;
 - (d) specify in what circumstances employment is to be treated as continuous for the purposes of section 167ZA or 167ZB above;
 - (e) provide that a person is to be treated for the purposes of section 167ZA or 167ZB above as being employed for a continuous period of at least 26 weeks where—
 - (i) he has been employed by the same employer for at least 26 weeks under two or more separate contracts of service; and
 - (ii) those contracts were not continuous;
 - (f) provide for amounts earned by a person under separate contracts of service with the same employer to be aggregated for the purposes of section 167ZA or 167ZB above;
 - (g) provide that—
 - (i) the amount of a person’s earnings for any period, or

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- (ii) the amount of his earnings to be treated as comprised in any payment made to him or for his benefit,

shall be calculated or estimated for the purposes of section 167ZA or 167ZB above in such manner and on such basis as may be prescribed and that for that purpose payments of a particular class or description made or falling to be made to or by a person shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of his earnings.

Textual Amendments

- F7** Words in s. 167ZC substituted (1.10.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), [Sch. 1 para. 13](#); S.R. 2010/295, art. 3(d)
- F8** Words in s. 167ZC(1) substituted (15.3.2015 except in relation to children whose expected week of birth ends on or before 4.4.2015 and children placed for adoption on or before 4.4.2015) by [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\)](#), [ss. 12\(2\)\(a\)](#), 23(1); S.R. 2015/86, art. 3(1)(j) (with art. 6(1))
- F9** S. 167ZC(1A) inserted (15.3.2015 except in relation to children whose expected week of birth ends on or before 4.4.2015 and children placed for adoption on or before 4.4.2015) by [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\)](#), [ss. 12\(2\)\(b\)](#), 23(1); S.R. 2015/86, art. 3(1)(j) (with art. 6(1))

167ZD Liability to make payments

- (1) The liability to make payments of [^{F10}ordinary] statutory paternity pay, under section 167ZA or 167ZB above is a liability of any person of whom the person entitled to the payments has been an employee as mentioned in subsection (2)(b) and (d) of that section.
- (2) Regulations shall make provision as to a former employer's liability to pay [^{F11}ordinary statutory paternity pay] to a person in any case where the former employee's contract of service with him has been brought to an end by the former employer solely, or mainly, for the purpose of avoiding [^{F12}liability for ordinary statutory paternity pay or additional statutory paternity pay (or both)].
- (3) The Department may, with the concurrence of the Board, by regulations specify circumstances in which, notwithstanding this section, liability to make payments of statutory paternity pay is to be a liability of the Board.

Textual Amendments

- F10** Word in s. 167ZD(1) inserted (1.10.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), [Sch. 1 para. 14\(2\)](#); S.R. 2010/295, art. 3(d)
- F11** Words in s. 167ZD(1) substituted (1.10.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), [Sch. 1 para. 14\(3\)\(a\)](#); S.R. 2010/295, art. 3(d)
- F12** Words in s. 167ZD(1) substituted (1.10.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), [Sch. 1 para. 14\(3\)\(b\)](#); S.R. 2010/295, art. 3(d)

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167ZE Rate and period of pay

- (1) [^{F13}Ordinary statutory paternity pay] shall be payable at such fixed or earnings-related weekly rate as may be prescribed by regulations, which may prescribe different kinds of rate for different cases.
- (2) [^{F13}Ordinary statutory paternity pay] shall be payable in respect of—
 - (a) a period of two consecutive weeks within the qualifying period beginning on such date within that period as the person entitled may choose in accordance with regulations, or
 - (b) if regulations permit the person entitled to choose to receive [^{F13}ordinary statutory paternity pay] in respect of—
 - (i) a period of a week, or
 - (ii) two non-consecutive periods of a week,
 such week or weeks within the qualifying period as he may choose in accordance with regulations.
- (3) For the purposes of subsection (2) above, the qualifying period shall be determined in accordance with regulations, which shall secure that it is a period of at least 56 days beginning—
 - (a) in the case of a person to whom the conditions in section 167ZA(2) above apply, with the date of the child's birth, and
 - (b) in the case of a person to whom the conditions in section 167ZB(2) above apply, with the date of the child's placement for adoption.
- [Statutory paternity pay is not payable to a person in respect of a statutory pay week if—
- ^{F14}(3A)
 - (a) statutory shared parental pay is payable to that person in respect of any part of that week or that person takes shared parental leave in any part of that week; or
 - (b) statutory shared parental pay was payable to that person or that person has taken shared parental leave in respect of the child before that week.]
 - (4) [^{F13}Ordinary statutory paternity pay] shall not be payable to a person in respect of a statutory pay week if it is not his purpose at the beginning of the week—
 - (a) to care for the child by reference to whom he satisfies the condition in subparagraph (i) of section 167ZA(2)(a) or 167ZB(2)(a) above; or
 - (b) to support the person by reference to whom he satisfies the condition in subparagraph (ii) of that provision.
 - (5) A person shall not be liable to pay [^{F13}ordinary statutory paternity pay] to another in respect of a statutory pay week during any part of which the other works under a contract of service with him.
 - (6) It is immaterial for the purposes of subsection (5) above whether the work referred to in that subsection is work under a contract of service which existed immediately before the statutory pay week or a contract of service which did not so exist.
 - (7) Except in such cases as may be prescribed, [^{F13}ordinary statutory paternity pay] shall not be payable to a person in respect of a statutory pay week during any part of which he works for any employer who is not liable to pay him [^{F13}ordinary statutory paternity pay].
 - (8) The Department may by regulations specify circumstances in which there is to be no liability to pay [^{F13}ordinary statutory paternity pay] in respect of a statutory pay week.

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(9) Where more than one child is born as a result of the same pregnancy, the reference in subsection (3)(a) above to the date of the child’s birth shall be read as a reference to the date of birth of the first child born as a result of the pregnancy.

(10) Where more than one child is placed for adoption as part of the same arrangement, the reference in subsection (3)(b) above to the date of the child’s placement shall be read as a reference to the date of placement of the first child to be placed as part of the arrangement.

[Where for any purpose of this Part of this Act or of regulations it is necessary to
^{F15}(10A) calculate the daily rate of ordinary statutory paternity pay, the amount payable by way of ordinary statutory paternity pay for any day shall be taken as one seventh of the weekly rate.]

(11) In this section—

“statutory pay week”, in relation to a person entitled to [^{F13}ordinary statutory paternity pay], means a week chosen by him as a week in respect of which [^{F13}ordinary statutory paternity pay] shall be payable;

“week” means any period of seven days.

[Where statutory paternity pay is payable to a person by virtue of section 167ZBA(1)
^{F16}(12) to (3), this section has effect as if the following references were such references as may be prescribed—

(a) the references in subsections (3)(b) and (10) to placement for adoption,

(b) the references in subsection (10) to being placed for adoption.]

Textual Amendments

F13 Words in s. 167ZE substituted (1.10.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), [Sch. 1 para. 15\(2\)](#); S.R. 2010/295, art. 3(d)

F14 S. 167ZE(3A) inserted (15.3.2015) by [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\)](#), [ss. 6\(5\)](#), 23(1); S.R. 2015/86, art. 3(1)(e)

F15 S. 167ZE(10A) inserted (1.10.2006) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), [Sch. 1 para. 15\(3\)](#); S.R. 2006/344, art. 3(c)

F16 S. 167ZE(12) added (15.3.2015) by [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\)](#), [ss. 9\(3\)](#), 23(1); S.R. 2015/86, art. 3(1)(g)

[^{F17}Additional statutory paternity pay

Textual Amendments

F17 S. 167ZEA and cross-heading inserted (9.9.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), arts. 1(3), [8](#); S.R. 2010/295, art. 2(a)

167ZEA Entitlement to additional statutory paternity pay: birth

(1) The Department may by regulations provide that, where all the conditions in subsection (2) are satisfied in relation to a person (“the claimant”), the claimant shall be entitled in accordance with the following provisions of this Part to payments to be known as “additional statutory paternity pay”.

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- (2) Those conditions are—
- (a) that the claimant satisfies prescribed conditions—
 - (i) as to relationship with a child, and
 - (ii) as to relationship with the child's mother;
 - (b) that the claimant has been in employed earner's employment with an employer for a continuous period of at least the prescribed length ending with a prescribed week;
 - (c) that the claimant's normal weekly earnings for a prescribed period ending with a prescribed week are not less than the lower earnings limit in force under section 5(1)(a) at the end of that week;
 - (d) if regulations so provide, that the claimant continues in employed earner's employment (whether or not with that employer) until a prescribed time;
 - (e) that the mother of the child by reference to whom the condition in paragraph (a) is satisfied became entitled, by reference to the birth of the child—
 - (i) to a maternity allowance, or
 - (ii) to statutory maternity pay;
 - (f) that the mother has, in relation to employment as an employed or self-employed earner, taken action that is treated by regulations as constituting for the purposes of this section her return to work;
 - (g) that the day on which the mother is treated as returning to work falls—
 - (i) after the end of a prescribed period beginning with the birth of the child, but
 - (ii) at a time when at least a prescribed part of her maternity allowance period or maternity pay period remains unexpired;
 - (h) that it is the claimant's intention to care for the child during a period beginning not later than a prescribed time.
- (3) The regulations may—
- (a) exclude the application of the conditions mentioned in paragraphs (f) and (g) of subsection (2) in cases where the child's mother has died, and
 - (b) provide that the condition mentioned in paragraph (e) of that subsection shall have effect with prescribed modifications in such cases.
- (4) A person's entitlement to additional statutory paternity pay under this section shall not be affected by the birth of more than one child as a result of the same pregnancy.]

Entitlement to additional statutory paternity pay: adoption

F18 167ZEB

- (1) The Department may by regulations provide that, where all the conditions in subsection (2) are satisfied in relation to a person (“the claimant”), the claimant shall be entitled in accordance with the following provisions of this Part to payments to be known as “additional statutory paternity pay”.
- (2) Those conditions are—
- (a) that the claimant satisfies prescribed conditions—
 - (i) as to relationship with a child who has been placed for adoption under the law of any part of the United Kingdom, and
 - (ii) as to relationship with a person with whom the child is so placed for adoption (“the adopter”);

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- (b) that the claimant has been in employed earner's employment with an employer for a continuous period of at least the prescribed length ending with a prescribed week;
 - (c) that the claimant's normal weekly earnings for a prescribed period ending with a prescribed week are not less than the lower earnings limit in force under section 5(1)(a) at the end of that week;
 - (d) if regulations so provide, that the claimant continues to work in employed earner's employment (whether or not with that employer) until a prescribed time;
 - (e) that the adopter became entitled to statutory adoption pay by reference to the placement of the child for adoption;
 - (f) that the adopter has, in relation to employment as an employed or self-employed earner, taken action that is treated by regulations as constituting for the purposes of this section the adopter's return to work;
 - (g) that the day on which the adopter is treated as returning to work falls—
 - (i) after the end of a prescribed period beginning with the placement of the child for adoption, but
 - (ii) at a time when at least a prescribed part of the adopter's adoption pay period remains unexpired;
 - (h) that it is the claimant's intention to care for the child during a period beginning not later than a prescribed time.
- (3) The regulations may—
- (a) exclude the application of the conditions mentioned in paragraphs (f) and (g) of subsection (2) in cases where the adopter has died, and
 - (b) provide that the condition mentioned in paragraph (e) of that subsection shall have effect with prescribed modifications in such cases.
- (4) A person may not elect to receive additional statutory paternity pay if he has elected in accordance with section 167ZL to receive statutory adoption pay.
- (5) A person's entitlement to additional statutory paternity pay under this section shall not be affected by the placement for adoption of more than one child as part of the same arrangement.]

Textual Amendments

F18 S. 167ZEB inserted (9.9.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), arts. 1(3), 9; S.R. 2010/295, art. 2(a)

Entitlement to additional statutory paternity pay: general

F19 **167ZEC**

- (1) A person shall not be entitled to payments of additional statutory paternity pay in respect of any period unless—
- (a) he gives the person who will be liable to pay it notice of the date from which he expects the liability to pay him additional statutory paternity pay to begin and the date on which he expects that liability to end; and
 - (b) the notice is given by such time as may be prescribed.
- (2) The notice shall be in writing if the person who is liable to pay the additional statutory paternity pay so requests.

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- (3) The Department may by regulations—
- (a) provide that the conditions mentioned in subsection (2)(b) or (c) of section 167ZEA or 167ZEB shall have effect subject to prescribed modifications in such cases as may be prescribed;
 - (b) provide that subsection (1) of this section shall not have effect, or shall have effect subject to prescribed modifications, in such cases as may be prescribed;
 - (c) impose requirements about evidence of entitlement;
 - (d) specify in what circumstances employment is to be treated as continuous for the purposes of section 167ZEA or 167ZEB;
 - (e) provide that a person is to be treated for the purposes of section 167ZEA or 167ZEB as being employed for a continuous period of the length prescribed under that section where—
 - (i) he has been employed by the same employer for a period of at least that length under two or more contracts of service, and
 - (ii) those contracts were not continuous;
 - (f) provide for amounts earned by a person under separate contracts of service with the same employer to be aggregated for the purposes of section 167ZEA or 167ZEB;
 - (g) provide that—
 - (i) the amount of a person's earnings for any period, or
 - (ii) the amount of his earnings to be treated as comprised in any payment made to him or for his benefit,
 shall be calculated or estimated for the purposes of section 167ZEA or 167ZEB in such manner and on such basis as may be prescribed and that for that purpose payments of a particular class or description made or falling to be made to or by a person shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of his earnings.]

Textual Amendments

F19 S. 167ZEC inserted (9.9.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), arts. 1(3), **10**; S.R. 2010/295, art. 2(a)

Liability to make payments of additional statutory paternity pay

F20 **167ZED**

- (1) The liability to make payments of additional statutory paternity pay under section 167ZEA or 167ZEB is a liability of any person of whom the person entitled to the payments has been an employee as mentioned in subsection (2)(b) of that section.
- (2) Regulations shall make provision as to a former employer's liability to pay additional statutory paternity pay to a person in any case where the former employee's contract of service with him has been brought to an end solely, or mainly, for the purpose of avoiding liability for additional statutory paternity pay or ordinary statutory paternity pay, or both.
- (3) The Department may, with the concurrence of the Commissioners for Her Majesty's Revenue and Customs, by regulations specify circumstances in which, notwithstanding this section, liability to make payments of additional statutory paternity pay is to be a liability of the Commissioners.]

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Textual Amendments

F20 S. 167ZED inserted (9.9.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), arts. 1(3), **11**; [S.R. 2010/295](#), art. 2(a)

Rate and period of pay: additional statutory paternity pay

F21 **167ZEE**

- (1) Additional statutory paternity pay shall be payable at such fixed or earnings-related weekly rate as may be prescribed by regulations, which may prescribe different kinds of rate for different cases.
- (2) Subject to the following provisions of this section, additional statutory paternity pay shall be payable in respect of a period (“the additional paternity pay period”)—
 - (a) beginning with such day as may (subject to subsection (3)) be determined in accordance with regulations, and
 - (b) ending with—
 - (i) the day on which the additional statutory pay period is ended by virtue of subsection (4) or (8), or
 - (ii) such earlier day as the employee may choose in accordance with regulations.
- (3) The first day of the additional paternity pay period must not be earlier than the day on which the child's mother or the person with whom the child is placed for adoption (“the mother or adopter”) is treated for the purpose of section 167ZEA or 167ZEB as returning to work; but this subsection does not apply in a case where the mother or adopter has died.
- (4) The additional paternity pay period—
 - (a) shall not last longer than any prescribed number of weeks,
 - (b) shall not continue after the end of the period of 12 months beginning with the relevant date, and
 - (c) shall not continue after the end—
 - (i) in a case falling within section 167ZEA, of the mother's maternity allowance period or maternity pay period, or
 - (ii) in a case falling within section 167ZEB, of the adoption pay period of the person with whom the child is placed for adoption.
- (5) In subsection (4)(b), “the relevant date” means—
 - (a) in the case of a person to whom the conditions in section 167ZEA(2) apply, the date of the child's birth (or, where more than one child is born as a result of the same pregnancy, the date of birth of the first child born as a result of the pregnancy), and
 - (b) in the case of a person to whom the conditions in section 167ZEB(2) apply, the date of the child's placement for adoption (or, where more than one child is placed for adoption as part of the same arrangement, the date of placement of the first child to be placed as part of the arrangement).
- (6) Additional statutory paternity pay shall not be payable to a person in respect of a week if it is not his purpose at the beginning of the week to care for the child by reference to whom he satisfies the condition in sub-paragraph (i) of section 167ZEA(2)(a) or 167ZEB(2)(a).

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- (7) Except in such cases as may be prescribed, additional statutory paternity pay shall not be payable to a person in respect of a week during any part of which he works for any employer.
- (8) Where subsection (6) or (7) prevents additional statutory paternity pay being payable to a person in respect of any week, the person's additional statutory paternity pay period shall be taken to have ended at the end of the previous week.
- (9) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of additional statutory paternity pay, the amount payable by way of additional statutory paternity pay for that day shall be taken to be one seventh of the weekly rate.
- (10) In this section “week” means a period of seven days beginning with the day of the week on which the additional statutory paternity pay period began.]

Textual Amendments

F21 S. 167ZEE inserted (9.9.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), arts. 1(3), **12**; S.R. 2010/295, art. 2(a)

[^{F22}Ordinary and additional statutory paternity pay: supplementary provisions]

Textual Amendments

F22 S. 167ZF cross-heading inserted (1.10.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), **Sch. 1 para. 16**; S.R. 2010/295, art. 3(d)

167ZF Restrictions on contracting out

- (1) Any agreement shall be void to the extent that it purports—
- (a) to exclude, limit or otherwise modify any provision of this Part of this Act, or
 - (b) to require an employee or former employee to contribute (whether directly or indirectly) towards any costs incurred by his employer or former employer under this Part of this Act.
- (2) For the avoidance of doubt, any agreement between an employer and an employee authorising any deductions from [^{F23}ordinary statutory paternity pay or additional statutory paternity pay] which the employer is liable to pay to the employee in respect of any period shall not be void by virtue of subsection (1)(a) above if the employer—
- (a) is authorised by that or another agreement to make the same deductions from any contractual remuneration which he is liable to pay in respect of the same period, or
 - (b) would be so authorised if he were liable to pay contractual remuneration in respect of that period.

Textual Amendments

F23 Words in s. 167ZF(2) substituted (1.10.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), **Sch. 1 para. 17**; S.R. 2010/295, art. 3(d)

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167ZG Relationship with contractual remuneration

- (1) Subject to subsections (2) and (3) below, any entitlement to statutory paternity pay shall not affect any right of a person in relation to remuneration under any contract of service (“contractual remuneration”).
- (2) Subject to subsection (3) below—
 - (a) any contractual remuneration paid to a person by an employer of his in respect of any period shall go towards discharging any liability of that employer to pay statutory paternity pay to him in respect of that period; and
 - (b) any statutory paternity pay paid by an employer to a person who is an employee of his in respect of any period shall go towards discharging any liability of that employer to pay contractual remuneration to him in respect of that period.
- (3) Regulations may make provision as to payments which are, and those which are not, to be treated as contractual remuneration for the purposes of subsections (1) and (2) above.

[In this section “statutory paternity pay” means ordinary statutory paternity pay or ^{F24}(4) additional statutory paternity pay.]

Textual Amendments

F24 S. 167ZG(4) added (9.9.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), **Sch. 1 para. 18**; S.R. 2010/295, art. 2(c)

167ZH Crown employment—Part XIIIA

The provisions of this Part of this Act apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

167ZI Special classes of person

- (1) The Department may with the concurrence of the Treasury make regulations modifying any provision of this Part of this Act in such manner as the Department thinks proper in its application to any person who is, has been or is to be—
 - (a) employed on board any ship, vessel, hovercraft or aircraft;
 - (b) outside Northern Ireland at any prescribed time or in any prescribed circumstances; or
 - (c) in prescribed employment in connection with continental shelf operations.
- (2) Regulations under subsection (1) above may, in particular, provide—
 - (a) for any provision of this Part of this Act to apply to any such person, notwithstanding that it would not otherwise apply;
 - (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
 - (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in Northern Ireland;
 - (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside

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Northern Ireland, by a British consular official or such other person as may be determined in accordance with the regulations.

- (3) In this section “continental shelf operations” means any activities which, if paragraphs (a) and (d) of subsection (8) of section 11 of the Petroleum Act 1998 (application of civil law to certain offshore activities) were omitted would nevertheless fall within subsection (2) of that section.

167ZJ Part XIZA: supplementary

- (1) In this Part of this Act—
 - “the Board” means the Commissioners of Inland Revenue;
 - “the Department” means the Department for Employment and Learning;
 - ^{F25}“employer”, in relation to a person who is an employee, means a person who—
 - (a) under section 6 above is liable to pay secondary Class 1 contributions in relation to any of the earnings of the person who is an employee; or
 - (b) would be liable to pay such contributions but for—
 - (i) the condition in section 6(1)(b); or
 - (ii) the employee being under the age of 16;
 - “modifications” includes additions, omissions and amendments, and related expressions are to be read accordingly;
 - “prescribed” means prescribed by regulations.
- (2) In this Part of this Act, “employee” means a person who is—
 - (a) gainfully employed in Northern Ireland either under a contract of service or in an office (including elective office) with ^{F26}earnings (within the meaning of Parts 1 to 5 above); ^{F27} ...
 - ^{F27}(b)
- (3) Regulations may provide—
 - (a) for cases where a person who falls within the definition in subsection (2) above is not to be treated as an employee for the purposes of this Part of this Act; and
 - (b) for cases where a person who would not otherwise be an employee for the purposes of this Part of this Act is to be treated as an employee for those purposes.
- (4) Without prejudice to any other power to make regulations under this Part of this Act, regulations may specify cases in which, for the purposes of this Part of this Act or of such provisions of this Part of this Act as may be prescribed—
 - (a) two or more employers are to be treated as one;
 - (b) two or more contracts of service in respect of which the same person is an employee are to be treated as one.
- (5) In this Part of this Act, except ^{F28}sections 167ZE and 167ZEE], “week” means a period of 7 days beginning with Sunday or such other period as may be prescribed in relation to any particular case or class of cases.
- (6) For the purposes of this Part of this Act, a person’s normal weekly earnings shall, subject to subsection (8) below, be taken to be the average weekly earnings which in the relevant period have been paid to him or paid for his benefit under the contract of service with the employer in question.

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- (7) For the purposes of subsection (6) above, “earnings” and “relevant period” shall have the meanings given to them by regulations.
- (8) In such cases as may be prescribed, a person’s normal weekly earnings shall be calculated in accordance with regulations.
- (9) Where in consequence of the establishment of one or more Health and Social Services trusts under the Health and Personal Social Services (Northern Ireland) Order 1991, a person’s contract of employment is treated by a scheme under that Order as divided so as to constitute two or more contracts, regulations may make provision enabling the person to elect for all of those contracts to be treated as one contract for the purposes of this Part of this Act or such provisions of this Part of this Act as may be prescribed.
- (10) Regulations under subsection (9) above may prescribe—
 - (a) the conditions that must be satisfied if a person is to be entitled to make such an election;
 - (b) the manner in which, and the time within which, such an election is to be made;
 - (c) the persons to whom, and the manner in which, notice of such an election is to be given;
 - (d) the information which a person who makes such an election is to provide, and the persons to whom, and the time within which, he is to provide it;
 - (e) the time for which such an election is to have effect;
 - (f) which one of the person’s employers under two or more contracts is to be regarded for the purposes of [F29 ordinary statutory paternity pay or additional statutory paternity pay] as his employer under the contract.
- (11) The powers under subsections (9) and (10) above are without prejudice to any other power to make regulations under this Part of this Act.
- (12) In this Part of this Act “regulations” means regulations made by the Department and in relation to any such regulations sections 171 and 172 below have effect as if references to the Department were references to the Department for Employment and Learning.
- (13) Regulations under any of subsections (4) to (10) above must be made with the concurrence of the Board.

Textual Amendments

- F25** Words in s. 167ZJ(1) substituted (1.10.2006) by [The Employment Equality \(Age\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/261\)](#), reg. 1(1), **Sch. 7 para. 1(5)(a)** (with reg. 50, Sch. 7 para. 1(6))
- F26** Words in s. 167ZJ(2)(a) substituted (13.5.2014) by [National Insurance Contributions Act 2014 \(c. 7\)](#), s. 15(4), **Sch. 2 para. 11**
- F27** S. 167ZJ(2)(b) and preceding word repealed (1.10.2006) by [The Employment Equality \(Age\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/261\)](#), reg. 1(1), Sch. 7 para. 1(5)(b), **Sch. 8(1)** (with reg. 50, Sch. 7 para. 1(6))
- F28** Words in s. 167ZJ(5) substituted (9.9.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), **Sch. 1 para. 19(2)**; S.R. 2010/295, art. 2(c)
- F29** Words in s. 167ZJ(10)(f) substituted (9.9.2010) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), **Sch. 1 para. 19(3)**; S.R. 2010/295, art. 2(c)

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167ZK Power to apply Part XIIIA to ^{F30}other cases]

^{F31}(1) [The Department may by regulations provide for this Part of this Act to have effect in relation to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom, with such modifications as the regulations may prescribe.

^{F32}(2) [The Department may by regulations provide for this Part to have effect in relation to cases which involve a person who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order, with such modifications as may be prescribed.]]

Textual Amendments

- F30** Words in s. 167ZK heading substituted (15.3.2015) by [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\), ss. 11\(2\)\(a\), 23\(1\); S.R. 2015/86, art. 3\(1\)\(i\)](#)
- F31** S. 167ZK(1) formed from s. 167ZK (15.3.2015) by [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\), ss. 11\(2\)\(b\), 23\(1\); S.R. 2015/86, art. 3\(1\)\(i\)](#)
- F32** S. 167ZK(2) added (15.3.2015) by [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\), ss. 11\(2\)\(c\), 23\(1\); S.R. 2015/86, art. 3\(1\)\(i\)](#)

Status:

Point in time view as at 15/03/2015.

Changes to legislation:

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