

Status: Point in time view as at 03/10/2010.

Changes to legislation: Social Security Contributions and Benefits (Northern Ireland) Act 1992, Cross Heading: Additional statutory paternity pay is up to date with all changes known to be in force on or before 14 July 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

[^{F1}ORDINARY AND ADDITIONAL STATUTORY PATERNITY PAY]

[^{F1}[^{F2}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** 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”.
- (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;

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- (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

F3 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”);
 - (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;

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- (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

F3 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

F4 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.
- (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;

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- (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

F4 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)

[**F5** **167ZED** **Liability to make payments of additional statutory paternity pay**

- (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

- F5** 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

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 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 paternity pay period began.]]

Textual Amendments

- F6** [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)

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