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Social Security Contributions and Benefits (Northern Ireland) Act 1992

1992 CHAPTER 7

[^{F1}PART XIIZA **N.I.**

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

[^{F1}^{F2}Ordinary and additional statutory paternity pay: supplementary provisions]

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. 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 **N.I.**

- (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 [^{F3}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

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- (b) would be so authorised if he were liable to pay contractual remuneration in respect of that period.

Textual Amendments

F3 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)

167ZG Relationship with contractual remuneration **N.I.**

- (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 ^{F4}(4) additional statutory paternity pay.]

Textual Amendments

F4 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 **N.I.**

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 **N.I.**

- (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.

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- (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 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 XIIZA: supplementary **N.I.**

- (1) In this Part of this Act—
- “the Board” means the Commissioners of Inland Revenue;
 - “the Department” means the Department for Employment and Learning;
 - [^{F5}“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 emoluments chargeable to income tax under Schedule E; ^{F6}...
 - ^{F6}(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;

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- (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 [^{F7}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.
- (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 [^{F8}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

- F5** 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))

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- F6** 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))
- F7** 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)
- F8** 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)

Modifications etc. (not altering text)

- C1** S. 167ZJ(6) modified (8.12.2002) by Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations (Northern Ireland) 2002 (S.R. 2002/378), **reg. 39(1)**

167ZK Power to apply Part XIIZA to adoption cases not involving placement **N.I.**

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.]

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