



Social Security Contributions and Benefits (Northern Ireland) Act 1992

1992 CHAPTER 7

[^{F1}PART XIIZA

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

[^{F1} [^{F2}Ordinary 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. 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 “[^{F3}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;
 - (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

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- (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 [^{F3}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

F3 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 "[^{F4}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.
- (4) A person may not elect to receive [^{F4}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.

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- (6) A person's entitlement to [F4 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

- F4** 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)

[F5 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—
- the authority—
 - is considering adoption for the child, or
 - 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
 - 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—
- the references in subsection (2) to a child being placed for adoption under the law of any part of the United Kingdom,
 - 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,
 - the reference in subsection (6) to placement for adoption,
 - 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,
- "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),

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“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

F5 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 [^{F6}ordinary statutory paternity pay] in respect of any period [^{F7}only 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 ^{F8}(1A) given.]
- (2) The notice shall be in writing if the person who is liable to pay the [^{F6}ordinary 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
 - (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

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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

- F6** 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)
- F7** 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))
- F8** [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 [^{F9}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 [^{F10}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 [^{F11}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

- F9** 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)
- F10** 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)
- 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\(3\)\(b\)](#); S.R. 2010/295, art. 3(d)

167ZE Rate and period of pay

- (1) [^{F12}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) [^{F12}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

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- (b) if regulations permit the person entitled to choose to receive [^{F12}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—
- ^{F13}(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) [^{F12}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 [^{F12}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, [^{F12}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 [^{F12}ordinary statutory paternity pay].
- (8) The Department may by regulations specify circumstances in which there is to be no liability to pay [^{F12}ordinary statutory paternity pay] in respect of a statutory pay week.
- (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.

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[Where for any purpose of this Part of this Act or of regulations it is necessary to ^{F14}(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 [^{F12}ordinary statutory paternity pay], means a week chosen by him as a week in respect of which [^{F12}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) ^{F15}(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

F12 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)

F13 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)

F14 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)

F15 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)

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