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STATUTORY INSTRUMENTS

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**2020 No. 252**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Statutory Parental Bereavement Pay  
(Persons Abroad and Mariners) Regulations 2020**

<i>Made</i>	- - - -	<i>9th March 2020</i>
<i>Laid before Parliament</i>		<i>10th March 2020</i>
<i>Coming into force</i>	- -	<i>6th April 2020</i>

The Secretary of State, with the concurrence of the Treasury, makes the following Regulations in exercise of the powers conferred by sections 171ZZ13 and 171ZZ14(3) of the Social Security Contributions and Benefits Act 1992(1).

This instrument only contains regulations made by virtue of, or consequential upon, the Schedule to the Parental Bereavement (Leave and Pay) Act 2018(2) and is made before the end of the period of 6 months beginning with the coming into force of that enactment(3).

**Citation and Commencement**

1. These Regulations may be cited as the Statutory Parental Bereavement Pay (Persons Abroad and Mariners) Regulations 2020 and come into force on 6th April 2020.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Social Security Contributions and Benefits Act 1992;

“foreign-going ship” means any ship or vessel which is not a home-trade ship;

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- (1) 1992 c. 4; sections 171ZZ13(1) and 171ZZ14(3)(b) were inserted by the Parental Bereavement (Leave and Pay) Act 2018 (c. 24), section 1 and Schedule Part 2. Under section 175(1) of the Social Security Contributions and Benefits Act 1992, regulations are made by the Secretary of State.
- (2) 2018 c. 24.
- (3) See section 173(5) of the Social Security Administration Act 1992 (c. 5). Pursuant to section 172 of that Act, where the Secretary of State proposes to make regulations under the Social Security Contributions and Benefits Act 1992, the Secretary of State is required to refer such proposals, normally in the form of draft regulations, to the Social Security Advisory Committee. This requirement does not apply where the regulations are contained in a statutory instrument made before the end of a period of six months beginning with the coming into force of the enactments by virtue of, or as a consequence of which, the regulations are being made.

“General Regulations” means the Statutory Parental Bereavement Pay (General) Regulations 2020(4);

“home-trade ship” includes—

- (a) every ship or vessel employed in trading or going within the following limits—
  - (i) the United Kingdom (including for this purpose the Republic of Ireland),
  - (ii) the Channel Islands,
  - (iii) the Isle of Man, and
  - (iv) the continent of Europe between the river Elbe and Brest inclusive;
- (b) every fishing vessel not proceeding beyond the following limits—
  - (i) on the South, Latitude 48°30'N,
  - (ii) on the West, Longitude 12°W, and
  - (iii) on the North, Latitude 61°N;

“mariner” means a person who is or has been in employment under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—

- (a) the employment in that other capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel, and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage,

but does not include a person insofar as their employment is as a serving member of HM’s forces;

“serving member of HM’s forces” means a member of a regular force or reserve force (“M”) as defined, in each case, by section 374 (definitions applying for purposes of the whole Act) of the Armed Forces Act 2006(5), unless—

- (a) M is under the age of 16,
- (b) M is committing an offence under section 8 of the Armed Forces Act 2006 (desertion),
- (c) the force concerned is one of Her Majesty’s (“HM’s”) naval forces which M locally entered at an overseas base without previously being—
  - (i) an insured person under the National Insurance Act 1965(6), or
  - (ii) a contributor under the Act, or
- (d) the force concerned is one of HM’s military forces or HM’s air forces which M entered, or was recruited for, outside the United Kingdom and—
  - (i) where that force is one of HM’s military forces, the depot for M’s unit is outside the United Kingdom, or
  - (ii) where that force is one of HM’s air forces, M is liable under the terms of M’s engagement to serve only in a specified area outside the United Kingdom;

“statutory parental bereavement pay” means statutory parental bereavement pay payable in accordance with the provisions of Part 12ZD of the Act where the conditions specified in section 171ZZ6(2) of the Act are satisfied.

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(4) S.I. 2020/233.

(5) 2006 c. 52; section 374 was amended by the Defence Reform Act 2014 (c. 20), section 44; there are other amendments none of which is relevant.

(6) 1965 c. 51.

(2) For the purposes of these regulations, the expressions “ship” and “ship or vessel” include hovercraft, except in regulation 9(2).

### **Application**

3. These Regulations apply in relation to children who die on or after 6th April 2020.

### **Restriction on scope**

4. A person who would not be treated under regulation 11 (treatment of persons as employees) of the General Regulations as an employee for the purposes of Part 12ZD (statutory parental bereavement pay) of the Act(7) if that person’s employment were in Great Britain shall not be treated as an employee under these Regulations.

### **Treatment of persons in EEA states as employees**

5. A person who is—

- (a) gainfully employed in an EEA state in such circumstances that, if the employment were in Great Britain, the person would be an employee for the purposes of Part 12ZD of the Act, or a person treated as such an employee under regulation 11 (treatment of persons as employees) of the General Regulations, and
- (b) subject to the legislation of the United Kingdom under [Council Regulation \(EEC\) No 1408/71\(8\)](#) of 14 June 1971 as amended from time to time or Regulation (EC) 883/2004 of the European Parliament and of the Council of 29 April 2004(9) as amended from time to time on the coordination of social security systems,

notwithstanding that person not being employed in Great Britain, shall be treated as an employee for the purposes of Part 12ZD of the Act.

### **Treatment of certain persons absent from Great Britain as employees**

6. Subject to regulation 9(2), where a person, while absent from Great Britain for any purpose, is gainfully employed by an employer who is liable to pay secondary Class 1 contributions (within the meaning of section 1(2) of the Act) in respect of that person’s employment under section 6 of the Act(10) or regulation 146 of the Social Security Contributions Regulations 2001(11), that person shall be treated as an employee for the purposes of Part 12ZD of the Act.

### **Entitlement to statutory parental bereavement pay where person has worked in an EEA state in the 26 weeks preceding the death of a child**

7.—(1) A person who—

- (a) is an employee or treated as an employee under regulation 5,

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(7) Part 12ZD of the Act was inserted by the Parental Bereavement (Leave and Pay) Act 2018, section 1 and Schedule Part 2.

(8) The text of Regulation EEC 1408/71 is restated in Annex 1, Part 1 of Council Regulation (EC) No 118/97 of 2 December 1996 OJ No. L 28, 30.01.1997, p.1 and was last amended by Regulation (EC) No 592/2008 of the European Parliament and of the Council of 17 June 2008 OJ No. L 177, 04.07.2008, p.1.

(9) OJ No. L 166, 30.04.2004, p.1 and OJ No. L 200, 07.06.2004, p.1. The Regulation was last amended by Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 OJ No. L 186, 11.07.2019, p.21. There are further amendments in [S.I. 2019/211](#), [2019/2012](#), [2019/622](#), [2019/722](#), [2019/776](#), [2019/1302](#) and [2019/1303](#), none of which are yet in force.

(10) Section 6 was substituted by the Welfare Reform and Pensions Act 1992 (c. 30), Schedule 9, Part 1, paragraph 2 and by the Child Support, Pensions and Social Security Act 2000 (c. 19), section 77(3).

(11) [S.I. 2001/1004](#), amended by [S.I. 2007/1838](#).

- (b) in the relevant week, was in employed earner's employment with an employer in Great Britain, and
- (c) had, in any week within the period of 26 weeks ending with the relevant week, been employed by the same employer in an EEA state,

shall be treated for the purposes of section 171ZZ6 of the Act (entitlement to statutory parental bereavement pay) as having been employed in employed earner's employment with an employer in those weeks in which the person was so employed in the EEA state.

(2) In paragraph (1), "relevant week" means the week immediately before the one in which the child dies.

### **Time for compliance with Part 12ZD of the Act or regulations made under it**

#### **8. Where—**

- (a) a person is outside the United Kingdom,
- (b) Part 12ZD of the Act or regulations made under it require any act to be done forthwith or on the happening of a certain event or within a specified time, and
- (c) because the person is outside the United Kingdom that person or that person's employer cannot comply with the requirement,

the person or the employer, as the case may be, will be deemed to have complied with the requirement if the act is performed as soon as reasonably practicable.

### **Mariners**

**9.—(1)** A mariner engaged in employment on board a home-trade ship with an employer who has a place of business within the United Kingdom shall be treated as an employee for the purposes of Part 12ZD of the Act, notwithstanding that the mariner may not be employed in Great Britain.

(2) A mariner who is engaged in employment—

- (a) on a foreign-going ship, or
- (b) on a home-trade ship with an employer who does not have a place of business within the United Kingdom,

shall not be treated as an employee for the purposes of Part 12ZD of the Act, notwithstanding that the mariner may have been employed in Great Britain.

### **Continental shelf**

**10.—(1)** In this regulation—

- (a) "designated area" means any area which may from time to time be designated by Order in Council under section 1(7) of the Continental Shelf Act 1964<sup>(12)</sup> as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;
- (b) "prescribed employment" means any employment (whether under a contract of service or not) in a designated area in connection with continental shelf operations, as defined in section 120(2) of the Act<sup>(13)</sup>.

(2) A person in prescribed employment shall be treated as an employee for the purposes of Part 12ZD of the Act notwithstanding that that person may not be employed in Great Britain.

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<sup>(12)</sup> 1964 c. 29; section 1(7) was amended by the Oil and Gas (Enterprise) Act 1982 (c. 23), section 37 and Schedule 3, paragraph 1, and the Energy Act 2011 (c. 16), section 103.

<sup>(13)</sup> Section 120(2) was amended by the Petroleum Act 1998 (c. 17), Schedule 4, paragraph 30.

9th March 2020

*Paul Scully*  
Parliamentary Under Secretary of State  
Department for Business, Energy and Industrial  
Strategy

We concur in making these Regulations

9th March 2020

*Iain Stewart*  
*Rebecca Harris*  
Two of the Lords Commissioners for Her  
Majesty's Treasury

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations relate to the treatment under Part 12ZD of the Social Security Contributions and Benefits Act 1992 of persons abroad, persons who work as mariners and persons who work on the continental shelf. The effect is that certain persons who would otherwise not fulfil the qualifying conditions for entitlement to statutory parental bereavement pay because of the nature of their employment or the fact that they are outside the United Kingdom will have an entitlement to such pay.

Regulation 4 limits the application of the Regulations to cases where the person would be treated as an employee under Part 12ZD of the Act if the employment were in Great Britain.

Regulation 5 provides for a person employed in a State of the European Economic Area but subject to the legislation of the United Kingdom to be treated as an employee for the purposes of Part 12ZD.

Regulation 6 provides for a person who is absent from Great Britain but in respect of whom an employer has secondary Class 1 national insurance contribution liability to be treated as an employee for the purposes of the Part 12ZD.

Where a person has worked for the same employer both in Great Britain and in a State of the European Economic Area, regulation 7 provides, in specified circumstances, for employment in the Member State to be treated as employed earner's employment for the purposes of Part 12ZD.

Regulation 8 relaxes any time limit imposed by Part 12ZD of the Act or regulations made under it in relation to a person who cannot comply with the time limit because that person is outside the United Kingdom.

Regulation 9 treats certain classes of mariners as employees for the purposes of Part 12ZD and regulation 10 makes corresponding provision for persons working on the continental shelf.

An impact assessment has not been prepared for these Regulations. These Regulations are part of a package of legislative measures and the relevant impact assessment is the *Parental Bereavement (Leave and Pay) Bill impact assessment* which was published on 14 May 2018. A copy of that impact assessment can be obtained from the Department for Business, Innovation and Skills, Labour Market Directorate, 1 Victoria Street, London, SW1H 0ET.