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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 93**

The Shared Parental Leave Regulations (Northern Ireland) 2015

PART 2

ENTITLEMENT TO SHARED PARENTAL LEAVE (BIRTH)

CHAPTER 1

Entitlement to leave – general

**Calculation of total amount of shared parental leave available (birth)**

6.—(1) Where M is entitled to statutory maternity leave, subject to paragraph (10), the total amount of shared parental leave available to M and P in relation to C is 52 weeks less—

- (a) where there is a leave curtailment date, the number of weeks of statutory maternity leave beginning with the first day of statutory maternity leave taken by M and ending with the leave curtailment date (irrespective of whether or not M returns to work before that date); or
- (b) where M's statutory maternity leave ends without her curtailing that leave under Article 103(3) or Article 105(3) of the 1996 Order, the number of weeks of statutory maternity leave taken.

(2) Where M is not entitled to statutory maternity leave, but is entitled to statutory maternity pay, subject to paragraph (11), the total amount of shared parental leave available to P in relation to C is 52 weeks less—

- (a) where M returns to work without reducing her statutory maternity pay period under section 161(3A) of the 1992 Act, the number of weeks of statutory maternity pay payable to M in respect of C before M returns to work; or
- (b) in any other case, the number of weeks of statutory maternity pay payable to M in respect of C up to the pay curtailment date.

(3) Where M is not entitled to statutory maternity leave, but is entitled to maternity allowance, the total amount of shared parental leave available to P in relation to C is 52 weeks less—

- (a) where M returns to work without reducing her maternity allowance period under section 35(3A) of the 1992 Act, the number of weeks of maternity allowance payable to M in respect of C before M returns to work; or
- (b) in any other case, the number of weeks of maternity allowance payable to M in respect of C up to the allowance curtailment date.

(4) The total amount of shared parental leave which M is entitled to take in relation to C is the product of the calculation in paragraph (1) less—

- (a) any shared parental leave which P has notified under regulation 12 (as varied by any notice under regulation 15);

- (b) any period of leave which is required to be taken in accordance with paragraph (2) of regulation 18; and
  - (c) any weeks of statutory shared parental pay to which P is entitled and during which P is not absent on shared parental leave.
- (5) The total amount of shared parental leave which P is entitled to take in relation to C is the product of the calculation in paragraph (1), (2) or (3), as the case may be, less—
- (a) any shared parental leave which M has notified under regulation 12 (as varied by any notice under regulation 15);
  - (b) any period of leave which is required to be taken in accordance with paragraph (1) of regulation 18; and
  - (c) any weeks of statutory shared parental pay to which M is entitled and during which M is not absent on shared parental leave.
- (6) For the purposes of paragraphs (4)(a) and (5)(a), any leave notified but, as a result of M giving a revocation notice, not taken must be disregarded.
- (7) For the purposes of paragraph (1), a part of a week in which maternity leave is taken is to be treated as a whole week.
- (8) For the purposes of paragraph (2) and (3)—
- (a) a part of a week in respect of which statutory maternity pay or maternity allowance is payable is to be treated as a whole week; and
  - (b) “week” has the meaning given by section 161(8) of the 1992 Act<sup>(1)</sup>, in relation to statutory maternity pay, and the meaning given by section 121(1) of that Act<sup>(2)</sup>, in relation to maternity allowance.
- (9) For the purposes of paragraphs (4) and (5), any week of leave or pay notified by M or P, as the case may be, to be taken concurrently from more than one employer is to be treated as one week.
- (10) Where M is entitled to take statutory maternity leave from more than one employment, any calculation under paragraph (1) of the total amount of shared parental leave available must be calculated using—
- (a) the first day of statutory maternity leave taken by M in relation to C from any employment; and
  - (b) the later of—
    - (i) the leave curtailment date; or
    - (ii) the last day of statutory maternity leave taken by M from any employment in relation to C where that leave ends without her curtailing it under Article 103(3) or Article 105(3) of the 1996 Order.
- (11) Where M is not entitled to statutory maternity leave, but has more than one entitlement to statutory maternity pay—
- (a) paragraph (2)(a) is to apply as though it read—
    - “(a) where M returns to work for all of her employers without reducing her statutory maternity pay periods under section 161(3A) of the 1992 Act, the number of weeks of statutory maternity pay payable to M in respect of C before the last date on which M returns to work, or”; and
  - (b) paragraph (2)(b) is to apply as though it read—

(1) Section 161(8) was inserted by the Work and Families (Northern Ireland) Order 2006, Schedule 1, paragraph 6(4).

(2) Section 121(1) was amended for relevant purposes by the Tax Credits Act 2002 (c. 21), Schedule 6.

“(b) in any other case, the number of weeks of statutory maternity pay payable to M in respect of C up to the latest pay curtailment date.”.