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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 94**

**The Statutory Shared Parental Pay (General)  
Regulations (Northern Ireland) 2015**

**PART 5**

**PAYMENT OF STATUTORY SHARED PARENTAL PAY**

**Liability of the Commissioners to pay statutory shared parental pay**

**45.**—(1) Despite section 167ZZ1(1) of the 1992 Act (liability to make payments of statutory shared parental pay is liability of the employer) where the conditions in paragraph are satisfied, liability to make payments of statutory shared parental pay to a person is to be a liability of the Commissioners and not the employer for—

- (a) any week in respect of which the employer was liable to pay statutory shared parental pay to that person but did not do so; and
- (b) for any subsequent weeks that person is entitled to payments of statutory shared parental pay.

(2) The conditions in this paragraph are that—

- (a) an officer of the Revenue and Customs has decided under Article 7(1) of the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 that an employer is liable to make payments of statutory shared parental pay;
- (b) the time for appealing against the decision has expired; and
- (c) no appeal against the decision has been lodged or leave to appeal against the decision is required and has been refused.

(3) Despite section 167ZZ1(1) of the 1992 Act, liability to make payments of statutory shared parental pay to a person is to be a liability of the Commissioners and not the employer as from the week in which the employer first becomes insolvent (see paragraph (4)) until the last week that person is entitled to payment of statutory shared parental pay.

(4) For the purposes of paragraph (3) an employer shall be taken to be insolvent if, and only if—

- (a) the employer has been adjudged bankrupt or has made a composition or arrangement with its creditors;
- (b) the employer has died and the employer's estate falls to be administered in accordance with an order made under Article 365 of the Insolvency (Northern Ireland) Order 1989(1); or
- (c) where an employer is a company or a limited liability partnership—
  - (i) a winding-up order is made or a resolution for a voluntary winding-up is passed (or, in the case of a limited liability partnership, a determination for voluntary winding-up has been made) with respect to it;

- (ii) it enters administration;
- (iii) a receiver or manager of its undertaking is duly appointed;
- (iv) possession is taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company or limited liability partnership comprised in or subject to the charge; or
- (v) a voluntary arrangement proposed for the purposes of Part 2 of the Insolvency (Northern Ireland) Order 1989 is approved under that Part.