
EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations exercise powers inserted into the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (the “1992 Act”) by the Parental Bereavement (Leave and Pay) Act (Northern Ireland) 2022 (c. 5), which provided for a new entitlement for bereaved parents who are employed earners to receive a statutory payment from their employers called statutory parental bereavement pay.

Part 1 is introductory and, in particular, defines certain terms and specifies when the new entitlement arises.

Part 2 (regulations 4 to 10) relates to the conditions for entitlement to statutory parental bereavement pay. Regulation 4 sets out the types of relationships with a child which qualify someone for entitlement when the child dies. This includes a child’s legal parents (whether they are natural or adoptive parents) and natural parents who have lost their legal status as parents following an adoption or parental order, but in favour of whom a contact order has been made after the adoption. The entitlement also extends to adoptive and surrogate parents before a formal adoption or parental order is made, once the child is born (in the case of surrogacy) or (in the case of adoption) has been placed with them for adoption, or has entered Northern Ireland from abroad to live with them, prior to being adopted. In addition, individuals will be entitled if the child has been living with them, and they have had day to day responsibility for the child, for at least four weeks. The Regulations also confer entitlement on the partners of any of these parents.

Regulation 5 sets out how many weeks of statutory parental bereavement pay are available to a bereaved parent and Regulation 6 allows pay to be claimed for a single consecutive period, or for two non-consecutive blocks of a week each. Regulation 7 sets the qualifying period, within which statutory parental bereavement pay is payable, as a period of 56 weeks after the child’s death.

Regulation 8 details what notices and information the bereaved parent must provide. Notice of the week or weeks in respect of which payments must be made must be given within 28 days of the start of that week (or those weeks), along with the parent’s name and the date of the child’s death. In addition, parents must provide a written declaration, on the first occasion that they give notice, that they meet one of the relevant conditions as to relationship with the child who has died. If notice has been given before the start of the statutory pay week, there is provision for parents to withdraw that notice. Regulation 9 sets out circumstances where there is no liability to make payments (including for example when the parent is entitled to statutory sick pay, or has died). Regulation 10 deals with further circumstances relating to such matters as work or absence from work which mean that pay may, or may not be, payable.

Part 3 (regulations 11 to 19) contains provisions with further detail on the conditions relating to employment and earnings that a bereaved parent must satisfy in order to be entitled to statutory parental bereavement pay. Regulation 11 provides that certain people are, or are not, to be regarded as ‘employees’ for the purposes of the 1992 Act regardless of whether or not they would otherwise meet the relevant definition of an employee in that Act. Regulations 12 to 14 make specific provision to ensure that certain weeks in which an employee is absent from work, without a contract of service which continues during that absence, nevertheless count towards the requirement of 26 weeks’ continuous employment. Regulation 15 makes special provision for periods of employment which are between 25 and 26 weeks’ long. Regulations 16 and 17 make provision for continuity of employment when the identity of an employer changes, or the person is reinstated following service with the armed forces. Regulation 18 sets out when two or more employers should be treated

Status: This is the original version (as it was originally made).

as a single employer for the purposes of the 1992 Act, and how liability for statutory pay is to be apportioned between them. It also provides for two or more contracts of service with a single employer to be treated as a single contract of service. Regulation 19 sets out details of what the terms ‘earnings’ and ‘relevant period’ (used in the 1992 Act) are to mean.

Part 4 (regulations 20 to 29) contains provisions as to the payment of statutory parental bereavement pay. Regulation 20 sets the weekly rate of payment. Regulation 21 sets out when contractual and statutory rights to parental bereavement pay can be set off against each other. Regulation 22 provides that an employer who deliberately dismisses a parent in order to avoid liability for pay remains liable for payments. Regulation 23 allows payments to be made in the same way as remuneration, but excludes the possibility of payments in kind or the provision of board and lodging as a form of payment. Regulation 24 sets out when payment must be made after a determination has been issued by an officer of Revenue and Customs. Regulations 25 and 26 set out the circumstances in which liability to make payments shifts to the Commissioners for Revenue and Customs. Regulation 27 makes provision for when those payments are to be made. Regulation 28 allows the Commissioners to appoint someone else to act on behalf of the parent who is entitled to receive pay, in certain circumstances when the parent is incapacitated. Regulation 29 provides details of when notices are to be regarded as given.

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 in April 2020. (<https://www.economy-ni.gov.uk/sites/default/files/consultations/economy/equality-impact-assessment-parental-bereavement-leave-and-pay.pdf>).