

2022 No. 170

EMPLOYMENT

PARENTAL BEREAVEMENT

**The Statutory Parental Bereavement Pay (Persons Abroad and
Mariners) Regulations (Northern Ireland) 2022**

Made - - - -

31st March 2022

Coming into operation -

6th April 2022

The Department for the Economy makes the following Regulations in exercise of the powers conferred by sections 167ZZ16 and 167ZZ17(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), with the concurrence of the Treasury in so far as such concurrence is required(b).

Citation and Commencement

1. These Regulations may be cited as the Statutory Parental Bereavement Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 2022 and shall come into operation on 6th April 2022.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

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

“General Regulations” means the Statutory Parental Bereavement Pay (General) Regulations (Northern Ireland) 2022(c);

“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—

(a) 1992 c. 7; sections 167ZZ16 and 167ZZ17 were inserted by the Parental Bereavement (Leave and Pay) Act (Northern Ireland) 2022 c. 5 (N.I.), section 2.

(b) Regulations made by the Department for the Economy pursuant to 1992 c. 7, section 167ZZ16, must, by virtue of that section, be made with the concurrence of the Commissioners of Her Majesty’s Treasury.

(c) S.R. 2022 No. 167.

- (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 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(a), 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 (Northern Ireland) 1966(b), 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 of 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 12ZZD of the Act where the conditions specified in section 167ZZ9(2) of the Act(c) are satisfied.

(2) For the purposes of these Regulations, the expressions “ship” and “ship or vessel” include hovercraft, except in regulation 7(2).

Application

3. These Regulations apply in relation to children who die on or after 6th April 2022.

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 12ZZD (statutory parental bereavement pay) of the Act if that person’s employment were in Northern Ireland shall not be treated as an employee under these Regulations.

(a) 2006 c. 52.
(b) 1966 c. 6 (N.I.).
(c) 1992 c. 7; Part 12ZZD was inserted by 2022 c.5 (N.I.), section 2.

Treatment of certain persons absent from Northern Ireland as employees

5. Subject to regulation 7(2), where a person, while absent from Northern Ireland 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(a) or regulation 146 of the Social Security (Contributions) Regulations 2001(b), that person shall be treated as an employee for the purposes of Part 12ZD of the Act.

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

6. 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

7.—(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 Northern Ireland.

(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 Northern Ireland.

Continental shelf

8.—(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(c) 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 167ZZ16(3) of the Act(d).

(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 Northern Ireland.

(a) Section 6 was substituted by the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 10, paragraph 2, and was further amended by the Child Support, Pensions and Social Security Act 2000 (c. 19), section 81(3).

(b) S.I. 2001/1004, amended by S.I. 2007/1838.

(c) 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.

(d) Section 167ZZ16 was inserted by 2022 c. 5 (N.I.), section 2.

Sealed with the Official Seal of the Department for the Economy on 31st March 2022.

(L.S.)

Colin Jack
A senior officer of the
Department for the Economy

We concur in making these Regulations

30th March 2022

Alan Mak
Michael Tomlinson
Two of the Lords Commissioners of Her
Majesty's Treasury

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 (Northern Ireland) 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 Northern Ireland.

Regulation 5 provides for a person who is absent from Northern Ireland 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.

Regulation 6 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 7 treats certain classes of mariners as employees for the purposes of Part 12ZD and regulation 8 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 in April 2020. (<https://www.economy-ni.gov.uk/sites/default/files/consultations/economy/equality-impact-assessment-parental-bereavement-leave-and-pay.pdf>).

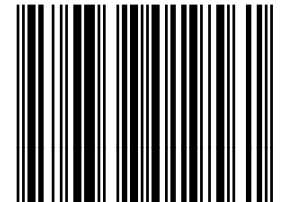
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