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DRAFT STATUTORY INSTRUMENTS

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**2014 No.**

**The Statutory Shared Parental Pay (General) Regulations 2014**

**PART 2**

**ENTITLEMENT TO STATUTORY SHARED PARENTAL PAY (BIRTH)**

**Extent of entitlement to statutory shared parental pay (birth)**

**10.**—(1) The number of weeks in respect of which M or P is entitled to payments of statutory shared parental pay (birth) in respect of C is 39 weeks less—

- (a) the number of weeks—
  - (i) in respect of which maternity allowance or statutory maternity pay is payable to M in respect of C up to the time M has returned to work (where M has returned to work without satisfying the condition in regulations 4(2)(e) or 5(3)(d) (condition as to reduction of the maternity pay period or the maternity allowance period)); or
  - (ii) in any other case, to which the maternity allowance period is reduced by virtue of section 35(3A) of the 1992 Act or, as the case may be, the maternity pay period is reduced by virtue of section 165(3A); and
- (b) the number of weeks of statutory shared parental pay in respect of C which—
  - (i) in the case of M, P has notified P's intention to claim under regulation 7 or 8; or
  - (ii) in the case of P, M has notified M's intention to claim under regulation 6 or 8.

(2) In a case where—

- (a) P was entitled to payments of statutory shared parental pay (birth) in respect of C; and
- (b) P ceases to be so entitled because M ceases to satisfy the condition in regulation 5(3)(d); and
- (c) P becomes entitled again to such payments as a result of M satisfying the condition in regulation 5(3)(d);

the number of weeks in which P claimed statutory shared parental pay (birth) up to the time P ceases to be so entitled is also to be deducted from the number of weeks specified in paragraph (1).

(3) Where paragraph (2) applies the number of weeks of statutory shared parental pay (birth) which P notified P's intention to claim under regulation 7(2)(b) (as varied under regulation 8(3)) before P ceases to be entitled to statutory shared parental pay (birth) is to be disregarded for the purposes of this regulation.

(4) In the case where M has more than one entitlement to statutory maternity pay in respect of C and in relation to all those entitlements she returns to work without satisfying the conditions in regulation 4(2)(e) or 5(3)(d), paragraph (1)(a)(i) shall apply as though it read—

“(i) in respect of which statutory maternity pay is payable to M in respect of C up to the last day M returns to work;”.

(5) In the case where M has more than one entitlement to statutory maternity pay in respect of C and the maternity pay periods which apply as a result of those entitlements are all reduced by virtue

of section 165(3A) of the 1992 Act before she returns to work, paragraph (1)(a)(ii) shall apply as though it read—

“(ii) falling in the period beginning with the first day of the maternity pay period which is the earliest to begin and ending on the last day of the maternity pay period which is the last to end;”.

(6) In the case where M has more than one entitlement to statutory maternity pay in respect of C and—

- (a) M returns to work in relation to one or more of those entitlements without satisfying the condition regulation 4(2)(e) or 5(3)(d), and
- (b) in relation to one or more of the maternity pay periods which apply as a result of those entitlements that period or those periods are reduced by virtue of section 165(3A) before M returns to work,

paragraph (1)(a) shall apply as though it read—

“(a) the number of weeks falling within the period beginning with the first day of the maternity pay period which is the earliest to begin and ending with the later of—

- (i) the last day of the maternity pay period which is reduced by virtue of section 165(3A) before M returns to work (or, where there is more than one such period, the last of those periods); and
- (ii) the day on which M returned to work without satisfying the condition in regulation 4(2)(e) or 5(3)(d) in relation to that period (or, where there is more than one such period, the last of those periods);”.

(7) In a case where P has more than one entitlement to statutory shared parental pay in respect of C, paragraph (1)(b)(i) shall apply as though it read—

“(i) in the case of M, P has notified P’s intention to claim under regulation 7 or 8 falling within the period beginning with the first day of the earliest period so notified and ending with the last day of the latest period so notified;”.

(8) In a case where M has more than one entitlement to statutory shared parental pay in respect of C, paragraph (1)(b)(ii) shall apply as though it read—

“(ii) in the case of P, M has notified M’s intention to claim under regulations 6 or 8 falling within the period beginning with the first day of the earliest period so notified and ending with the last day of the latest period so notified;”.

(9) In a case where P has more than one entitlement to statutory shared parental pay in respect of C, paragraph (2) shall apply as though the number of weeks referred to were the number of weeks which P claimed statutory shared parental pay in respect of C falling within the period beginning with the first day of the earliest period P claimed statutory shared parental pay and ending with the time P ceases to be so entitled.

(10) In this regulation a person is treated as returning to work if one of the following situations apply—

- (a) in a case where the person is entitled to maternity allowance, the allowance is not payable to her by virtue of regulations made under section 35(3)(a)(i) of the 1992 Act(1);
- (b) in a case where the person is entitled to statutory maternity pay, that payment is not payable to her in accordance with section 165(4) or (6) of the 1992 Act(2).

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(1) Section 35(3)(a)(i) was amended by the Work and Families Act 2006, Schedule 1, paragraph 6.

(2) Section 165(4) was amended by the Work and Families Act 2006, Schedule 1, paragraph 7(3).

(11) In determining in paragraph (1)(a)(i) the number of weeks in respect of which maternity allowance is payable to M in respect of C up to the time M has returned to work, part of a week in respect of which maternity allowance is payable is to be treated as a whole week.

(12) In paragraph (1)(a)(ii), (6), (7), (8) and (9) part of a week is to be treated as a whole week.

(13) In paragraph (1)(a) “week” has the meaning given by section 122(1) of the 1992 Act, in relation to maternity allowance, or the meaning given by section 165(8) in relation to statutory maternity pay.