
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Statutory Shared Parental Pay (General) Regulations 2014

PART 4

**CONDITIONS OF ENTITLEMENT RELATING
TO EMPLOYMENT AND EARNINGS**

Conditions relating to employment and earnings of a claimant's partner

29.—(1) In relation to the entitlement of M, P, A or AP to statutory shared parental pay a person satisfies the conditions as to earnings and employment specified in regulations 4(3)(b), 5(3)(b), 17(3)(b) and 18(3)(b) if that person—

- (a) has been engaged in employment as an employed or self-employed earner⁽¹⁾ for any part of the week in the case of at least 26 of the 66 weeks immediately preceding the calculation week; and
- (b) has average weekly earnings (determined in accordance with paragraph (2)) of not less than the amount set out in section 35A(6A) (state maternity allowance) of the 1992 Act⁽²⁾ in relation to the tax year before the tax year containing the calculation week.

(2) A person's average weekly earnings are determined by dividing by 13 the specified payments made, or treated as being made, to or for the benefit of that person in the 13 weeks (whether or not consecutive) in the period of 66 weeks immediately preceding the calculation week in which the payments are greatest.

(3) Where a person receives any pay after the end of the period in paragraph (1) in respect of any week falling after that period, the average weekly amount is to be determined as if such sum had been paid in that period.

(4) Where a person is not paid weekly, the payments made or treated as made for that person's benefit for the purposes of paragraph (1), are to be determined by dividing the total sum paid to that individual by the nearest whole number of weeks in respect of which that sum is paid.

(5) In this regulation—

“calculation week” means in relation to—

- (a) statutory shared parental pay (birth) the expected week of birth of C; and
- (b) statutory shared parental pay (adoption), the week in which A was notified as having been matched for adoption with C;

“employed earner” has the meaning given by section 2 of the 1992 Act⁽³⁾, subject for these purposes to the effect of regulations made under section 2(2)(b) of that Act;

“self-employed earner” has the meaning given by section 2 of the 1992 Act, subject for these purposes to the effect of regulations made under section 2(2)(b) of that Act;

(1) References to ‘employed earner’s employment’ are construed in accordance with section 2(3) of the Social Security Contributions and Benefits Act 1992.

(2) Section 35A(6A) was inserted by the Employment Act 2002, Schedule 7, paragraph 4(4).

(3) Section 2 was amended by the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6(2), paragraph 171.

“specified payments”—

- (a) in relation to a self-employed earner who satisfies the conditions in paragraph (6), are to be treated as made to the self-employed earner at an amount per week equal to the amount set out in section 35(6A) of the 1992 Act that is in force at the end of the week;
- (b) in relation to an employed earner, are all payments made to the employed earner or for that employed earner’s benefit as an employed earner specified in regulation 2 (specified payments for employed earners) of the Social Security (Maternity Allowance) (Earnings) Regulations 2000(4);

“tax year” means the 12 months beginning with the 6th April in any year.

(6) The conditions referred to in paragraph (a) of the definition of “specified payments” are that, in respect of any week, the self-employed earner—

- (a) does not hold a certificate of exception issued pursuant to regulation 44(1) of the Social Security (Contributions) Regulations 2001(5) and has paid a Class 2 contribution (within the meaning of section 1 of the 1992 Act), or
- (b) holds such a certificate of exception.

(4) S.I. 2000/688 amended by S.I. 2002/ 2690, S.I. 2007/1154.
(5) S.I. 2001/1004, to which there are amendments not relevant to these Regulations.