

SCHEDULE

STATUTORY SHARED PARENTAL PAY IN SPECIAL CIRCUMSTANCES

PART 1

STATUTORY SHARED PARENTAL PAY (BIRTH)

Entitlement of father or partner to statutory shared parental pay (birth) in the event of the death of M before curtailment

1.—(1) In a case where M dies—

- (a) before the end of her maternity allowance period in respect of C and without reducing that period under section 35(3A) of the 1992 Act⁽¹⁾, or
- (b) before the end of her maternity pay period in respect of C and without reducing that period under section 165(3A) of the 1992 Act⁽²⁾,

then these Regulations shall apply, in respect of any period after M dies, subject to the modifications in the following provisions of this paragraph.

(2) In regulation 2(1) a person is to be regarded as falling within the definition of P if that person would have done so but for the fact that M had died.

(3) In regulation 5 (entitlement of father or partner)—

- (a) paragraph (3)(d) shall not apply;
- (b) in a case where M dies before her maternity allowance period or maternity pay period in respect of C starts then the condition in paragraph (3)(c) shall be taken to be satisfied if it would have been satisfied but for the fact that M had died.

(4) In regulation 7 (notification and evidential requirements relating to father or mother's partner)

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

“(a) paragraphs (2) and (3) at least 8 weeks before the beginning of the first period specified by P pursuant to paragraph (2)(d) or, where it is not reasonably practicable for P to satisfy this requirement, as soon as reasonably practicable after the death of M, but in any event before that period;”;

(b) paragraph (1)(b) and (c) shall not apply;

(c) in paragraph (2)—

(i) sub-paragraph (a) shall apply as if the words “disregarding any intention of M to claim statutory shared parental pay (birth) in respect of C” were omitted; and

(ii) sub-paragraph (c) shall not apply;

(d) in paragraph (3)—

(i) sub-paragraph (a) shall not apply;

(ii) sub-paragraph (d) shall apply as if it read—

“(d) the following information relating to P and M—

(1) Section 35(3A) was inserted by section 120(2) of the Children and Families Act 2014.

(2) Section 165(3A) was inserted by section 120(4) of the Children and Families Act 2014.

- (i) P's name, M's name and national insurance number (where this number is known to P), M's address immediately before she died and the date of M's death; and
- (ii) the start date of M's maternity pay period or maternity allowance period in respect of C or, where M's death occurred before her maternity allowance period or maternity pay period in respect of C started, the date that period would have started but for the fact that M had died;"; and
- (iii) sub-paragraph (e)(iii) shall not apply;
- (e) paragraph (4) shall not apply.
- (5) In regulation 8(3) (variation)—
 - (a) sub-paragraph (a) shall apply as if the reference to M were omitted; and
 - (b) sub-paragraph (b) shall not apply.
- (6) In regulation 10 (extent of entitlement), paragraph (1)(a) shall apply as if the number of weeks referred to is the number of weeks in which maternity allowance or statutory maternity pay was payable to M in respect of C up to the time of M's death.

Notification and variation: death of mother or partner after curtailment

2.—(1) In the case where—

- (a) P, who in connection with a claim by M would be required to satisfy the conditions specified in regulation 4(3), dies after M has reduced her maternity allowance period in respect of C under section 35(3A) of the 1992 Act or her maternity pay period in respect of C under section 165(3A) of the 1992 Act; and
- (b) before P dies M has not given the notices and information specified in regulation 6 (notice and evidential requirements relation to the mother),

then these Regulations apply in respect of any period after P dies, subject to the modifications in the following provisions of this paragraph.

(2) In regulation 6 (notification and evidential requirements relating to the mother)—

- (a) paragraph (1)(a) shall apply as if it read—
 - “(a) paragraphs (2) and (3) at least 8 weeks before the beginning of the first period specified by M pursuant to paragraph (2)(d) or where it is not reasonably practicable for M to satisfy this requirement as soon as reasonably practicable after the death of P, but in any event before that period;”;
- (b) paragraph (1)(b) and (c) shall not apply;
- (c) in paragraph (2)—
 - (i) sub-paragraph (a) shall apply as if the words “disregarding any intention of P to claim statutory shared parental pay in respect of C” were omitted;
 - (ii) sub-paragraph (c) shall not apply;
- (d) in paragraph (3)—
 - (i) sub-paragraph (a) shall not apply;
 - (ii) sub-paragraph (d) shall apply as if it read—
 - “(d) M's name, P's name and national insurance number (where this number is known to M), P's address immediately before P died and the date of P's death”;

- (e) paragraph (4) shall not apply.
- (3) In regulation 8 (variation)—
 - (a) paragraph (2)(a) shall apply as if it read—
 - “(a) of the number of weeks during which M and P have exercised, and the number of weeks M intends to exercise, an entitlement to statutory shared parental pay (birth) in respect of C”;
 - (b) paragraph (2)(b) shall not apply.
- (4) In regulation 10 (extent of entitlement)—
 - (a) paragraph (1)(b)(i) shall apply as if the words “P has notified P’s intention to claim” to the end read “the number of weeks in which P claimed statutory shared parental pay (birth) in respect of C up to the time of P’s death.”;
 - (b) paragraph (7) shall apply as if the words “the last day of the latest period so notified” were “the time of P’s death”.

3.—(1) In the case where—

- (a) P, who in connection with M’s claim is required to satisfy the conditions specified in regulation 4(3), dies after M has reduced her maternity allowance period in respect of C under section 35(3A) of the 1992 Act or her maternity pay period in respect of C under section 165(3A) of the 1992 Act, and
- (b) before P dies M has given the notices and information specified in regulation 6 (notification and evidential requirements relating to the mother),

then these Regulations apply in respect of any period after P dies, subject to the modifications in the following provisions of this paragraph.

- (2) In regulation 8 (variation)—
 - (a) paragraph (1) shall apply in relation to the first notice made under that paragraph following P’s death as if at the end of that paragraph there is added—
 - “or, where it is not reasonably practicable for M to satisfy this requirement, by notice in writing given to that employer as soon as reasonably practicable after the death of P, but in any event before that period and which states the date of P’s death”;
 - (b) paragraph (2)(a) shall apply as if it read—
 - “(a) of the number of weeks during which M and P have exercised, and the number of weeks M intends to exercise, an entitlement to statutory shared parental pay (birth) in respect of C”;
 - (c) paragraph (2)(b) shall not apply.
- (3) In regulation 10—
 - (a) paragraph (1)(b)(i) shall apply as if the words “P has notified P’s intention to claim” to the end read—
 - “the number of weeks in which P claimed statutory shared parental pay (birth) in respect of C up to the time of P’s death”;
 - (b) paragraph (7) shall apply as if the words “the last day of the latest period so notified” were “the time of P’s death”.

4.—(1) In the case where—

- (a) M dies after she has reduced her maternity allowance period in respect of C under section 35(3A) of the 1992 Act or her maternity pay period in respect of C under section 165(3A) of the 1992 Act, and

- (b) before M dies P has not given the notices and information specified in regulation 7 (notification and evidential requirements relating to father or partner),

then these Regulations apply in respect of any period after M dies, subject to the modifications in the following provisions of this paragraph.

(2) In regulation 2(1) (definitions) a person is to be regarded as falling within the definition of P if that person would have done so but for the fact that M has died.

(3) In regulation 7 (notification and evidential requirements relating to P)—

(a) in paragraph (1)—

(i) sub-paragraph (a) shall apply as if it read—

“(a) paragraphs (2) and (3) at least 8 weeks before the beginning of the first period specified by P pursuant to paragraph (2)(d) or where it is not reasonably practicable for P to satisfy this requirement as soon as reasonably practicable after the death of M, but in any event before that period;”;

(ii) sub-paragraphs (b) and (c) shall not apply;

(b) in paragraph (2)—

(i) sub-paragraph (a) shall apply as if the words “disregarding any intention of M to claim statutory shared parental pay in respect of C” were omitted;

(ii) sub-paragraph (c) shall not apply;

(c) in paragraph (3)—

(i) sub-paragraph (a) shall not apply;

(ii) sub-paragraph (d) shall apply as if it read—

“(d) P’s name, M’s name and national insurance number (where this number is known to P), M’s address immediately before she died and the date of M’s death”;

(iii) sub-paragraph (e)(iii) shall not apply;

(d) paragraph (4) shall not apply.

(4) In regulation 8(variation), in paragraph (3)—

(a) sub-paragraph (a) shall apply as if it read—

“(a) of the number of weeks during which P and M have exercised, and the number of weeks P intends to exercise, an entitlement to statutory shared parental pay (birth) in respect of C”;

(b) sub-paragraph (b) shall not apply.

(5) In regulation 10 (extent of entitlement)—

(a) paragraph (1)(b)(ii) shall apply as if the words “M has notified M’s intention to claim” to the end read—

“the number of weeks in which M claimed statutory shared parental pay (birth) in respect of C up to the time of M’s death;”;

(b) paragraph (8) shall apply as if the words “the last day of the latest period” were “the time of M’s death”.

5.—(1) In the case where—

- (a) M dies after she has reduced her maternity allowance period in respect of C under section 35(3A) of the 1992 Act or her maternity pay period in respect of C under section 165(3A) of the 1992 Act, and
- (b) before M dies P has given the notice and information specified in regulation 7 (notification and evidential requirements relating to father or mother’s partner),

then these Regulations apply in respect of any period after M dies subject to the modifications in the following provisions of this paragraph.

(2) In regulation 8 (variation)—

- (a) paragraph (1) shall apply in relation to the first notice made under that regulation following M’s death as if at the end of that paragraph there is added—

“or, where it is not reasonably practicable for P to satisfy this requirement, by notice in writing given to that employer as soon as reasonably practicable after the death of M, but in any event before that period and which states the date of M’s death”;

- (b) paragraph (3)(a) shall apply as if it read—

“(a) of the number of weeks during which P and M have exercised, and the number of weeks P intends to exercise, an entitlement to statutory shared parental pay (birth) in respect of C”;

- (c) paragraph (3)(b) shall not apply.

(3) In regulation 10 (extent of entitlement)—

- (a) paragraph (1)(b)(ii) shall apply as if the words “M has notified M’s intention to claim” to the end read—

“the number of weeks in which M claimed statutory shared parental pay (birth) in respect of C up to the time of M’s death”;

- (b) paragraph (8) shall apply as if the words “the last day of the latest period” were “the time of M’s death”.

Death of child

6.—(1) In the case where M has given the notice and information in accordance with regulation 6(1) and then C dies, then in respect of any period after C dies paragraph (2)(f) of regulation 4 (entitlement of mother to statutory shared parental pay), shall not apply, and regulation 8 shall apply in accordance with sub-paragraph (3).

(2) In the case where P has given the notices and information in accordance with regulation 7(1) and then C dies, then in respect of any period after C dies paragraph (2)(d) of regulation 5 (entitlement of father or partner to statutory shared parental pay) shall not apply and regulation 8 shall apply in accordance with sub-paragraph (3).

(3) Where paragraph (1) or (2) applies, regulation 8 (variation) shall apply as if it read—

“(1) M, or as the case may be, P may cancel the period or periods during which they intend to claim statutory shared parental pay (birth) by notice in writing which is given at least 8 weeks before the first period to be cancelled, or, if this is not reasonably practicable, as soon as reasonably practicable after the death of C, but in any event before that period to the employer who will be liable to pay statutory shared parental pay (birth) to M or P.

(2) M and P may each only give one notice under paragraph (1).”.

(4) Where more than one child is born of the same pregnancy—

- (a) sub-paragraphs (2) and (3) only apply where all the children die; and
- (b) a reference in this paragraph relating to the death of C (however expressed) is to the death of the last of those children to die.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Statutory Shared Parental Pay (General) Regulations 2014 No. 3051