



# Social Security Contributions and Benefits Act 1992

## 1992 CHAPTER 4

### [<sup>F1</sup>PART 12ZC

#### STATUTORY SHARED PARENTAL PAY

##### Textual Amendments

- F1** Pt. 12ZC inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. **119(1)**, 139(6); S.I. 2014/1640, art. 3(1)(c)

##### Modifications etc. (not altering text)

- C1** Pt. 12ZC applied (with modifications) (19.4.2014) by [The Social Security Contributions and Benefits Act 1992 \(Application of Parts 12ZA, 12ZB and 12ZC to Parental Order Cases\) Regulations 2014 \(S.I. 2014/2866\)](#), regs. 1(2), 5, **Sch. 3** (as amended (3.1.2019) by S.I. 2018/1413, art. 1(1), **Sch. 2 para. 6**)

#### **171ZU Entitlement: birth**

- (1) Regulations may provide that, where all the conditions in subsection (2) are satisfied in relation to a person who is the mother of a child (“the claimant mother”), the claimant mother is to be entitled in accordance with the following provisions of this Part to payments to be known as “statutory shared parental pay”.
- (2) The conditions are—
  - (a) that the claimant mother and another person (“P”) satisfy prescribed conditions as to caring or intending to care for the child;
  - (b) that P satisfies prescribed conditions—
    - (i) as to employment or self-employment,
    - (ii) as to having earnings of a prescribed amount for a prescribed period, and
    - (iii) as to relationship either with the child or with the claimant mother;

*Status: Point in time view as at 01/04/2020.*

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- (c) that the claimant mother has been in employed earner's employment with an employer for a continuous period of at least the prescribed length ending with a prescribed week;
  - (d) that at the end of that prescribed week the claimant mother was entitled to be in that employment;
  - (e) that the claimant mother's normal weekly earnings for a prescribed period ending with a prescribed week are not less than the lower earnings limit in force under section 5(1)(a) at the end of that week;
  - (f) if regulations so provide, that the claimant mother continues in employed earner's employment (whether or not with the employer by reference to whom the condition in paragraph (c) is satisfied) until a prescribed time;
  - (g) that the claimant mother became entitled to statutory maternity pay by reference to the birth of the child;
  - (h) that the claimant mother satisfies prescribed conditions as to the reduction of the duration of the maternity pay period;
  - (i) that the claimant mother has given the person who will be liable to pay statutory shared parental pay to her notice of—
    - (i) the number of weeks in respect of which she would be entitled to claim statutory shared parental pay in respect of the child if the entitlement were fully exercised (disregarding for these purposes any intention of P to claim statutory shared parental pay in respect of the child),
    - (ii) the number of weeks in respect of which she intends to claim statutory shared parental pay, and
    - (iii) the number of weeks in respect of which P intends to claim statutory shared parental pay;
  - (j) that the claimant mother has given the person who will be liable to pay statutory shared parental pay to her notice of the period or periods during which she intends to claim statutory shared parental pay in respect of the child;
  - (k) that a notice under paragraph (i) or (j)—
    - (i) is given by such time as may be prescribed, and
    - (ii) satisfies prescribed conditions as to form and content;
  - (l) that P consents to the extent of the claimant mother's intended claim for statutory shared parental pay;
  - (m) that it is the claimant mother's intention to care for the child during each week in respect of which statutory shared parental pay is paid to her;
  - (n) that the claimant mother is absent from work during each week in respect of which statutory shared parental pay is paid to her;
  - (o) that, where she is an employee within the meaning of the Employment Rights Act 1996, the claimant mother's absence from work during each such week is absence on shared parental leave.
- (3) Regulations may provide that, where all the conditions in subsection (4) are satisfied in relation to a person (“the claimant”), the claimant is to be entitled in accordance with the following provisions of this Part to payments to be known as “statutory shared parental pay”.
- (4) The conditions are—
- (a) that the claimant and another person (“M”) who is the mother of a child satisfy prescribed conditions as to caring or intending to care for the child;

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- (b) that the claimant satisfies—
  - (i) prescribed conditions as to relationship with the child, or
  - (ii) prescribed conditions as to relationship with M;
- (c) that M satisfies prescribed conditions—
  - (i) as to employment or self-employment, and
  - (ii) as to having earnings of a prescribed amount for a prescribed period;
- (d) that the claimant has been in employed earner's employment with an employer for a continuous period of at least the prescribed length ending with a prescribed week;
- (e) that at the end of that prescribed week the claimant was entitled to be in that employment;
- (f) that the claimant's normal weekly earnings for a prescribed period ending with a prescribed week are not less than the lower earnings limit in force under section 5(1)(a) at the end of that week;
- (g) if regulations so provide, that the claimant continues in employed earner's employment (whether or not with the employer by reference to whom the condition in paragraph (d) is satisfied) until a prescribed time;
- (h) that M became entitled, by reference to the birth of the child, to—
  - (i) a maternity allowance, or
  - (ii) statutory maternity pay;
- (i) that M satisfies prescribed conditions as to—
  - (i) the reduction of the duration of the maternity allowance period, or
  - (ii) the reduction of the duration of the maternity pay period, as the case may be;
- (j) that the claimant has given the person who will be liable to pay statutory shared parental pay to the claimant notice of—
  - (i) the number of weeks in respect of which the claimant would be entitled to claim statutory shared parental pay in respect of the child if the entitlement were fully exercised (disregarding for these purposes any intention of M to claim statutory shared parental pay in respect of the child),
  - (ii) the number of weeks in respect of which the claimant intends to claim statutory shared parental pay, and
  - (iii) the number of weeks in respect of which M intends to claim statutory shared parental pay;
- (k) that the claimant has given the person who will be liable to pay statutory shared parental pay to the claimant notice of the period or periods during which the claimant intends to claim statutory shared parental pay in respect of the child;
- (l) that a notice under paragraph (j) or (k)—
  - (i) is given by such time as may be prescribed, and
  - (ii) satisfies prescribed conditions as to form and content;
- (m) that M consents to the extent of the claimant's intended claim for statutory shared parental pay;
- (n) that it is the claimant's intention to care for the child during each week in respect of which statutory shared parental pay is paid to the claimant;
- (o) that the claimant is absent from work during each week in respect of which statutory shared parental pay is paid to the claimant;

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- (p) that, where the claimant is an employee within the meaning of the Employment Rights Act 1996, the claimant's absence from work during each such week is absence on shared parental leave.
- (5) Regulations may provide for—
  - (a) the determination of the extent of a person's entitlement to statutory shared parental pay in respect of a child;
  - (b) when statutory shared parental pay is to be payable.
- (6) Provision under subsection (5)(a) is to secure that the number of weeks in respect of which a person is entitled to payments of statutory shared parental pay in respect of a child does not exceed the number of weeks of the maternity pay period reduced by—
  - (a) where the mother of the child takes action that is treated by regulations as constituting for the purposes of this section her return to work without satisfying conditions prescribed under subsection (2)(h) or, as the case may be, subsection (4)(i)—
    - (i) the number of relevant weeks in respect of which maternity allowance or statutory maternity pay is payable to the mother, or
    - (ii) if that number of relevant weeks is less than a number prescribed by regulations, that prescribed number of weeks, or
  - (b) except where paragraph (a) applies, the number of weeks to which the maternity allowance period is reduced by virtue of section 35(3A) or, as the case may be, the maternity pay period is reduced by virtue of section 165(3A).
- (7) In subsection (6)(a) “relevant week” means—
  - (a) where maternity allowance is payable to a mother, a week or part of a week falling before the time at which the mother takes action that is treated by regulations as constituting for the purposes of this section her return to work;
  - (b) where statutory maternity pay is payable to a mother, a week falling before the week in which the mother takes action that is so treated.

For these purposes “week” has the meaning given by section 122(1), in relation to maternity allowance, or the meaning given by section 165(8), in relation to statutory maternity pay.
- (8) In determining the number of weeks for the purposes of subsection (6)(b)—
  - (a) “week” has the same meaning as in subsection (7), and
  - (b) a part of a week is to be treated as a week.
- (9) Provision under subsection (5)(a) is to secure that, where two persons are entitled to payments of statutory shared parental pay in respect of a child, the extent of one's entitlement and the extent of the other's entitlement do not, taken together, exceed what would be available to one person (see subsection (6)).
- (10) Provision under subsection (5)(b) is to secure that no payment of statutory shared parental pay may be made to a person in respect of a child after the end of such period as may be prescribed.
- (11) Provision under subsection (5)(b) is to secure that no payment of statutory shared parental pay in respect of a child may be made to a person who is the mother of the child before the end of the mother's maternity pay period.
- (12) Regulations may provide that, where the conditions in subsection (13) are satisfied in relation to a person who is entitled to statutory shared parental pay under subsection (1)

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or (3) (“V”), V may vary the period or periods during which V intends to claim statutory shared parental pay in respect of the child in question, subject to complying with provision under subsection (14) where that is relevant.

(13) The conditions are—

- (a) that V has given the person who will be liable to pay statutory shared parental pay to V notice of an intention to vary the period or periods during which V intends to claim statutory shared parental pay;
- (b) that a notice under paragraph (a)—
  - (i) is given by such time as may be prescribed, and
  - (ii) satisfies prescribed conditions as to form and content.

(14) Regulations may provide that, where the conditions in subsection (15) are satisfied in relation to a person who is entitled to statutory shared parental pay under subsection (1) or (3) (“V”), V may vary the number of weeks in respect of which V intends to claim statutory shared parental pay.

(15) The conditions are—

- (a) that V has given the person who will be liable to pay statutory shared parental pay to V notice of—
  - (i) the extent to which V has exercised an entitlement to statutory shared parental pay in respect of the child,
  - (ii) the extent to which V intends to claim statutory shared parental pay in respect of the child,
  - (iii) the extent to which another person has exercised an entitlement to statutory shared parental pay in respect of the child, and
  - (iv) the extent to which another person intends to claim statutory shared parental pay in respect of the child;
- (b) that a notice under paragraph (a)—
  - (i) is given by such time as may be prescribed, and
  - (ii) satisfies prescribed conditions as to form and content;
- (c) that the person who is P or, as the case may be, M in relation to V consents to that variation.

(16) A person's entitlement to statutory shared parental pay under this section is not affected by the birth of more than one child as a result of the same pregnancy.

**Modifications etc. (not altering text)**

**C2** S. 171ZU modified (1.12.2014) by [The Statutory Shared Parental Pay \(Persons Abroad and Mariners\) Regulations 2014 \(S.I. 2014/3134\)](#), regs. 1, 7(1) (with regs. 3, 4)

**171ZV Entitlement: adoption**

(1) Regulations may provide that, where all the conditions in subsection (2) are satisfied in relation to a person with whom a child is, or is expected to be, placed for adoption under the law of any part of the United Kingdom (“claimant A”), claimant A is to be entitled in accordance with the following provisions of this Part to payments to be known as “statutory shared parental pay”.

(2) The conditions are—

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- (a) that claimant A and another person (“X”) satisfy prescribed conditions as to caring or intending to care for the child;
- (b) that X satisfies prescribed conditions—
  - (i) as to employment or self-employment,
  - (ii) as to having earnings of a prescribed amount for a prescribed period, and
  - (iii) as to relationship either with the child or with claimant A;
- (c) that claimant A has been in employed earner's employment with an employer for a continuous period of at least the prescribed length ending with a prescribed week;
- (d) that at the end of that prescribed week claimant A was entitled to be in that employment;
- (e) that claimant A's normal weekly earnings for a prescribed period ending with a prescribed week are not less than the lower earnings limit in force under section 5(1)(a) at the end of that week;
- (f) if regulations so provide, that claimant A continues in employed earner's employment (whether or not with the employer by reference to whom the condition in paragraph (c) is satisfied) until a prescribed time;
- (g) that claimant A became entitled to statutory adoption pay by reference to the placement for adoption of the child;
- (h) that claimant A satisfies prescribed conditions as to the reduction of the duration of the adoption pay period;
- (i) that claimant A has given the person who will be liable to pay statutory shared parental pay to claimant A notice of—
  - (i) the number of weeks in respect of which claimant A would be entitled to claim statutory shared parental pay in respect of the child if the entitlement were fully exercised (disregarding for these purposes any intention of X to claim statutory shared parental pay in respect of the child),
  - (ii) the number of weeks in respect of which claimant A intends to claim statutory shared parental pay, and
  - (iii) the number of weeks in respect of which X intends to claim statutory shared parental pay;
- (j) that claimant A has given the person who will be liable to pay statutory shared parental pay to claimant A notice of the period or periods during which claimant A intends to claim statutory shared parental pay in respect of the child;
- (k) that a notice under paragraph (i) or (j)—
  - (i) is given by such time as may be prescribed, and
  - (ii) satisfies prescribed conditions as to form and content;
- (l) that X consents to the extent of claimant A's intended claim for statutory shared parental pay;
- (m) that it is claimant A's intention to care for the child during each week in respect of which statutory shared parental pay is paid to claimant A;
- (n) that claimant A is absent from work during each week in respect of which statutory shared parental pay is paid to claimant A;
- (o) that, where claimant A is an employee within the meaning of the Employment Rights Act 1996, claimant A's absence from work during each such week is absence on shared parental leave.

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- (3) Regulations may provide that, where all the conditions in subsection (4) are satisfied in relation to a person (“claimant B”), claimant B is to be entitled in accordance with the following provisions of this Part to payments to be known as “statutory shared parental pay”.
- (4) The conditions are—
- (a) that claimant B and another person (“Y”) who is a person with whom a child is, or is expected to be, placed for adoption under the law of any part of the United Kingdom satisfy prescribed conditions as to caring or intending to care for the child;
  - (b) that claimant B satisfies—
    - (i) prescribed conditions as to relationship with the child, or
    - (ii) prescribed conditions as to relationship with Y;
  - (c) that Y satisfies prescribed conditions—
    - (i) as to employment or self-employment, and
    - (ii) as to having earnings of a prescribed amount for a prescribed period;
  - (d) that claimant B has been in employed earner's employment with an employer for a continuous period of at least the prescribed length ending with a prescribed week;
  - (e) that at the end of that prescribed week claimant B was entitled to be in that employment;
  - (f) that claimant B's normal weekly earnings for a prescribed period ending with a prescribed week are not less than the lower earnings limit in force under section 5(1)(a) at the end of that week;
  - (g) if regulations so provide, that claimant B continues in employed earner's employment (whether or not with the employer by reference to whom the condition in paragraph (d) is satisfied) until a prescribed time;
  - (h) that Y became entitled to statutory adoption pay by reference to the placement for adoption of the child;
  - (i) that Y satisfies prescribed conditions as to the reduction of the duration of the adoption pay period;
  - (j) that claimant B has given the person who will be liable to pay statutory shared parental pay to claimant B notice of—
    - (i) the number of weeks in respect of which claimant B would be entitled to claim statutory shared parental pay in respect of the child if the entitlement were fully exercised (disregarding for these purposes any intention of Y to claim statutory shared parental pay in respect of the child),
    - (ii) the number of weeks in respect of which claimant B intends to claim statutory shared parental pay, and
    - (iii) the number of weeks in respect of which Y intends to claim statutory shared parental pay;
  - (k) that claimant B has given the person who will be liable to pay statutory shared parental pay to claimant B notice of the period or periods during which claimant B intends to claim statutory shared parental pay in respect of the child;
  - (l) that a notice under paragraph (j) or (k)—
    - (i) is given by such time as may be prescribed, and
    - (ii) satisfies prescribed conditions as to form and content;

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- (m) that Y consents to the extent of claimant B's intended claim for statutory shared parental pay;
  - (n) that it is claimant B's intention to care for the child during each week in respect of which statutory shared parental pay is paid to claimant B;
  - (o) that claimant B is absent from work during each week in respect of which statutory shared parental pay is paid to claimant B;
  - (p) that, where claimant B is an employee within the meaning of the Employment Rights Act 1996, claimant B's absence from work during each such week is absence on shared parental leave.
- (5) Regulations may provide for—
- (a) the determination of the extent of a person's entitlement to statutory shared parental pay in respect of a child;
  - (b) when statutory shared parental pay is to be payable.
- (6) Provision under subsection (5)(a) is to secure that the number of weeks in respect of which a person is entitled to payments of statutory shared parental pay in respect of a child does not exceed the number of weeks of the adoption pay period reduced by—
- (a) where the person who became entitled to receive statutory adoption pay takes action that is treated by regulations as constituting for the purposes of this section the person's return to work without satisfying conditions prescribed under subsection (2)(h) or, as the case may be, subsection (4)(i)—
    - (i) the number of relevant weeks in respect of which statutory adoption pay is payable to the person, or
    - (ii) if that number of relevant weeks is less than a number prescribed by regulations, that prescribed number of weeks, or
  - (b) except where paragraph (a) applies, the number of weeks to which the adoption pay period has been reduced by virtue of section 171ZN(2A).
- (7) In subsection (6)(a) “relevant week” means a week falling before the week in which a person takes action that is treated by regulations as constituting for the purposes of this section the person's return to work, and for these purposes “week” has the meaning given by section 171ZN(8).
- (8) In determining the number of weeks for the purposes of subsection (6)(b)—
- (a) “week” has the same meaning as in subsection (7), and
  - (b) a part of a week is to be treated as a week.
- (9) Provision under subsection (5)(a) is to secure that, where two persons are entitled to payments of statutory shared parental pay in respect of a child, the extent of one's entitlement and the extent of the other's entitlement do not, taken together, exceed what would be available to one person (see subsection (6)).
- (10) Provision under subsection (5)(b) is to secure that no payment of statutory shared parental pay may be made to a person in respect of a child after the end of such period as may be prescribed.
- (11) Provision under subsection (5)(b) is to secure that no payment of statutory shared parental pay in respect of a child may be made to a person who became entitled to receive statutory adoption pay in respect of the child before the end of the person's adoption pay period.



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- (12) Regulations may provide that, where the conditions in subsection (13) are satisfied in relation to a person who is entitled to statutory shared parental pay under subsection (1) or (3) (“V”), V may vary the period or periods during which V intends to claim statutory shared parental pay in respect of the child in question, subject to complying with provision under subsection (14) where that is relevant.
- (13) The conditions are—
- (a) that V has given the person who will be liable to pay statutory shared parental pay to V notice of an intention to vary the period or periods during which V intends to claim statutory shared parental pay;
  - (b) that a notice under paragraph (a)—
    - (i) is given by such time as may be prescribed, and
    - (ii) satisfies prescribed conditions as to form and content.
- (14) Regulations may provide that, where the conditions in subsection (15) are satisfied in relation to a person who is entitled to statutory shared parental pay under subsection (1) or (3) (“V”), V may vary the number of weeks in respect of which V intends to claim statutory shared parental pay.
- (15) The conditions are—
- (a) that V has given the person who will be liable to pay statutory shared parental pay to V notice of—
    - (i) the extent to which V has exercised an entitlement to statutory shared parental pay in respect of the child,
    - (ii) the extent to which V intends to claim statutory shared parental pay in respect of the child,
    - (iii) the extent to which another person has exercised an entitlement to statutory shared parental pay in respect of the child, and
    - (iv) the extent to which another person intends to claim statutory shared parental pay in respect of the child;
  - (b) that a notice under paragraph (a)—
    - (i) is given by such time as may be prescribed, and
    - (ii) satisfies prescribed conditions as to form and content;
  - (c) that the person who is X or, as the case may be, Y in relation to V consents to that variation.
- (16) A person's entitlement to statutory shared parental pay under this section is not affected by the placement for adoption of more than one child as part of the same arrangement.
- [ Regulations are to provide for entitlement to statutory shared parental pay in respect
- <sup>F2</sup>(17) of a child placed, or expected to be placed—
- (a) under section 22C of the Children Act 1989 by a local authority in England, or
  - (b) under section 81 of the Social Services and Well-being (Wales) Act 2014 by a local authority in Wales,
- with a local authority foster parent who has been approved as a prospective adopter.
- (18) This section has effect in relation to regulations made by virtue of subsection (17) as if—
- (a) references to a child being placed for adoption under the law of any part of the United Kingdom were references to being placed under section 22C of the Children Act 1989 or section 81 of the Social Services and Well-being

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(Wales) Act 2014 with a local authority foster parent who has been approved as a prospective adopter;

- (b) references to a placement for adoption were references to placement under section 22C of the Children Act 1989 or section 81 of the Social Services and Well-being (Wales) Act 2014 with such a person.]

#### Textual Amendments

**F2** S. 171ZV(17)(18) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **138**

### 171ZW Entitlement: general

(1) Regulations may—

- (a) provide that the following do not have effect, or have effect subject to prescribed modifications, in such cases as may be prescribed—
- (i) section 171ZU(2)(a) to (o),
  - (ii) section 171ZU(4)(a) to (p),
  - (iii) section 171ZU(13)(a) and (b),
  - (iv) section 171ZU(15)(a) to (c),
  - (v) section 171ZV(2)(a) to (o),
  - (vi) section 171ZV(4)(a) to (p),
  - (vii) section 171ZV(13)(a) and (b), and
  - (viii) section 171ZV(15)(a) to (c);
- (b) impose requirements about evidence of entitlement and procedures to be followed;
- (c) specify in what circumstances employment is to be treated as continuous for the purposes of section 171ZU or 171ZV;
- (d) provide that a person is to be treated for the purposes of section 171ZU or 171ZV as being employed for a continuous period of at least the prescribed period where—
- (i) the person has been employed by the same employer for at least the prescribed period under two or more separate contracts of service, and
  - (ii) those contracts were not continuous;
- (e) provide for amounts earned by a person under separate contracts of service with the same employer to be aggregated for the purposes of section 171ZU or 171ZV;
- (f) provide that—
- (i) the amount of a person's earnings for any period, or
  - (ii) the amount of the person's earnings to be treated as comprised in any payment made to the person or for the person's benefit,

are to be calculated or estimated for the purposes of section 171ZU or 171ZV in such manner and on such basis as may be prescribed and that for that purpose payments of a particular class or description made or falling to be made to or by a person are, to such extent as may be prescribed, to be disregarded or, as the case may be, to be deducted from the amount of the person's earnings.

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- (2) The persons upon whom requirements may be imposed by virtue of subsection (1) (b) include—
  - (a) a person who, in connection with another person's claim to be paid statutory shared parental pay, is required to satisfy conditions prescribed under section 171ZU(2)(b) or (4)(c) or 171ZV(2)(b) or (4)(c);
  - (b) an employer or former employer of such a person.
- (3) In subsection (1)(d) “the prescribed period” means the period of the length prescribed by regulations under section 171ZU(2)(c) or (4)(d) or 171ZV(2)(c) or (4)(d), as the case may be.

### **171ZX Liability to make payments**

- (1) The liability to make payments of statutory shared parental pay under section 171ZU or 171ZV is a liability of any person of whom the person entitled to the payments has been an employee as mentioned in section 171ZU(2)(c) or (4)(d) or 171ZV(2)(c) or (4)(d), as the case may be.
- (2) Regulations must make provision as to a former employer's liability to pay statutory shared parental pay to a person in any case where the former employee's contract of service with the person has been brought to an end by the former employer solely, or mainly, for the purpose of avoiding liability for statutory shared parental pay.
- (3) The Secretary of State may, with the concurrence of the Commissioners for Her Majesty's Revenue and Customs, by regulations specify circumstances in which, notwithstanding this section, liability to make payments of statutory shared parental pay is to be a liability of the Commissioners.

### **171ZY Rate and period of pay**

- (1) Statutory shared parental pay is payable at such fixed or earnings-related weekly rate as may be prescribed by regulations, which may prescribe different kinds of rate for different cases.
- (2) Subject to the following provisions of this section, statutory shared parental pay is payable to a person in respect of each week falling within a relevant period, up to the number of weeks determined in the case of that person in accordance with regulations under section 171ZU(5) or 171ZV(5).
- (3) Except in such cases as may be prescribed, statutory shared parental pay is not payable to a person in respect of a week falling within a relevant period if it is not the person's intention at the beginning of the week to care for the child by reference to whom the person satisfies—
  - (a) the condition in section 171ZU(2)(a) or (4)(a), or
  - (b) the condition in section 171ZV(2)(a) or (4)(a).
- (4) Except in such cases as may be prescribed, statutory shared parental pay is not payable to a person in respect of a week falling within a relevant period during any part of which week the person works for any employer.
- (5) The Secretary of State may by regulations specify circumstances in which there is to be no liability to pay statutory shared parental pay in respect of a week falling within a relevant period.

*Status: Point in time view as at 01/04/2020.*

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- (6) Where for any purpose of this Part or of regulations it is necessary to calculate the daily rate of statutory shared parental pay, the amount payable by way of statutory shared parental pay for any day shall be taken as one seventh of the weekly rate.
- (7) For the purposes of this section a week falls within a relevant period if it falls within a period specified in a notice under—
  - (a) section 171ZU(2)(j), (4)(k) or (13)(a), or
  - (b) section 171ZV(2)(j), (4)(k) or (13)(a),
 and is not afterwards excluded from such a period by a variation of the period or periods during which the person in question intends to claim statutory shared parental pay.
- (8) In this section “week”, in relation to a relevant period, means a period of seven days beginning with the day of the week on which the relevant period starts.

### **171ZZ Restrictions on contracting out**

- (1) An agreement is void to the extent that it purports—
  - (a) to exclude, limit or otherwise modify any provision of this Part, or
  - (b) to require a person to contribute (whether directly or indirectly) towards any costs incurred by that person's employer or former employer under this Part.
- (2) For the avoidance of doubt, an agreement between an employer and an employee, authorising deductions from statutory shared parental pay which the employer is liable to pay to the employee in respect of any period, is not void by virtue of subsection (1)
  - (a) if the employer—
    - (a) is authorised by that or another agreement to make the same deductions from any contractual remuneration which the employer is liable to pay in respect of the same period, or
    - (b) would be so authorised if the employer were liable to pay contractual remuneration in respect of that period.

### **171ZZ1 Relationship with contractual remuneration**

- (1) Subject to subsections (2) and (3), any entitlement to statutory shared parental pay is not to affect any right of a person in relation to remuneration under any contract of service (“contractual remuneration”).
- (2) Subject to subsection (3)—
  - (a) any contractual remuneration paid to a person by an employer of that person in respect of any period is to go towards discharging any liability of that employer to pay statutory shared parental pay to that person in respect of that period; and
  - (b) any statutory shared parental pay paid by an employer to a person who is an employee of that employer in respect of any period is to go towards discharging any liability of that employer to pay contractual remuneration to that person in respect of that period.
- (3) Regulations may make provision as to payments which are, and those which are not, to be treated as contractual remuneration for the purposes of subsections (1) and (2).

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## **171ZZ2 Crown employment**

The provisions of this Part apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

## **171ZZ3 Special classes of person**

- (1) The Secretary of State may with the concurrence of the Treasury make regulations modifying any provision of this Part in such manner as the Secretary of State thinks proper in its application to any person who is, has been or is to be—
  - (a) employed on board any ship, vessel, hovercraft or aircraft;
  - (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or
  - (c) in prescribed employment in connection with continental shelf operations, as defined in section 120(2).
- (2) Regulations under subsection (1) may, in particular, provide—
  - (a) for any provision of this Part to apply to any such person, notwithstanding that it would not otherwise apply;
  - (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
  - (c) for excepting any such person from the application of any such provision where the person neither is domiciled nor has a place of residence in any part of Great Britain;
  - (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Great Britain, by a British consular official or such other person as may be determined in accordance with the regulations.

## **171ZZ4 Part 12ZC: supplementary**

- (1) In this Part—
  - “adoption pay period” has the meaning given in section 171ZN(2);
  - “employer”, in relation to a person who is an employee, means a person who—
    - (a) under section 6 is liable to pay secondary Class 1 contributions in relation to any of the earnings of the person who is an employee, or
    - (b) would be liable to pay such contributions but for—
      - (i) the condition in section 6(1)(b), or
      - (ii) the employee being under the age of 16;
  - “local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);
  - “local authority foster parent” has the same meaning as in the Children Act 1989 (see [F3]section 105(1)] of that Act);
  - “maternity allowance period” has the meaning given in section 35(2);
  - “maternity pay period” has the meaning given in section 165(1);
  - “modifications” includes additions, omissions and amendments, and related expressions are to be read accordingly;
  - “prescribed” means prescribed by regulations.

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- (2) In this Part “employee” means a person who is gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003).
- (3) Regulations may provide—
  - (a) for cases where a person who falls within the definition in subsection (2) is not to be treated as an employee for the purposes of this Part, and
  - (b) for cases where a person who would not otherwise be an employee for the purposes of this Part is to be treated as an employee for those purposes.
- (4) Without prejudice to any other power to make regulations under this Part, regulations may specify cases in which, for the purposes of this Part or of such provisions of this Part as may be prescribed—
  - (a) two or more employers are to be treated as one;
  - (b) two or more contracts of service in respect of which the same person is an employee are to be treated as one.
- (5) In this Part, except where otherwise provided, “week” means a period of seven days beginning with Sunday or such other period as may be prescribed in relation to any particular case or class of cases.
- (6) For the purposes of this Part, a person's normal weekly earnings are, subject to subsection (8), to be taken to be the average weekly earnings which in the relevant period have been paid to the person or paid for the person's benefit under the contract of service with the employer in question.
- (7) For the purposes of subsection (6) “earnings” and “relevant period” have the meanings given to them by regulations.
- (8) In such cases as may be prescribed, a person's normal weekly earnings are to be calculated in accordance with regulations.
- (9) Where—
  - (a) in consequence of the establishment of one or more National Health Service trusts under the National Health Service Act 2006, the National Health Service (Wales) Act 2006 or the National Health Service (Scotland) Act 1978, a person's contract of employment is treated by a scheme under any of those Acts as divided so as to constitute two or more contracts, or
  - (b) an order under paragraph 26(1) of Schedule 3 to the National Health Service Act 2006 provides that a person's contract of employment is so divided,
 regulations may make provision enabling the person to elect for all of those contracts to be treated as one contract for the purposes of this Part or such provisions of this Part as may be prescribed.
- (10) Regulations under subsection (9) may prescribe—
  - (a) the conditions that must be satisfied if a person is to be entitled to make such an election;
  - (b) the manner in which, and the time within which, such an election is to be made;
  - (c) the persons to whom, and the manner in which, notice of such an election is to be given;
  - (d) the information which a person who makes such an election is to provide, and the persons to whom, and the time within which, the person is to provide it;

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- (e) the time for which such an election is to have effect;
  - (f) which one of the person's employers under two or more contracts is to be regarded for the purposes of statutory shared parental pay as the person's employer under the contract.
- (11) The powers under subsections (9) and (10) are without prejudice to any other power to make regulations under this Part.
- (12) Regulations under any of subsections (4) to (10) must be made with the concurrence of the Commissioners for Her Majesty's Revenue and Customs.

#### Textual Amendments

- F3** Words in s. 171ZZ4(1) substituted (E.W.) (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **139**

#### 171ZZ5 Power to apply Part 12ZC

- (1) The Secretary of State may by regulations provide for this Part to have effect in relation to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom, with such modifications as the regulations may prescribe.
- (2) The Secretary of State may by regulations provide for this Part to have effect in relation to cases which involve a person who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order, with such modifications as the regulations may prescribe.
- (3) Where section 171ZW(1)(b) has effect in relation to such cases as are described in subsection (2), regulations under section 171ZW(1)(b) may impose requirements to make statutory declarations as to—
- (a) eligibility to apply for a parental order;
  - (b) intention to apply for such an order.]

**Status:**

Point in time view as at 01/04/2020.

**Changes to legislation:**

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