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STATUTORY INSTRUMENTS

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**2008 No. 794**

**The Employment and Support Allowance Regulations 2008**

**PART 9**

AMOUNTS OF ALLOWANCE

CHAPTER 3

Statutory payments

**Effect of statutory maternity pay on a contributory allowance**

**80.**—(1) This regulation applies where—

- (a) a woman is entitled to statutory maternity pay and, on the day immediately preceding the first day in the maternity pay period—
  - (i) is in a period of limited capability for work; and
  - (ii) satisfies the conditions of entitlement to a contributory allowance in accordance with section 1(2)(a) of the Act; and
- (b) on any day during the maternity pay period—
  - (i) she is in a period of limited capability for work; and
  - (ii) that day is not a day where she is treated as not having limited capability for work.

(2) Where this regulation applies, notwithstanding section 20(2) of the Act, a woman who is entitled to statutory maternity pay is to be entitled to a contributory allowance in respect of any day that falls within the maternity pay period.

(3) Where by virtue of paragraph (2) a woman is entitled to a contributory allowance for any week (including part of a week), the total amount of such benefit payable to her for that week is to be reduced by an amount equivalent to any statutory maternity pay to which she is entitled in accordance with Part 12 of the Contributions and Benefits Act for the same week (or equivalent part of a week where entitlement to a contributory allowance is for part of a week) and only the balance, if any, of the contributory allowance is to be payable to her.

**Effect of statutory adoption pay on a contributory allowance**

**81.**—(1) This regulation applies where—

- (a) a claimant is entitled to statutory adoption pay and, on the day immediately preceding the first day in the adoption pay period—
  - (i) is in a period of limited capability for work; and
  - (ii) satisfies the conditions of entitlement to a contributory allowance in accordance with section 1(2)(a) of the Act; and
- (b) on any day during the adoption pay period—
  - (i) that claimant is in a period of limited capability for work; and

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Changes to legislation: There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, CHAPTER 3. (See end of Document for details)

(ii) that day is not a day where that claimant is treated as not having limited capability for work.

(2) Where this regulation applies, notwithstanding section 20(4) of the Act, a claimant who is entitled to statutory adoption pay is to be entitled to a contributory allowance in respect of any day that falls within the adoption pay period.

(3) Where by virtue of paragraph (2) a claimant is entitled to a contributory allowance for any week (including part of a week), the total amount of such benefit payable to that claimant for that week is to be reduced by an amount equivalent to any statutory adoption pay to which that claimant is entitled in accordance with Part 12ZB of the Contributions and Benefits Act <sup>F1</sup> for the same week (or equivalent part of a week where entitlement to a contributory allowance is for part of a week) and only the balance, if any, of the contributory allowance is to be payable to that claimant.

**Textual Amendments**

**F1** Part 12ZB was inserted by section 4 of the [Employment Act 2002 \(c. 22\)](#) and amended by the [Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), [regulation 49\(1\)](#) and paragraph 12 of Schedule 8.

**Effect of additional statutory paternity pay on a contributory allowance**

<sup>F2</sup>82. ....

**Textual Amendments**

**F2** [Reg. 82](#) omitted (5.4.2015) by virtue of [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(3), [20\(5\)](#) (with art. 35(1))

**[<sup>F3</sup>Effect of statutory shared parental pay on a contributory allowance**

**82A.**—(1) This regulation applies where—

- (a) a claimant is entitled to statutory shared parental pay and, on the day immediately preceding the first day in the shared parental pay period—
  - (i) is in a period of limited capability for work; and
  - (ii) satisfies the conditions for a contributory allowance in accordance with section 1(2)(a) of the Act; and
- (b) on any day during the statutory shared parental pay period—
  - (i) that claimant is in a period of limited capability for work; and
  - (ii) that day is not a day where that claimant is treated as not having limited capability for work.

(2) Where this regulation applies, notwithstanding section 20(6) of the Act, a claimant who is entitled to statutory shared parental pay is to be entitled to a contributory allowance in respect of any day that falls within the shared parental pay period.

(3) Where by virtue of paragraph (2) a person is entitled to a contributory allowance for any week (including part of a week), the total amount of such benefit payable to that claimant for that week is to be reduced by an amount equivalent to any statutory shared parental pay to which that claimant is entitled in accordance with Part 12ZC of the Contributions and Benefits Act for the same week (or

equivalent part of a week where entitlement to a contributory allowance is for part of a week) and only the balance, if any, of the contributory allowance is to be payable to that claimant.

(4) In this regulation “statutory shared parental pay period” means the weeks in respect of which statutory shared parental pay is payable to a person under section 171ZY(2) of the Social Security Contributions and Benefits Act 1992.]

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**Textual Amendments**

**F3** [Reg. 82A](#) inserted (31.12.2014) by [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(2), **20(6)**

**Status:**

Point in time view as at 05/04/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, CHAPTER 3.