
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 14th November 2010, amend the Income Tax (Construction Industry Scheme) Regulations 2005 (S.I. 2005/2045) (“the CIS Regulations”) following the introduction of additional statutory paternity pay.

Regulations made under Part 12ZA of the Social Security Contributions and Benefits Act 1992 (c.4) as amended by the Work and Families Act 2006 (c.18) made provision for the payment of additional statutory paternity pay in Great Britain. Corresponding provision was made in respect of Northern Ireland by regulations made under Part 12ZA of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c.7) as amended by the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I.16)). As a consequence of the introduction of additional statutory paternity pay, from the date of commencement of the relevant part of the Work and Families Act 2006 and the Work and Families (Northern Ireland) Order 2006, “statutory paternity pay” is to be re-named “ordinary statutory paternity pay”.

Regulation 3 amends regulation 8 of the CIS Regulations. Where regulation 8 applies, which is determined (in part) by reference to a formula in regulation 8(2), an employer may choose to pay to HMRC the amounts the employer was liable under section 61 of the Finance Act 2004 (c.12) to deduct on account of income tax pursuant to regulation 7 of the CIS Regulations by reference to a quarterly tax period. The elements comprising the regulation 8(2) formula are defined in regulation 8(3). These Regulations amend the “SP” element of the formula by substituting the reference to statutory paternity pay with references to ordinary statutory paternity pay and additional statutory paternity pay.

Regulation 4 amends regulation 56 of the CIS Regulations which makes provision for the application by Her Majesty’s Revenue and Customs (“HMRC”) of sums deducted from payments made by a contractor under section 61 of the Finance Act 2004 where the sub-contractor is a company. The amendment provides that such sums may be applied in discharge of any liability of the sub-contractor to refund to HMRC any funding payment made by them in respect of additional statutory paternity pay under the relevant recovery provision.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen. An Impact Assessment in respect of the introduction of additional statutory paternity pay has been prepared and is available from the Employment Relations Directorate, Department for Business, Innovation and Skills, 1 Victoria Street, London SW1H 0ET or at www.bis.gov.uk. Copies have also been placed in the libraries of both Houses of Parliament.