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STATUTORY INSTRUMENTS

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**2014 No. 3134**

**The Statutory Shared Parental Pay (Persons  
Abroad and Mariners) Regulations 2014**

**PART 1**

General

**Citation and commencement**

1. These Regulations may be cited as the Statutory Shared Parental Pay (Persons Abroad and Mariners) Regulations 2014 and come into force on 1st December 2014.

**PART 2**

Statutory Shared Parental Pay

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Social Security Contributions and Benefits Act 1992;

“adopter”, in relation to a child, means the person with whom a child is, or is expected to be, placed for adoption under the law of the United Kingdom;

“adoption from overseas” means the adoption of a child who enters Great Britain from outside the United Kingdom in connection with or for the purposes of adoption which does not involve the placement of the child for adoption under the law of any part of the United Kingdom;

“EEA” means European Economic Area;

“foreign-going ship” means any ship or vessel which is not a home-trade ship;

“General Regulations” means the Statutory Shared Parental Pay (General) Regulations 2014

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“home-trade ship” includes—

- (a) every ship or vessel employed in trading or going within the following limits—
  - (i) the United Kingdom (including for this purpose the Republic of Ireland),
  - (ii) the Channel Islands,
  - (iii) the Isle of Man, and
  - (iv) the continent of Europe between the river Elbe and Brest inclusive;
- (b) every fishing vessel not proceeding beyond the following limits—
  - (i) on the South, Latitude 48°30'N,
  - (ii) on the West, Longitude 12°W, and

(iii) on the North, Latitude 61°N;

“mariner” means a person who is or has been in employment under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—

- (a) the employment in that other capacity is for the purposes of that ship or vessel or her crew or any passengers or cargo or mails carried by the ship or vessel; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on her voyage,

but does not include a person in so far as their employment is as a serving member of the forces;

“placed for adoption” means—

- (a) placed for adoption under the Adoption and Children Act 2002<sup>M2</sup> or the Adoption and Children (Scotland) Act 2007<sup>M3</sup>; or
- (b) placed in accordance with section 22C of the Children Act 1989<sup>M4</sup> with a local authority foster parent<sup>M5</sup> who is also a prospective adopter;

“serving member of the forces” means a person, other than one mentioned in Part 2 of Schedule 1, who, being over the age of 16, is a member of any establishment or organisation specified in Part 1 of that Schedule (being a member who gives full pay service) but does not include any such person while absent on desertion;

“statutory shared parental pay (adoption)” means statutory shared parental pay payable where entitlement to that pay arises under regulation 17 or 18 of the General Regulations;

“statutory shared parental pay (birth)” means statutory shared parental pay payable where entitlement to that pay arises under regulation 4 or 5 of the General Regulations.

(2) For the purposes of these regulations, the expressions “ship” and “ship or vessel” include hovercraft, except in regulation 9(2).

(3) For the purposes of these Regulations—

- (a) a person is matched with a child for adoption when an adoption agency decides that that person would be a suitable adoptive parent for the child;
- (b) in a case where paragraph (a) applies, a person is notified as having been matched with a child on the date that person receives notification of the agency's decision, under regulation 33(3)(a) of the Adoption Agencies Regulations 2005<sup>M6</sup>, regulation 28(3) of the Adoption Agencies (Wales) Regulations 2005<sup>M7</sup> or regulation 8(5) of the Adoption Agencies (Scotland) Regulations 2009<sup>M8</sup>;
- (c) a person is also matched with a child for adoption when a decision has been made in accordance with regulation 22A of the Care Planning, Placement and Case Review (England) Regulations 2010<sup>M9</sup> and an adoption agency has identified that person with whom the child is to be placed in accordance with regulation 12B of the Adoption Agencies Regulations 2005<sup>M10</sup>;
- (d) in a case where paragraph (c) applies, a person is notified as having been matched with a child on the date on which that person receives notification in accordance with regulation 12B(2)(a) of the Adoption Agencies Regulations 2005.

(4) The reference to “prospective adopter” in the definition of “placed for adoption” in paragraph (1) means a person who has been approved as suitable to adopt a child and has been notified of that decision in accordance with regulation 30B(4) of the Adoption Agencies Regulations 2005<sup>M11</sup>.

(5) The reference to “adoption agency” in paragraph (3) has the meaning given, in relation to England and Wales, by section 2 of the Adoption and Children Act 2002 and in relation to Scotland, by section 119(1) of the Adoption and Children (Scotland) Act 2007.

#### Marginal Citations

- M1** [S.I. 2014/3051](#).  
**M2** [2002 c.38](#).  
**M3** [2007 asp 4](#).  
**M4** [1989 c.41](#); [section 22C](#) was inserted by the [Children and Young Persons Act 2008 \(c.23\)](#), [section 8\(1\)](#).  
**M5** “local authority foster parent” is defined in [section 171ZZ4\(1\)](#) of the Social Security Contributions and Benefits Act 1992.  
**M6** [S.I. 2005/389](#).  
**M7** [S.I. 2005/1313](#).  
**M8** [S.S.I 2009/154](#).  
**M9** [S.I. 2010/959](#); amended by [S.I. 2014/1556](#); there is another amending instrument but it is not relevant.  
**M10** [Regulation 12B](#) was inserted by [S.I. 2014/1556](#); there are other amending instruments but none is relevant.  
**M11** Amended by [S.I. 2015/1556](#); there are other amending instruments but none is relevant.

#### Application

3. These Regulations apply in relation to—
- statutory shared parental pay (birth) in respect of children whose expected week of birth begins on or after 5th April 2015;
  - statutory shared parental pay (adoption) in respect of children placed for adoption on or after 5th April 2015.

#### Restriction on scope

4. A person who would not be treated under regulation 33 (treatment of persons as employees) of the General Regulations as an employee for the purposes of Part 12ZC (statutory shared parental pay) of the Act <sup>M12</sup> if that person's employment were in Great Britain shall not be treated as an employee under these Regulations.

#### Marginal Citations

- M12** [Part 12ZC](#) of the Act was inserted by the Children and Families Act 2014, [section 119\(1\)](#).

#### Treatment of persons in <sup>F1</sup>... EEA states as employees

5. A person who is –
- gainfully employed in an EEA state <sup>F2</sup>... in such circumstances that, if the employment were in Great Britain, the person would be an employee for the purposes of Part 12ZC of the Act, or a person treated as such an employee under regulation 33 of the General Regulations; and
  - subject to the legislation of the United Kingdom under Council Regulation (EEC) No.1408/71 <sup>M13</sup>[<sup>F3</sup>as amended from time to time or Regulation (EC) 883/2004 of the European Parliament and of the Council of 29 April 2004 as amended from time to time on the coordination of social security systems],

notwithstanding that person not being employed in Great Britain, shall be treated as an employee for the purposes of Parts 12ZC of the Act.

#### Textual Amendments

- F1** Word in [reg. 5 heading](#) omitted (31.12.2020) by virtue of [The Employment Rights \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/535\)](#), [reg. 1\(1\)](#), [Sch. 1 para. 16\(a\)](#) (with [Sch. 1 para. 22](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F2** Words in [reg. 5\(a\)](#) omitted (31.12.2020) by virtue of [The Employment Rights \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/535\)](#), [reg. 1\(1\)](#), [Sch. 1 para. 16\(b\)](#) (with [Sch. 1 para. 22](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F3** Words in [reg. 5\(b\)](#) inserted (5.3.2019) by [The Employment Rights \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/535\)](#), [reg. 1\(2\)\(b\)\(iii\)](#), [Sch. 1 para. 16\(c\)](#) (with [Sch. 1 para. 22](#))

#### Marginal Citations

- M13** OJ No.L.28, 30.1.1997, p.1.

### Treatment of certain persons absent from Great Britain as employees

**6.** Subject to regulation 9(2), where a person, while absent from Great Britain for any purpose, is gainfully employed by an employer who is liable to pay secondary Class 1 contributions (within the meaning of section 1(2) of the Act) in respect of that person's employment under section 6 of the Act<sup>M14</sup> or regulation 146 of the Social Security Contributions Regulations 2001<sup>M15</sup>, that person shall be treated as an employee for the purposes of Part 12ZC of the Act.

#### Marginal Citations

- M14** [Section 6](#) was substituted by the [Welfare Reform and Pensions Act 1999 \(c.30\)](#), [Schedule 9\(1\)](#), [paragraph 2](#), and by the [Child Support, Pensions and Social Security Act 2000 \(c.19\)](#), [section 77\(3\)](#).
- M15** [S.I. 2001/1004](#), amended by [S.I. 2007/1838](#).

### Entitlement to statutory shared parental pay where person has worked in an EEA state

**7.—(1)** A person who—

- (a) is an employee or treated as an employee under regulation 5;
- (b) in the week immediately preceding the 14th week before the expected week of the child's birth was in employed earner's employment with an employer in Great Britain; and
- (c) had in any week within the period of 26 weeks immediately preceding that week been employed by the same employer in [<sup>F4</sup>an] EEA state,

shall be treated for the purposes of section 171ZU of the Act<sup>M16</sup> (entitlement to shared parental pay: birth) as having been employed in employed earner's employment with an employer in those weeks in which the person was so employed in [<sup>F5</sup>the EEA] state.

**(2)** A person who—

- (a) is an employee or treated as an employee under regulation 5;
- (b) in the week in which the adopter is notified of having been matched with the child for the purposes of adoption was in employed earner's employment with an employer in Great Britain; and

(c) had in any week within the period of 26 weeks immediately preceding that week been employed by the same employer in [<sup>F6</sup>an] EEA State,  
shall be treated for the purposes of section 171ZV of the Act <sup>M17</sup> (entitlement to shared parental pay: adoption) as having been employed in employed earner's employment in those weeks in which the person was so employed in [<sup>F7</sup>the EEA] State.

#### Textual Amendments

- F4** Word in reg. 7(1)(c) substituted (31.12.2020) by The Employment Rights (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/535), reg. 1(1), **Sch. 1 para. 17(a)(i)** (with Sch. 1 para. 22); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 7(1) substituted (31.12.2020) by The Employment Rights (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/535), reg. 1(1), **Sch. 1 para. 17(a)(ii)** (with Sch. 1 para. 22); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Word in reg. 7(2)(c) substituted (31.12.2020) by The Employment Rights (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/535), reg. 1(1), **Sch. 1 para. 17(b)(i)** (with Sch. 1 para. 22); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in reg. 7(2) substituted (31.12.2020) by The Employment Rights (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/535), reg. 1(1), **Sch. 1 para. 17(b)(ii)** (with Sch. 1 para. 22); 2020 c. 1, Sch. 5 para. 1(1)

#### Marginal Citations

- M16** Section 171ZU was inserted by the Children and Families Act 2014, section 119(1).
- M17** Section 171ZV was inserted by the Children and Families Act 2014, section 119(1).

### Time for compliance with Part 12ZC of the Act or regulations made under it

#### 8. Where—

- (a) a person is outside the United Kingdom;
- (b) Part 12ZC of the Act or regulations made under it require any act to be done forthwith or on the happening of a certain event or within a specified time; and
- (c) because the person is outside the United Kingdom that person or that person's employer cannot comply with the requirement,

the person or the employer, as the case may be, shall be deemed to have complied with the requirement if the act is performed as soon as reasonably practicable.

### Mariners

9.—(1) A mariner engaged in employment on board a home-trade ship with an employer who has a place of business within the United Kingdom shall be treated as an employee for the purposes of Part 12ZC of the Act, notwithstanding that he may not be employed in Great Britain.

#### (2) A mariner who is engaged in employment—

- (a) on a foreign-going ship; or
- (b) on a home-trade ship with an employer who does not have a place of business within the United Kingdom,

shall not be treated as an employee for the purposes of Part 12ZC of the Act, notwithstanding that the mariner may have been employed in Great Britain.

## Continental shelf

10.—(1) In this regulation—

“designated area” means any area which may from time to time be designated by Order in Council under section 1(7) of the Continental Shelf Act 1964<sup>M18</sup> as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

“prescribed employment” means any employment (whether under a contract of service or not) in a designated area in connection with continental shelf operations, as defined in section 120(2) of the Act<sup>M19</sup>.

(2) A person in prescribed employment shall be treated as an employee for the purposes of Part 12ZC of the Act notwithstanding that that person may not be employed in Great Britain.

### Marginal Citations

**M18** 1964 c.29. Section 1(7) was amended by the [Oil and Gas \(Enterprise\) Act 1982 \(c.23\)](#), [section 37](#), and Schedule 3, paragraph 1, and the [Energy Act 2011 \(c.16\)](#), [section 103](#).

**M19** [Section 120\(2\)](#) was amended by the [Petroleum Act 1998 \(c.17\)](#), [Schedule 4](#), paragraph 30.

## Adoptions from overseas

11. Schedule 2 applies to adoptions from overseas.

# PART 3

## Statutory Paternity Pay and Statutory Adoption Pay

12. The Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations 2002<sup>M20</sup> are amended as follows.

### Marginal Citations

**M20** [S.I. 2002/2821](#); amended by [S.I. 2010/151](#).

13.—(1) Paragraph (2) of regulation 1 is amended as follows

(2) For the definition “adopter” substitute—

““adopter”, in relation to a child, means the person with whom a child is, or is expected to be, placed for adoption under the law of the United Kingdom;”.

(3) Before the definition of “serving member of the forces” insert—

““placed for adoption” means—

- (a) placed for adoption under the Adoption and Children Act 2002<sup>M21</sup> or the Adoption and Children (Scotland) Act 2007<sup>M22</sup>; or
- (b) placed in accordance with section 22C of the Children Act 1989<sup>M23</sup> with a local authority foster parent<sup>M24</sup> who is also a prospective adopter;”.

#### Marginal Citations

**M21** 2002 c.38.

**M22** 2007 asp 4.

**M23** 1989 c.41; section 22C was inserted by the Children and Young Persons Act 2008 (c.23), section 8(1).

**M24** “local authority foster parent” is defined in section 171ZJ(1) and 171ZS(1) of the Social Security Contributions and Benefits Act 1992. Section 171ZJ was inserted by the Employment Act 2002 (c. 22), section 2, and amended by the Children and Families Act 2014, section 121(7)(a); there are other amending instruments but none is relevant. Section 171ZS was inserted by the Employment Act 2002, section 4, and amended by the Children and Families Act 2014, section 121(7)(b); there are other amending instruments but none is relevant.

#### 14. For paragraph (3) of regulation 1 substitute—

“(3) For the purposes of these Regulations—

- (a) a person is matched with a child for adoption when an adoption agency decides that that person would be a suitable adoptive parent for the child;
- (b) in a case where paragraph (a) applies, a person is notified as having been matched with a child on the date that person receives notification of the agency's decision, under regulation 33(3)(a) of the Adoption Agencies Regulations 2005, regulation 28(3) of the Adoption Agencies (Wales) Regulations 2005 or regulation 8(5) of the Adoption Agencies (Scotland) Regulations 2009;
- (c) a person is also matched with a child for adoption when a decision has been made in accordance with regulation 22A of the Care Planning, Placement and Case Review (England) Regulations 2010 and an adoption agency has identified that person with whom the child is to be placed in accordance with regulation 12B of the Adoption Agencies Regulations 2005;
- (d) in a case where paragraph (c) applies, a person is notified as having been matched with a child on the date on which that person receives notification in accordance with regulation 12B(2)(a) of the Adoption Agencies Regulations 2005.

(3A) The reference to “prospective adopter” in the definition of “placed for adoption” in paragraph (2) means a person who has been approved as suitable to adopt a child and has been notified of that decision in accordance with regulation 30B(4) of the Adoption Agencies Regulations 2005.

(3B) The reference to “adoption agency” in paragraph (3) has the meaning given, in relation to England and Wales, by section 2 of the Adoption and Children Act 2002 and in relation to Scotland, by section 119(1) of the Adoption and Children (Scotland) Act 2007.”.

*Jo Swinson*

Parliamentary Under Secretary of State for  
Employment Relations and Consumer Affairs

Department for Business, Innovation and Skills

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**Changes to legislation:** There are currently no known outstanding effects for the The Statutory Shared Parental Pay (Persons Abroad and Mariners) Regulations 2014. (See end of Document for details)

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We concur in making these Regulations

*David Evennett*  
*Gavin Barwell*  
Two of the Lords Commissioners for Her  
Majesty's Treasury



**Changes to legislation:**

There are currently no known outstanding effects for the The Statutory Shared Parental Pay (Persons Abroad and Mariners) Regulations 2014.