
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make changes to the way in which the entitlement to statutory paternity pay is exercised, by amending the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002 (“the 2002 Regulations”); the Statutory Paternity Pay (Adoption) and Statutory Adoption Pay (Adoptions from Overseas) (No. 2) Regulations 2003 (“the 2003 Regulations”); the Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) Regulations 2014 (“the 2014 Regulations”); and the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002 (the “Administration Regulations”).

The 2002 Regulations provide for statutory paternity pay in ‘birth’ cases (where a person qualifies for statutory paternity pay by virtue of their relationship with the birth mother) and ‘adoption’ cases (where a person qualifies by virtue of their relationship with someone who is adopting a child).

The 2003 Regulations apply, with modifications, the 2002 Regulations to ‘overseas adoption’ cases (where the person has a qualifying relationship with someone who is adopting a child who enters Great Britain from outside the United Kingdom, but where there is no placement for adoption under the law of any part of the United Kingdom).

The 2014 Regulations apply, with modifications, the 2002 Regulations to ‘parental order’ cases (where the person and their partner are the intended parents in surrogacy arrangements under the Human Fertilisation and Embryology Act 2008).

The amendments in these Regulations make changes to requirements relating to notice and evidence, the ‘qualifying period’ within which any periods for which statutory paternity pay is claimed must fall, and the existing requirement that statutory paternity pay can only be claimed in a single block of either one week or two weeks. They come into force on 8th March 2024.

Regulation 5 provides for these amendments to take effect in relation to children whose expected week of childbirth starts after 6th April 2024, and children whose expected date of placement for adoption, or expected date of entry into Great Britain for adoption, is on or after 6th April 2024.

Regulation 6 makes provision for situations where a person has served a notice or provided information or a declaration under the provisions in force prior to the coming into force of these Regulations. The person will be deemed to have complied with any requirement in the amendments in these Regulations to provide that information, declaration or notice.

Part 2 of these Regulations amends the 2002 Regulations.

Regulation 9 substitutes regulations 5A to 9 of the 2002 Regulations. New regulation 6 allows a person to choose to claim statutory paternity pay (birth) in respect of either two non-consecutive weeks³, or a single period of either one week or two consecutive weeks. New regulation 6A extends the period within which any periods for which statutory paternity pay is claimed must fall, from 56 days after the birth of the child, to 52 weeks. New regulation 6B provides for notices and evidence of entitlement to be provided to the person liable to pay, and for the variation of dates notified previously, and new regulation 7 provides for certain additional notices to be provided in specific circumstances.

Regulation 10 substitutes regulations 11A to 15 of the 2002 Regulations to make similar provision in respect of statutory paternity pay (adoption).

Regulation 11 makes provision for entitlement to statutory paternity pay where a child dies, is no longer to be placed for adoption, or is returned after being placed.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 12 makes provision for entitlement to statutory paternity pay where a person performs work for an employer who is not liable to pay statutory paternity pay.

Regulation 13 makes provision for entitlement to statutory paternity where a person is detained or sentenced to a term of imprisonment and regulation 16 makes consequential provision for the liability to make payments of statutory paternity pay in those circumstances.

Regulation 15 makes consequential changes to the arrangements for payments made by His Majesty's Revenue and Customs, to facilitate the change made by these regulations which permits Statutory Paternity Pay to be claimed in respect of non-consecutive periods, instead of for a single continuous period only.

Part 3 makes similar provision to Part 2 in relation to adoptions from overseas.

Part 4 makes similar provision to Part 2 in relation to parental order cases.

Part 5 amends the Administration Regulations to make provision for the keeping of records and the provision of information in relation to periods of payment of statutory paternity pay.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary sector or community bodies is foreseen.