



Social Security Contributions and Benefits Act 1992

1992 CHAPTER 4

PART XII

STATUTORY MATERNITY PAY

164 Statutory maternity pay - entitlement and liability to pay.

- (1) Where a woman who is or has been an employee satisfies the conditions set out in this section, she shall be entitled, in accordance with the following provisions of this Part of this Act, to payments to be known as “statutory maternity pay”.
- (2) The conditions mentioned in subsection (1) above are—
 - (a) that she has been in employed earner’s employment with an employer for a continuous period of at least 26 weeks ending with the week immediately preceding the 14th week before the expected week of confinement but has ceased to work for him ^{F1}... ;
 - (b) that her normal weekly earnings for the period of 8 weeks ending with the week immediately preceding the 14th week before the expected week of confinement are not less than the lower earnings limit in force under section 5(1)(a) above immediately before the commencement of the 14th week before the expected week of confinement; and
 - (c) that she has become pregnant and has reached, or been confined before reaching, the commencement of the 11th week before the expected week of confinement.
- (3) The liability to make payments of statutory maternity pay to a woman is a liability of any person of whom she has been an employee as mentioned in subsection (2)(a) above.
- ^{F2}(4) A woman shall be entitled to payments of statutory maternity pay only if—
 - (a) she gives the person who will be liable to pay it notice of the date from which she expects his liability to pay her statutory maternity pay to begin; and

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- (b) the notice is given at least 28 days before that date or, if that is not reasonably practicable, as soon as is reasonably practicable.]
- (5) The notice shall be in writing if the person who is liable to pay the woman statutory maternity pay so requests.
- (6) Any agreement shall be void to the extent that it purports—
 - (a) to exclude, limit or otherwise modify any provision of this Part of this Act; or
 - (b) to require an employee or former employee to contribute (whether directly or indirectly) towards any costs incurred by her employer or former employer under this Part of this Act.
- (7) For the avoidance of doubt, any agreement between an employer and an employee authorising any deductions from statutory maternity pay which the employer is liable to pay to the employee in respect of any period shall not be void by virtue of subsection (6)(a) above if the employer—
 - (a) is authorised by that or another agreement to make the same deductions from any contractual remuneration which he is liable to pay in respect of the same period, or
 - (b) would be so authorised if he were liable to pay contractual remuneration in respect of that period.
- (8) Regulations shall make provision as to a former employer's liability to pay statutory maternity pay to a woman in any case where the former employer's contract of service with her has been brought to an end by the former employer solely, or mainly, for the purpose of avoiding liability for statutory maternity pay.
- (9) The Secretary of State may by regulations—
 - (a) specify circumstances in which, notwithstanding subsections (1) to (8) above, there is to be no liability to pay statutory maternity pay in respect of a week;
 - (b) specify circumstances in which, notwithstanding subsections (1) to (8) above, the liability to make payments of statutory maternity pay is to be a liability [^{F3}of the Commissioners of Inland Revenue];
 - (c) specify in what circumstances employment is to be treated as continuous for the purposes of this Part of this Act;
 - (d) provide that a woman is to be treated as being employed for a continuous period of at least 26 weeks where—
 - (i) she has been employed by the same employer for at least 26 weeks under two or more separate contracts of service; and
 - (ii) those contracts were not continuous;
 - (e) provide that any of the provisions specified in subsection (10) below shall have effect subject to prescribed modifications [^{F4}in such cases as may be prescribed];
 - [^{F5}(ea) provide that subsection (4) above shall not have effect, or shall have effect subject to prescribed modifications, in such cases as may be prescribed;]
 - (f) provide for amounts earned by a woman under separate contracts of service with the same employer to be aggregated for the purposes of this Part of this Act; and
 - (g) provide that—
 - (i) the amount of a woman's earnings for any period, or
 - (ii) the amount of her earnings to be treated as comprised in any payment made to her or for her benefit,

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shall be calculated or estimated 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 woman shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of her earnings.

(10) The provisions mentioned in subsection (9)(e) above are—

- (a) subsection (2)(a) and (b) above; and
- (b) [^{F6}section 166(1) and (2)], ^{F7}... below.

[^{F8}(11) Any regulations under subsection (9) above which are made by virtue of paragraph (b) of that subsection must be made with the concurrence of the Commissioners of Inland Revenue.]

Textual Amendments

- F1** Words in s. 164(2)(a) repealed (24.11.2002) by [Employment Act 2002 \(c. 22\)](#), ss. 20(a), 55(2), [Sch. 8\(1\)](#); S.I. 2002/2866, art. 2(1)(4)(5), [Sch. 1 Pt. 1](#), [Sch. 2 Pt. 1](#)
- F2** S. 164(4) substituted (24.11.2002) by [Employment Act 2002 \(c. 22\)](#), [ss. 20\(b\)](#), 55(2); S.I. 2002/2866, art. 2(1), [Sch. 1 Pt. 1](#)
- F3** Words in s. 164(9)(b) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 12\(2\)](#); S.I. 1999/527, art. 2(b), [Sch. 2](#) (with arts. 3-6)
- F4** Words in s. 164(9)(e) substituted (24.11.2002) by [Employment Act 2002 \(c. 22\)](#), [ss. 20\(c\)](#), 55(2); S.I. 2002/2866, art. 2(1), [Sch. 1 Pt. 1](#)
- F5** S. 164(9)(ea) inserted (24.11.2002) by [Employment Act 2002 \(c. 22\)](#), [ss. 20\(d\)](#), 55(2); S.I. 2002/2866, art. 2(1), [Sch. 1 Pt. 1](#)
- F6** Words in s. 164(10)(b) substituted (6.4.2003) by [Employment Act 2002 \(c. 22\)](#), s. 55(2), [Sch. 7 para. 6](#); S.I. 2002/2866, art. 2(3), [Sch. 1 Pt. 3](#)
- F7** Words in s. 164(10)(b) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Maternity Allowance and Statutory Maternity Pay Regulations 1994 \(S.I. 1994/1230\)](#), [reg. 6\(1\)](#)
- F8** S. 164(11) inserted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 12\(3\)](#); S.I. 1999/527, art. 2(b), [Sch. 2](#) (with arts. 3-6)

Modifications etc. (not altering text)

- C1** S. 164(2)(a) modified (17.11.2000) by [The Statutory Maternity Pay \(General\) \(Modification and Amendment\) Regulations 2000 \(S.I. 2000/2883\)](#), [regs. 1\(1\)](#), [2](#) (with [reg. 4](#))

165 The maternity pay period.

(1) Statutory maternity pay shall be payable, subject to the provisions of this Part of this Act, in respect of each week during a prescribed period (“the maternity pay period”) of a duration not exceeding [^{F9}52 weeks].

[^{F10}(2) Subject to subsections (3) and (7), the maternity pay period shall begin with the 11th week before the expected week of confinement.

(3) Cases may be prescribed in which the first day of the period is to be a prescribed day after the beginning of the 11th week before the expected week of confinement, but not later than the day immediately following the day on which she is confined.]

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[^{F11}(3A) Regulations may provide for the duration of the maternity pay period as it applies to a woman to be reduced, subject to prescribed restrictions and conditions.

(3B) Regulations under subsection (3A) are to secure that the reduced period ends at a time—

- (a) after a prescribed period beginning with the day on which the woman is confined, and
- (b) when at least a prescribed part of the maternity pay period remains unexpired.

(3C) Regulations under subsection (3A) may, in particular, prescribe restrictions and conditions relating to—

- (a) the end of the woman's entitlement to maternity leave;
- (b) the doing of work by the woman;
- (c) the taking of prescribed steps by the woman or another person as regards leave under section 75E of the Employment Rights Act 1996 in respect of the child;
- (d) the taking of prescribed steps by the woman or another person as regards statutory shared parental pay in respect of the child.

(3D) Regulations may provide for a reduction in the duration of the maternity pay period as it applies to a woman to be revoked, or to be treated as revoked, subject to prescribed restrictions and conditions.]

(4) [^{F12}Except in such cases as may be prescribed,] statutory maternity pay shall not be payable to a woman by a person in respect of any week during any part of which she works under a contract of service with him.

(5) It is immaterial for the purposes of subsection (4) above whether the work referred to in that subsection is work under a contract of service which existed immediately before the maternity pay period or a contract of service which did not so exist.

(6) Except in such cases as may be prescribed, statutory maternity pay shall not be payable to a woman in respect of any week after she has been confined and during any part of which she works for any employer who is not liable to pay her statutory maternity pay.

(7) Regulations may provide that this section shall have effect subject to prescribed modifications in relation—

- (a) to cases in which a woman has been confined before the 11th week before the expected week of confinement; and
- (b) to cases in which—
 - (i) a woman is confined [^{F13}at any time after the end of the week immediately preceding the 11th week] before the expected week of confinement; and
 - (ii) the maternity pay period has not then commenced for her.

[^{F14}(8) In subsections (1), (4) and (6) “week” means a period of seven days beginning with the day of the week on which the maternity pay period begins.]

Textual Amendments

F9 Words in s. 165(1) substituted (27.6.2006 for specified purposes, 1.10.2006 in so far as not already in force) by [Work and Families Act 2006 \(c. 18\)](#), [ss. 1, 19\(2\)](#); [S.I. 2006/1682](#), [arts. 2\(a\), 3\(a\)](#)

F10 S. 165(2)(3) substituted (27.6.2006 for specified purposes, 1.10.2006 in so far as not already in force) by [Work and Families Act 2006 \(c. 18\)](#), [s. 19\(2\)](#), [Sch. 1 para. 7\(2\)](#); [S.I. 2006/1682](#), [arts. 2\(d\), 3\(d\)](#)

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- F11** S. 165(3A)-(3D) inserted (30.6.2014) by Children and Families Act 2014 (c. 6), **ss. 120(4)**, 139(6); S.I. 2014/1640, art. 3(1)(d)
- F12** Words in s. 165(4) inserted (27.6.2006 for specified purposes, 1.10.2006 in so far as not already in force) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 7(3)**; S.I. 2006/1682, arts. 2(d), 3(d)
- F13** Words in s. 165(7)(b)(i) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Maternity Allowance and Statutory Maternity Pay Regulations 1994 (S.I. 1994/1230), **reg. 3(3)**
- F14** S. 165(8) inserted (27.6.2006 for specified purposes, 1.10.2006 in so far as not already in force) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 7(4)**; S.I. 2006/1682, arts. 2(d), 3(d)

[^{F15}166 Rate of statutory maternity pay

- (1) Statutory maternity pay shall be payable to a woman—
- at the earnings-related rate, in respect of the first 6 weeks in respect of which it is payable; and
 - at whichever is the lower of the earnings-related rate and such weekly rate as may be prescribed, in respect of the remaining portion of the maternity pay period.

[^{F16}(1A) In subsection (1) “week” means any period of seven days.]

- (2) The earnings-related rate is a weekly rate equivalent to 90 per cent of a woman’s normal weekly earnings for the period of 8 weeks immediately preceding the 14th week before the expected week of confinement.
- (3) The weekly rate prescribed under subsection (1)(b) above must not be less than the weekly rate of statutory sick pay for the time being specified in section 157(1) above or, if two or more such rates are for the time being so specified, the higher or highest of those rates.

[^{F17}(4) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of statutory maternity pay, the amount payable by way of statutory maternity pay for any day shall be taken as one seventh of the weekly rate.]]

Textual Amendments

- F15** S. 166 substituted (6.4.2003) by Employment Act 2002 (c. 22), **ss. 19**, 55(2); S.I. 2002/2866, art. 2(3), **Sch. 1 Pt. 3**
- F16** S. 166(1A) inserted (1.10.2006) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 8(2)**; S.I. 2006/1682, art. 3(e)
- F17** S. 166(4) inserted (1.10.2006) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 8(3)**; S.I. 2006/1682, art. 3(e)

[^{F18}167 Funding of employers’ liabilities in respect of statutory maternity pay

- (1) Regulations shall make provision for the payment by employers of statutory maternity pay to be funded by the Commissioners of Inland Revenue to such extent as may be prescribed.
- (2) Regulations under subsection (1) shall—

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- (a) make provision for a person who has made a payment of statutory maternity pay to be entitled, except in prescribed circumstances, to recover an amount equal to the sum of—
 - (i) the aggregate of such of those payments as qualify for small employers' relief; and
 - (ii) an amount equal to 92 per cent of the aggregate of such of those payments as do not so qualify; and
 - (b) include provision for a person who has made a payment of statutory maternity pay qualifying for small employers' relief to be entitled, except in prescribed circumstances, to recover an additional amount, determined in such manner as may be prescribed—
 - (i) by reference to secondary Class 1 contributions paid in respect of statutory maternity pay;
 - (ii) by reference to secondary Class 1 contributions paid in respect of statutory sick pay; or
 - (iii) by reference to the aggregate of secondary Class 1 contributions paid in respect of statutory maternity pay and secondary Class 1 contributions paid in respect of statutory sick pay.
- (3) For the purposes of this section a payment of statutory maternity pay which a person is liable to make to a woman qualifies for small employers' relief if, in relation to that woman's maternity pay period, the person liable to make the payment is a small employer.
- (4) For the purposes of this section "small employer", in relation to a woman's maternity pay period, shall have the meaning assigned to it by regulations, and, without prejudice to the generality of the foregoing, any such regulations—
- (a) may define that expression by reference to the amount of a person's contributions payments for any prescribed period; and
 - (b) if they do so, may in that connection make provision for the amount of those payments for that prescribed period—
 - (i) to be determined without regard to any deductions that may be made from them under this section or under any other enactment or instrument; and
 - (ii) in prescribed circumstances, to be adjusted, estimated or otherwise attributed to him by reference to their amount in any other prescribed period.
- (5) Regulations under subsection (1) may, in particular, make provision—
- (a) for funding in advance as well as in arrear;
 - (b) for funding, or the recovery of amounts due under provision made by virtue of subsection (2)(b), by means of deductions from such amounts for which employers are accountable to the Commissioners of Inland Revenue as may be prescribed, or otherwise;
 - (c) for the recovery by the Commissioners of Inland Revenue of any sums overpaid to employers under the regulations.
- (6) Where in accordance with any provision of regulations under subsection (1) an amount has been deducted from an employer's contributions payments, the amount so deducted shall (except in such cases as may be prescribed) be treated for the purposes of any provision made by or under any enactment in relation to primary or secondary Class 1 contributions—

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- (a) as having been paid (on such date as may be determined in accordance with the regulations), and
 - (b) as having been received by the Commissioners of Inland Revenue, towards discharging the employer's liability in respect of such contributions.
- (7) Regulations under this section must be made with the concurrence of the Commissioners of Inland Revenue.
- (8) In this section “contributions payments”, in relation to an employer, means any payments which the employer is required, by or under any enactment, to make in discharge of any liability in respect of primary or secondary Class 1 contributions.]

Textual Amendments

F18 S. 167 substituted (6.4.2003) by [Employment Act 2002 \(c. 22\)](#), **ss. 21(1)**, 55(2); S.I. 2002/2866, art. 2(3), Sch. 1 Pt. 3

168 Relationship with benefits and other payments etc.

Schedule 13 to this Act has effect with respect to the relationship between statutory maternity pay and certain benefits and payments.

169 Crown employment - Part XII.

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

170 Special classes of persons.

- (1) The Secretary of State may [^{F19}with the concurrence of the Treasury] make regulations modifying this Part of this Act in such manner as he thinks proper in their 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) above.
- (2) Regulations under subsection (1) above may in particular provide—
- (a) for any provision of this Part of this Act 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 he 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.

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Textual Amendments

- F19** Words in s. 170(1) inserted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 14](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

171 Interpretation of Part XII and supplementary provisions.

(1) In this Part of this Act—

“confinement” means—

- (a) labour resulting in the issue of a living child, or
- (b) labour after [^{F20}24 weeks] of pregnancy resulting in the issue of a child whether alive or dead,

and “confined” shall be construed accordingly; and where a woman’s labour begun on one day results in the issue of a child on another day she shall be taken to be confined on the day of the issue of the child or, if labour results in the issue of twins or a greater number of children, she shall be taken to be confined on the day of the issue of the last of them;

“dismissed” is to be construed in accordance with [^{F21}Part X of the Employment Rights Act 1996];

“employee” means a woman who is—

- (a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with [^{F22}earnings (within the meaning of Parts 1 to 5 above)]; ^{F23}...
- (b) ^{F23}

but subject to regulations [^{F24}made with the concurrence of [^{F25}Her Majesty’s Revenue and Customs]] which may provide for cases where any such woman is not to be treated as an employee for the purposes of this Part of this Act and for cases where a woman who would not otherwise be an employee for those purposes is to be treated as an employee for those purposes;

[^{F26}“employer”, in relation to a woman who is an employee, means a person who—

- (a) under section 6 above is liable to pay secondary Class 1 contributions in relation to any of her earnings; 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;]

“maternity pay period” has the meaning assigned to it by section 165(1) above;

“modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;

“prescribed” means specified in or determined in accordance with regulations;

^{F27}

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[^{F28}(1A) In this Part, except section 165(1), (4) and (6), section 166(1) and paragraph 3(2) of Schedule 13, “week” means a period of 7 days beginning with Sunday or such other period as may be prescribed in relation to any particular case or class of case.]

(2) Without prejudice to any other power to make regulations under this Part of this Act, regulations may specify cases in which, for the purposes of this Part of this Act or of such provisions of this Part of this Act 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 woman is an employee are to be treated as one.

(3) Where, in consequence of the establishment of one or more National Health Service trusts under [^{F29}the National Health Service Act 2006, the National Health Service (Wales) Act 2006] or the ^{M1}National Health Service (Scotland) Act 1978, a woman’s contract of employment is treated by a scheme under [^{F30}any of those Acts] as divided so as to constitute two or more contracts, [^{F31}or where an order under [^{F32}paragraph 26(1) of Schedule 3 to the National Health Service Act 2006] provides that a woman’s contract of employment is so divided,] regulations may make provision enabling her to elect for all of those contracts to be treated as one contract for the purposes of this Part of this Act or of such provisions of this Part of this Act as may be prescribed; and any such regulations may prescribe—

- (a) the conditions that must be satisfied if a woman 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 woman who makes such an election is to provide, and the persons to whom, and the time within which, she is to provide it;
- (e) the time for which such an election is to have effect;
- (f) which one of the woman’s employers under the two or more contracts is to be regarded for the purposes of statutory maternity pay as her employer under the one contract;

and the powers conferred by this subsection are without prejudice to any other power to make regulations under this Part of this Act.

(4) For the purposes of this Part of this Act a woman’s normal weekly earnings shall, subject to subsection (6) below, be taken to be the average weekly earnings which in the relevant period have been paid to her or paid for her benefit under the contract of service with the employer in question.

(5) For the purposes of subsection (4) above “earnings” and “relevant period” shall have the meanings given to them by regulations.

(6) In such cases as may be prescribed a woman’s normal weekly earnings shall be calculated in accordance with regulations.

[^{F33}(7) Regulations under any of subsections (2) to (6) above must be made with the concurrence of the Commissioners of Inland Revenue.]

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Textual Amendments

- F20** Words in s. 171(1) substituted (1.10.1992) by [Still-Birth \(Definition\) Act 1992 \(c. 29\)](#), **ss. 2(1)(b)(2)** (a), 4(2)
- F21** Words in s. 171(1) substituted (22.8.1996) by [Employment Rights Act 1996 \(c. 18\)](#), s. 243, **Sch. 1 para. 51(5)** (with s. 241, **Sch. 2**)
- F22** Words in s. 171(1) substituted (13.5.2014) by [National Insurance Contributions Act 2014 \(c. 7\)](#), s. 15(4), **Sch. 2 para. 4**
- F23** Words in s. 171(1) omitted (1.10.2006 with effect in relation to any case where the expected week of confinement begins on or after 14.1.2007) by virtue of [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 1(1), **Sch. 8 para. 10(2)** (with **Sch. 8 para. 10(4)**)
- F24** Words in s. 171(1) inserted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 15(2)**; S.I. 1999/527, art. 2(b), **Sch. 2** (with arts. 3-6)
- F25** Words in s. 171 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 43**; S.I. 2005/1126, art. 2(2)(h)
- F26** Words in s. 171(1) substituted (1.10.2006 with effect in relation to any case where the expected week of confinement begins on or after 14.1.2007) by virtue of [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 1(1), **Sch. 8 para. 10(3)** (with **Sch. 8 para. 10(4)**)
- F27** Words in s. 171(1) repealed (27.6.2006 for specified purposes, 1.10.2006 in so far as not already in force) by [Work and Families Act 2006 \(c. 18\)](#), s. 19(2), **Sch. 1 para. 9(2)**, **Sch. 2**; S.I. 2006/1682, arts. 2(d), 3(d)(i)(i)
- F28** S. 171(1A) inserted (27.6.2006 for specified purposes, 1.10.2006 in so far as not already in force) by [Work and Families Act 2006 \(c. 18\)](#), s. 19(2), **Sch. 1 para. 9(3)**; S.I. 2006/1682, arts. 2(d), 3(d)
- F29** Words in s. 171(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 1 para. 148(a)** (with **Sch. 3 Pt. 1**)
- F30** Words in s. 171(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 1 para. 148(b)** (with **Sch. 3 Pt. 1**)
- F31** Words in s. 171 inserted (8.2.2000) by [The Health Act 1999 \(Supplementary, Consequential etc. Provisions\) Order 2000 \(S.I. 2000/90\)](#), art. 3(1), **Sch. 1 para. 27(3)**
- F32** Words in s. 171(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 1 para. 148(c)** (with **Sch. 3 Pt. 1**)
- F33** S. 171(7) inserted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 15(3)**; S.I. 1999/527, art. 2(b), **Sch. 2** (with arts. 3-6)

Marginal Citations

- M1** 1978 c.29.

Changes to legislation:

Social Security Contributions and Benefits Act 1992, Part XII is up to date with all changes known to be in force on or before 30 June 2025. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

View outstanding changes

Changes and effects yet to be applied to :

- s. 4C(5)(i)(j) repealed by 2007 c. 22 Sch. 4 para. 42(3)(c)Sch. 7 Pt. 7
- s. 30B(4)(aa) inserted by 2012 c. 5 Sch. 9 para. 4
- s. 35(1)(e) and word inserted by 2012 c. 5 s. 63(2)(a)
- s. 35(3)(za) inserted by 2012 c. 5 s. 63(2)(b)
- s. 45(2A)(a) words substituted by 2011 c. 19 Sch. 3 para. 2(3)(b)
- s. 45(2A)(b) substituted by 2011 c. 19 Sch. 3 para. 2(3)(c)
- s. 46(5)(a) words substituted by 2011 c. 19 Sch. 3 para. 3
- s. 124(1)(ea) inserted by 2012 c. 5 s. 59(2)(a)
- s. 124(1)(ga) inserted by 2009 c. 24 s. 5(1)(a)
- s. 124(1C) inserted by 2012 c. 5 s. 59(2)(b)
- s. 124(6A)(6B) inserted by 2009 c. 24 s. 5(1)(b)
- s. 124A inserted by 2012 c. 5 s. 59(3)
- s. 130C(2)(za) inserted by 2016 asp 19 Sch. 4 para. 5
- s. 164(2)(aa) inserted by 2012 c. 5 s. 63(3)(a)
- s. 164(9)(da) inserted by 2012 c. 5 s. 63(3)(b)
- s. 171ZA(2)(ba) inserted by 2012 c. 5 s. 63(4)(a)
- s. 171ZA(3A) inserted by 2012 c. 5 s. 63(4)(b)
- s. 171ZB(2)(ba) inserted by 2012 c. 5 s. 63(5)(a)
- s. 171ZB(3A) inserted by 2012 c. 5 s. 63(5)(b)
- s. 171ZE(2A) inserted by 2014 c. 6 s. 123(3)(b)
- s. 171ZE(2B) inserted by 2014 c. 6 s. 123(3)(c)
- s. 171ZL(2)(ba) inserted by 2012 c. 5 s. 63(8)(a)
- s. 171ZL(8)(za) inserted by 2012 c. 5 s. 63(8)(c)
- s. 171ZEA(2)(ba) inserted by 2012 c. 5 s. 63(6)(a)
- s. 171ZEA(3)(za) inserted by 2012 c. 5 s. 63(6)(b)
- s. 171ZEB(2)(ba) inserted by 2012 c. 5 s. 63(7)(a)
- s. 171ZEB(3)(za) inserted by 2012 c. 5 s. 63(7)(b)
- s. 173A inserted by 2012 c. 5 s. 63(9)
- s. 176(3A) inserted by 2011 c. 19 Sch. 3 para. 5(2)
- Sch. 4 Pt. 1 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 1 para. 2A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 1A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4B para. 1(1)(a)para. 1(1)(b)(2) words inserted by 2011 c. 19 Sch. 3 para. 6(2)(b)
- Sch. 4C para. 7(2)(c) inserted by 2011 c. 19 Sch. 3 para. 7(7)(b)
- Sch. 4C para. 7(3) inserted by 2011 c. 19 Sch. 3 para. 7(8)
- Sch. 4C para. 3 omitted by 2011 c. 19 Sch. 3 para. 7(3)
- Sch. 4C para. 7(2)(b) words inserted by 2011 c. 19 Sch. 3 para. 7(7)(a)
- Sch. 4C para. 1 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 2 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 5(b) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 6 words substituted by 2011 c. 19 Sch. 3 para. 7(5)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(6)
- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4C(5)(i)(j) repealed by 2007 c. 22 Sch. 4 para. 42(3)(c) Sch. 7 Pt. 7
- s. 30B(4)(aa) inserted by 2012 c. 5 Sch. 9 para. 4
- s. 35(1)(e) and word inserted by 2012 c. 5 s. 63(2)(a)
- s. 35(3)(za) inserted by 2012 c. 5 s. 63(2)(b)
- s. 45(2A)(a) words substituted by 2011 c. 19 Sch. 3 para. 2(3)(b)
- s. 45(2A)(b) substituted by 2011 c. 19 Sch. 3 para. 2(3)(c)
- s. 46(5)(a) words substituted by 2011 c. 19 Sch. 3 para. 3
- s. 124(1)(ea) inserted by 2012 c. 5 s. 59(2)(a)
- s. 124(1)(ga) inserted by 2009 c. 24 s. 5(1)(a)
- s. 124(1C) inserted by 2012 c. 5 s. 59(2)(b)
- s. 124(6A)(6B) inserted by 2009 c. 24 s. 5(1)(b)
- s. 124A inserted by 2012 c. 5 s. 59(3)
- s. 130C(2)(za) inserted by 2016 asp 19 Sch. 4 para. 5
- s. 164(2)(aa) inserted by 2012 c. 5 s. 63(3)(a)
- s. 164(9)(da) inserted by 2012 c. 5 s. 63(3)(b)
- s. 171ZA(2)(ba) inserted by 2012 c. 5 s. 63(4)(a)
- s. 171ZA(3A) inserted by 2012 c. 5 s. 63(4)(b)
- s. 171ZB(2)(ba) inserted by 2012 c. 5 s. 63(5)(a)
- s. 171ZB(3A) inserted by 2012 c. 5 s. 63(5)(b)
- s. 171ZE(2A) inserted by 2014 c. 6 s. 123(3)(b)
- s. 171ZE(2B) inserted by 2014 c. 6 s. 123(3)(c)
- s. 171ZL(2)(ba) inserted by 2012 c. 5 s. 63(8)(a)
- s. 171ZL(8)(za) inserted by 2012 c. 5 s. 63(8)(c)
- s. 171ZEA(2)(ba) inserted by 2012 c. 5 s. 63(6)(a)
- s. 171ZEA(3)(za) inserted by 2012 c. 5 s. 63(6)(b)
- s. 171ZEB(2)(ba) inserted by 2012 c. 5 s. 63(7)(a)
- s. 171ZEB(3)(za) inserted by 2012 c. 5 s. 63(7)(b)
- s. 173A inserted by 2012 c. 5 s. 63(9)
- s. 176(3A) inserted by 2011 c. 19 Sch. 3 para. 5(2)
- Sch. 4 Pt. 1 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 1 para. 2A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 1A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4B para. 1(1)(a) para. 1(1)(b)(2) words inserted by 2011 c. 19 Sch. 3 para. 6(2)(b)
- Sch. 4C para. 7(2)(c) inserted by 2011 c. 19 Sch. 3 para. 7(7)(b)
- Sch. 4C para. 7(3) inserted by 2011 c. 19 Sch. 3 para. 7(8)
- Sch. 4C para. 3 omitted by 2011 c. 19 Sch. 3 para. 7(3)
- Sch. 4C para. 7(2)(b) words inserted by 2011 c. 19 Sch. 3 para. 7(7)(a)
- Sch. 4C para. 1 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 2 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 5(b) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 6 words substituted by 2011 c. 19 Sch. 3 para. 7(5)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(6)
- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)



Social Security Contributions and Benefits Act 1992

1992 CHAPTER 4

[^{F1}PART 12ZA

^{F2}...[^{F3}STATUTORY PATERNITY PAY]

Textual Amendments

- F1** Pt. 12ZA inserted (8.12.2002) by [Employment Act 2002 \(c. 22\)](#), **ss. 2**, 55(2); S.I. 2002/2866, art. 2(2), Sch. 1 Pt. 2
- F2** Words in Pt. 12ZA heading repealed (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 7 para. 10**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F3** Pt. 12ZA heading substituted (6.4.2010) by [Work and Families Act 2006 \(c. 18\)](#), s. 19(2), **Sch. 1 para. 10**; S.I. 2010/495, art. 4(d)

^{F4} ...

Textual Amendments

- F4** [S. 171ZA cross-heading](#) repealed (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 7 para. 11**; S.I. 2014/1640, art. 7(g) (with art. 16)

171ZA Entitlement: birth

- (1) Where a person satisfies the conditions in subsection (2) below, he shall be entitled in accordance with the following provisions of this Part to payments to be known as [^{F5}“statutory paternity pay”].
- (2) The conditions are—
- (a) that he satisfies prescribed conditions—

Changes to legislation: Social Security Contributions and Benefits Act 1992, Part 12ZA is up to date with all changes known to be in force on or before 19 May 2025. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (i) as to relationship with a newborn child, and
 - (ii) as to relationship with the child's mother;
 - (b) that he has been in employed earner's employment with an employer for a continuous period of at least 26 weeks ending with the relevant week;
 - (c) that his normal weekly earnings for the period of 8 weeks ending with the relevant week are not less than the lower earnings limit in force under section 5(1)(a) above at the end of the relevant week; and
 - (d) that he has been in employed earner's employment with the employer by reference to whom the condition in paragraph (b) above is satisfied for a continuous period beginning with the end of the relevant week and ending with the day on which the child is born.
- (3) The references in subsection (2) above to the relevant week are to the week immediately preceding the 14th week before the expected week of the child's birth.
- (4) A person's entitlement to ^{F6}...[^{F7}statutory paternity pay] under this section shall not be affected by the birth, or expected birth, of more than one child as a result of the same pregnancy.
- (5) In this section, "newborn child" includes a child stillborn after twenty-four weeks of pregnancy.

Textual Amendments

- F5** Words in s. 171ZA(1) substituted (5.4.2015) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 7 para. 12\(2\)](#); S.I. 2014/1640, art. 7(g) (with art. 16)
- F6** Word in s. 171ZA(4) repealed (5.4.2015) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 7 para. 12\(3\)](#); S.I. 2014/1640, art. 7(g) (with art. 16)
- F7** Words in s. 171ZA(4) substituted (6.4.2010) by [Work and Families Act 2006 \(c. 18\), s. 19\(2\), Sch. 1 para. 12](#); S.I. 2010/495, art. 4(d)

Modifications etc. (not altering text)

- C1** S. 171ZA(2)(b)-(d) modified (8.12.2002) by [The Statutory Paternity Pay and Statutory Adoption Pay \(General\) Regulations 2002 \(S.I. 2002/2822\)](#), regs. 1, 5

171ZB Entitlement: adoption

- (1) Where a person satisfies the conditions in subsection (2) below, he shall be entitled in accordance with the following provisions of this Part to payments to be known as [^{F8}"statutory paternity pay"].
- (2) The conditions are—
- (a) that he satisfies prescribed conditions—
 - (i) as to relationship with a child who is placed for adoption under the law of any part of the United Kingdom, and
 - (ii) as to relationship with a person with whom the child is so placed for adoption;
 - (b) that he has been in employed earner's employment with an employer for a continuous period of at least 26 weeks ending with the relevant week;

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- (c) that his normal weekly earnings for the period of 8 weeks ending with the relevant week are not less than the lower earnings limit in force under section 5(1)(a) at the end of the relevant week;
 - (d) that he has been in employed earner's employment with the employer by reference to whom the condition in paragraph (b) above is satisfied for a continuous period beginning with the end of the relevant week and ending with the day on which the child is placed for adoption; and
 - (e) where he is a person with whom the child is placed for adoption, that he has elected to receive statutory paternity pay.
- (3) The references in subsection (2) to the relevant week are to the week in which the adopter is notified of being matched with the child for the purposes of adoption.
- (4) A person may not elect to receive ^{F9}... [^{F10}statutory paternity pay] if he has elected in accordance with section 171ZL below to receive statutory adoption pay.
- (5) Regulations may make provision about elections for the purposes of subsection (2) (e) above.
- (6) A person's entitlement to ^{F11}... [^{F12}statutory paternity pay] under this section shall not be affected by the placement for adoption of more than one child as part of the same arrangement.
- (7) In this section, "adopter", in relation to a person who satisfies the condition under subsection (2)(a)(ii) above, means the person by reference to whom he satisfies that condition.
- [This section has effect in a case involving a child placed under section 22C of the
- ^{F13}(8) Children Act 1989 by a local authority in England with a local authority foster parent who has been approved as a prospective adopter with the following modifications—
 - (a) the references in subsection (2) to a child being placed for adoption under the law of any part of the United Kingdom are to be treated as references to a child being placed under section 22C in that manner;
 - (b) the reference in subsection (3) to the week in which the adopter is notified of being matched with the child for the purposes of adoption is to be treated as a reference to the week in which the prospective adopter is notified that the child is to be, or is expected to be, placed with the prospective adopter under section 22C;
 - (c) the reference in subsection (6) to placement for adoption is to be treated as a reference to placement under section 22C;
 - (d) the definition in subsection (7) is to be treated as if it were a definition of "prospective adopter".
- (9) Where, by virtue of subsection (8), a person becomes entitled to statutory paternity pay in connection with the placement of a child under section 22C of the Children Act 1989, the person may not become entitled to payments of statutory paternity pay in connection with the placement of the child for adoption.]
- [This section has effect in a case involving a child placed under section 81 of the
- ^{F14}(10) 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 with the following modifications—

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- (a) the references in subsection (2) to a child being placed for adoption under the law of any part of the United Kingdom are to be treated as references to a child being placed under section 81 in that manner;
 - (b) the reference in subsection (3) to the week in which the adopter is notified of being matched with the child for the purposes of adoption is to be treated as a reference to the week in which the prospective adopter is notified that the child is to be, or is expected to be, placed with the prospective adopter under section 81;
 - (c) the reference in subsection (6) to placement for adoption is to be treated as a reference to placement under section 81;
 - (d) the definition in subsection (7) is to be treated as if it were a definition of “prospective adopter”.
- (11) Where, by virtue of subsection (10), a person becomes entitled to statutory paternity pay in connection with the placement of a child under section 81 of the Social Services and Well-being (Wales) Act 2014, the person may not become entitled to payments of statutory paternity pay in connection with the placement of the child for adoption.]

Textual Amendments

- F8** Words in s. 171ZB(1) substituted (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 13(2)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F9** Word in s. 171ZB(4) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 13(3)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F10** Words in s. 171ZB(4) substituted (6.4.2010) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 13**; S.I. 2010/495, art. 4(d)
- F11** Word in s. 171ZB(6) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 13(4)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F12** Words in s. 171ZB(6) substituted (6.4.2010) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 13**; S.I. 2010/495, art. 4(d)
- F13** S. 171ZB(8)(9) inserted (30.6.2014) by Children and Families Act 2014 (c. 6), **ss. 121(3)**, 139(6); S.I. 2014/1640, art. 3(1)(e)
- F14** S. 171ZB(10)(11) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **132**

171ZC Entitlement: general

- (1) A person shall be entitled to payments of ^{F15}... [^{F16}statutory paternity pay] in respect of any period [^{F17}only if he gives the person who will be liable to pay it notice of the week or weeks in respect of which he expects there to be liability to pay him statutory paternity pay.]
- [Regulations may provide for the time by which notice under subsection (1) is to be ^{F18}(1A) given.]
- (2) The notice shall be in writing if the person who is liable to pay the ^{F19}... [^{F16}statutory paternity pay] so requests.
- (3) The Secretary of State may by regulations—
- (a) provide that subsection (2)(b), (c) or (d) of section 171ZA or 171ZB above shall have effect subject to prescribed modifications in such cases as may be prescribed;

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- (b) provide that subsection (1) above shall not have effect, or shall have effect subject to prescribed modifications, in such cases as may be prescribed;
- (c) impose requirements about evidence of entitlement;
- (d) specify in what circumstances employment is to be treated as continuous for the purposes of section 171ZA or 171ZB above;
- (e) provide that a person is to be treated for the purposes of section 171ZA or 171ZB above as being employed for a continuous period of at least 26 weeks where—
 - (i) he has been employed by the same employer for at least 26 weeks under two or more separate contracts of service; and
 - (ii) those contracts were not continuous;
- (f) provide for amounts earned by a person under separate contracts of service with the same employer to be aggregated for the purposes of section 171ZA or 171ZB above;
- (g) provide that—
 - (i) the amount of a person's earnings for any period, or
 - (ii) the amount of his earnings to be treated as comprised in any payment made to him or for his benefit,
 shall be calculated or estimated for the purposes of section 171ZA or 171ZB above 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 shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of his earnings.

Textual Amendments

- F15** Word in s. 171ZC(1) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 14(2)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F16** Words in s. 171ZC substituted (6.4.2010) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 14**; S.I. 2010/495, art. 4(d)
- F17** Words in s. 171ZC(1) substituted (30.6.2014) by Children and Families Act 2014 (c. 6), **ss. 123(2)(a)**, 139(6); S.I. 2014/1640, art. 3(1)(g) (with art. 9)
- F18** S. 171ZC(1A) inserted (30.6.2014) by Children and Families Act 2014 (c. 6), **ss. 123(2)(b)**, 139(6); S.I. 2014/1640, art. 3(1)(g) (with art. 9)
- F19** Word in s. 171ZC(2) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 14(3)**; S.I. 2014/1640, art. 7(g) (with art. 16)

171ZD Liability to make payments

- (1) The liability to make payments of ^{F20}... statutory paternity pay under section 171ZA or 171ZB above is a liability of any person of whom the person entitled to the payments has been an employee as mentioned in subsection (2)(b) and (d) of that section.
- (2) Regulations shall make provision as to a former employer's liability to pay ^{F21}... [^{F22}statutory paternity pay] to a person in any case where the former employee's contract of service with him has been brought to an end by the former employer solely, or mainly, for the purpose of avoiding [^{F23}liability for ^{F21}... statutory paternity pay]^{F24}....

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- (3) The Secretary of State may, with the concurrence of the Board, by regulations specify circumstances in which, notwithstanding this section, liability to make payments of statutory paternity pay is to be a liability of the Board.

Textual Amendments

- F20** Word in s. 171ZD(1) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 15(2)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F21** Words in s. 171ZD(2) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 15(3)(a)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F22** Words in s. 171ZD(2) substituted (6.4.2010) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 15(3)(a)**; S.I. 2010/495, art. 4(d)
- F23** Words in s. 171ZD(2) substituted (6.4.2010) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 15(3)(b)**; S.I. 2010/495, art. 4(d)
- F24** Words in s. 171ZD(2) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 15(3)(b)**; S.I. 2014/1640, art. 7(g) (with art. 16)

171ZE Rate and period of pay

- (1) ^{F25}... [^{F26}Statutory paternity pay] shall be 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) ^{F27}... [^{F26}Statutory paternity pay] shall be payable in respect of—
- a period of two consecutive weeks within the qualifying period beginning on such date within that period as the person entitled may choose in accordance with regulations, or
 - if regulations permit the person entitled to choose to receive ^{F28}... [^{F26}statutory paternity pay] in respect of—
 - a period of a week, or
 - two non-consecutive periods of a week,
 such week or weeks within the qualifying period as he may choose in accordance with regulations.
- (3) For the purposes of subsection (2) above, the qualifying period shall be determined in accordance with regulations, which shall secure that it is a period of at least 56 days beginning—
- in the case of a person to whom the conditions in section 171ZA(2) above apply, with the date of the child's birth, and
 - in the case of a person to whom the conditions in section 171ZB(2) above apply, with the date of the child's placement for adoption.
- [Statutory paternity pay is not payable to a person in respect of a statutory pay week if—
- ^{F29}(3A) ^{F29}(3A) ^{F29}(3A) (a) statutory shared parental pay is payable to that person in respect of any part of that week or that person takes shared parental leave in any part of that week, or
- statutory shared parental pay was payable to that person or that person has taken shared parental leave in respect of the child before that week.]
- (4) ^{F30}... [^{F26}Statutory paternity pay] shall not be payable to a person in respect of a statutory pay week if it is not his purpose at the beginning of the week—

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- (a) to care for the child by reference to whom he satisfies the condition in subparagraph (i) of section 171ZA(2)(a) or 171ZB(2)(a) above, or
 - (b) to support the person by reference to whom he satisfies the condition in subparagraph (ii) of that provision.
- (5) A person shall not be liable to pay ^{F31}... [^{F26}statutory paternity pay] to another in respect of a statutory pay week during any part of which the other works under a contract of service with him.
- (6) It is immaterial for the purposes of subsection (5) above whether the work referred to in that subsection is work under a contract of service which existed immediately before the statutory pay week or a contract of service which did not so exist.
- (7) Except in such cases as may be prescribed, ^{F32}... [^{F26}statutory paternity pay] shall not be payable to a person in respect of a statutory pay week during any part of which he works for any employer who is not liable to pay him ^{F32}... [^{F26}statutory paternity pay].
- (8) The Secretary of State may by regulations specify circumstances in which there is to be no liability to pay ^{F33}... [^{F26}statutory paternity pay] in respect of a statutory pay week.
- (9) Where more than one child is born as a result of the same pregnancy, the reference in subsection (3)(a) to the date of the child's birth shall be read as a reference to the date of birth of the first child born as a result of the pregnancy.
- (10) Where more than one child is placed for adoption as part of the same arrangement, the reference in subsection (3)(b) to the date of the child's placement shall be read as a reference to the date of placement of the first child to be placed as part of the arrangement.
- [Where for any purpose of this Part of this Act or of regulations it is necessary to
- ^{F34}(10A) calculate the daily rate of ^{F35}... statutory paternity pay, the amount payable by way of ^{F35}... statutory paternity pay for any day shall be taken as one seventh of the weekly rate.]
- (11) In this section—
 - “statutory pay week”, in relation to a person entitled to ^{F36}... [^{F26}statutory paternity pay], means a week chosen by him as a week in respect of which ^{F36}... [^{F26}statutory paternity pay] shall be payable;
 - “week” means any period of seven days.
- [Where statutory paternity pay is payable to a person by virtue of section 171ZB(8),
- ^{F37}(12) this section has effect as if—
 - (a) the references in subsections (3)(b) and (10) to placement for adoption were references to placement under section 22C of the Children Act 1989;
 - (b) the references in subsection (10) to being placed for adoption were references to being placed under section 22C.]
- [Where statutory paternity pay is payable to a person by virtue of section 171ZB(10),
- ^{F38}(13) this section has effect as if—
 - (a) the references in subsections (3)(b) and (10) to placement for adoption were references to placement under section 81 of the Social Services and Well-being (Wales) Act 2014;
 - (b) the references in subsection (10) to being placed for adoption were references to being placed under section 81.]

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Textual Amendments

- F25

Word in s. 171ZE(1) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 16(2)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F26

Words in s. 171ZE substituted (6.4.2010) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 16(2)**; S.I. 2010/495, art. 4(d)
- F27

Word in s. 171ZE(2) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 16(3)(a)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F28

Word in s. 171ZE(2)(b) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 16(3)(b)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F29

S. 171ZE(3A) inserted (30.6.2014) by Children and Families Act 2014 (c. 6), **ss. 120(5)**, 139(6); S.I. 2014/1640, art. 3(1)(d)
- F30

Word in s. 171ZE(4) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 16(4)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F31

Words in s. 171ZE(5) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 16(5)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F32

Words in s. 171ZE(7) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 16(6)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F33

Word in s. 171ZE(8) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 16(7)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F34

S. 171ZE(10A) inserted (1.10.2006) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 16(3)**; S.I. 2006/2232, art. 2(c)
- F35

Word in s. 171ZE(10A) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 16(8)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F36

Words in s. 171ZE(11) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 16(9)**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F37

S. 171ZE(12) inserted (30.6.2014) by Children and Families Act 2014 (c. 6), **ss. 121(4)**, 139(6); S.I. 2014/1640, art. 3(1)(e)
- F38

S. 171ZE(13) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **133**
- F39 ...
- Textual Amendments
- F39

S. 171ZEA cross-heading repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 17**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F40171ZEEntitlement to additional statutory paternity pay: birth
-
- Textual Amendments
- F40

Ss. 171ZEA-171ZEE repealed (5.4.2015) by Children and Families Act 2014 (c. 6), **ss. 125(2)**, 139(6); S.I. 2014/1640, art. 6(b) (with art. 14)

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F40 171ZEEntitlement to additional statutory paternity pay: adoption

.....

Textual Amendments

F40 Ss. 171ZEA-171ZEE repealed (5.4.2015) by Children and Families Act 2014 (c. 6), ss. 125(2), 139(6); S.I. 2014/1640, art. 6(b) (with art. 14)

F40 171ZEEEntitlement to additional statutory paternity pay: general

.....

Textual Amendments

F40 Ss. 171ZEA-171ZEE repealed (5.4.2015) by Children and Families Act 2014 (c. 6), ss. 125(2), 139(6); S.I. 2014/1640, art. 6(b) (with art. 14)

F40 171ZEDAbility to make payments of additional statutory paternity pay

.....

Textual Amendments

F40 Ss. 171ZEA-171ZEE repealed (5.4.2015) by Children and Families Act 2014 (c. 6), ss. 125(2), 139(6); S.I. 2014/1640, art. 6(b) (with art. 14)

F40 171ZERRate and period of pay: additional statutory paternity pay

.....

Textual Amendments

F40 Ss. 171ZEA-171ZEE repealed (5.4.2015) by Children and Families Act 2014 (c. 6), ss. 125(2), 139(6); S.I. 2014/1640, art. 6(b) (with art. 14)

F41 ...

Textual Amendments

F41 S. 171ZF cross-heading repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 7 para. 18; S.I. 2014/1640, art. 7(g) (with art. 16)

171ZF Restrictions on contracting out

(1) Any agreement shall be void to the extent that it purports—

(a) to exclude, limit or otherwise modify any provision of this Part of this Act, or

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- (b) to require an employee or former employee to contribute (whether directly or indirectly) towards any costs incurred by his employer or former employer under this Part of this Act.
- (2) For the avoidance of doubt, any agreement between an employer and an employee authorising any deductions from [^{F42}statutory paternity pay] which the employer is liable to pay to the employee in respect of any period shall not be void by virtue of subsection (1)(a) above if the employer—
 - (a) is authorised by that or another agreement to make the same deductions from any contractual remuneration which he is liable to pay in respect of the same period, or
 - (b) would be so authorised if he were liable to pay contractual remuneration in respect of that period.

Textual Amendments

F42 Words in s. 171ZF(2) substituted (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 7 para. 19](#); [S.I. 2014/1640](#), art. 7(g) (with art. 16)

171ZG Relationship with contractual remuneration

- (1) Subject to subsections (2) and (3) below, any entitlement to statutory paternity pay shall not affect any right of a person in relation to remuneration under any contract of service (“contractual remuneration”).
- (2) Subject to subsection (3) below—
 - (a) any contractual remuneration paid to a person by an employer of his in respect of any period shall go towards discharging any liability of that employer to pay statutory paternity pay to him in respect of that period; and
 - (b) any statutory paternity pay paid by an employer to a person who is an employee of his in respect of any period shall go towards discharging any liability of that employer to pay contractual remuneration to him 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) above.

^{F43}(4)

Textual Amendments

F43 S. 171ZG(4) repealed (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 7 para. 20](#); [S.I. 2014/1640](#), art. 7(g) (with art. 16)

171ZH Crown employment-Part 12ZA

The provisions of this Part of this Act 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.

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171ZI Special classes of person

- (1) The Secretary of State may with the concurrence of the Treasury make regulations modifying any provision of this Part of this Act in such manner as he 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) above.
- (2) Regulations under subsection (1) above may, in particular, provide—
- (a) for any provision of this Part of this Act 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 he 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.

171ZJ Part 12ZA: supplementary

- (1) In this Part of this Act—
- “the Board” means the Commissioners of Inland Revenue;
 - [^{F44}“employer”, in relation to a person who is an employee, means a person who—
 - (a) under section 6 above 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;]
 - [^{F45}“local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);]
 - [^{F45}“local authority foster parent” has the same meaning as in the Children Act 1989 (see [^{F46}section 105(1)] of that Act);]
 - “modifications” includes additions, omissions and amendments, and related expressions are to be read accordingly;
 - “prescribed” means prescribed by regulations.
- (2) In this Part of this Act, “employee” means a person who is—
- (a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with [^{F47}earnings (within the meaning of Parts 1 to 5 above)]; ^{F48}...
 - ^{F48}(b)
- (3) Regulations may provide—

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- (a) for cases where a person who falls within the definition in subsection (2) above is not to be treated as an employee for the purposes of this Part of this Act, and
 - (b) for cases where a person who would not otherwise be an employee for the purposes of this Part of this Act is to be treated as an employee for those purposes.
- (4) Without prejudice to any other power to make regulations under this Part of this Act, regulations may specify cases in which, for the purposes of this Part of this Act or of such provisions of this Part of this Act 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 [^{F49}section 171ZE], “week” means a period of 7 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 of this Act, a person’s normal weekly earnings shall, subject to subsection (8) below, be taken to be the average weekly earnings which in the relevant period have been paid to him or paid for his benefit under the contract of service with the employer in question.
- (7) For the purposes of subsection (6) above, “earnings” and “relevant period” shall have the meanings given to them by regulations.
- (8) In such cases as may be prescribed, a person’s normal weekly earnings shall be calculated in accordance with regulations.
- (9) Where—
 - (a) in consequence of the establishment of one or more National Health Service trusts under [^{F50}the National Health Service Act 2006, the National Health Service (Wales) Act 2006] or the National Health Service (Scotland) Act 1978 (c. 29), a person’s contract of employment is treated by a scheme under [^{F51}any of those Acts] as divided so as to constitute two or more contracts, or
 - (b) an order under [^{F52}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 of this Act or such provisions of this Part of this Act as may be prescribed.
- (10) Regulations under subsection (9) above 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, he is to provide it;
 - (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 [^{F53}statutory paternity pay] as his employer under the contract.

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- (11) The powers under subsections (9) and (10) are without prejudice to any other power to make regulations under this Part of this Act.
- (12) Regulations under any of subsections (4) to (10) above must be made with the concurrence of the Board.

Textual Amendments

- F44** Words in s. 171ZJ(1) substituted (1.10.2006 with application in accordance with Sch. 8 para. 11(4) of the amending S.I.) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 1(1), [Sch. 8 para. 11\(2\)](#)
- F45** Words in s. 171ZJ(1) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. [121\(7\)\(a\)](#), [139\(6\)](#); S.I. 2014/1640, art. 3(1)(e)
- F46** Words in s. 171ZJ(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), [134](#)
- F47** Words in s. 171ZJ(2)(a) substituted (13.5.2014) by [National Insurance Contributions Act 2014 \(c. 7\)](#), s. [15\(4\)](#), [Sch. 2 para. 5](#)
- F48** S. 171ZJ(2)(b) and preceding word omitted (1.10.2006 with application in accordance with Sch. 8 para. 11(4) of the amending S.I.) by virtue of [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 1(1), [Sch. 8 para. 11\(3\)](#)
- F49** Words in s. 171ZJ(5) substituted (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), s. [139\(6\)](#), [Sch. 7 para. 21\(2\)](#); S.I. 2014/1640, art. 7(g) (with art. 16)
- F50** Words in s. 171ZJ(9)(a) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. [8\(2\)](#), [Sch. 1 para. 149\(a\)\(i\)](#) (with Sch. 3 Pt. 1)
- F51** Words in s. 171ZJ(9)(a) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. [8\(2\)](#), [Sch. 1 para. 149\(a\)\(ii\)](#) (with Sch. 3 Pt. 1)
- F52** Words in s. 171ZJ(9)(b) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. [8\(2\)](#), [Sch. 1 para. 149\(b\)](#) (with Sch. 3 Pt. 1)
- F53** Words in s. 171ZJ(10)(f) substituted (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), s. [139\(6\)](#), [Sch. 7 para. 21\(3\)](#); S.I. 2014/1640, art. 7(g) (with art. 16)

171ZK Power to apply Part 12ZA ^{F54}...

^{F55}(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.

^{F56}(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.]]

Textual Amendments

- F54** Words in s. 171ZK title repealed (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. [122\(5\)\(a\)](#), [139\(6\)](#); S.I. 2014/1640, art. 3(1)(f)
- F55** S. 171ZK(1) renumbered (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. [122\(5\)\(b\)](#), [139\(6\)](#); S.I. 2014/1640, art. 3(1)(f)

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F56 S. 171ZK(2) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 122(5)(c), 139(6)**; S.I. 2014/1640, art. 3(1)(f)

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 4C(5)(i)(j) repealed by 2007 c. 22 Sch. 4 para. 42(3)(c) Sch. 7 Pt. 7
- s. 30B(4)(aa) inserted by 2012 c. 5 Sch. 9 para. 4
- s. 35(1)(e) and word inserted by 2012 c. 5 s. 63(2)(a)
- s. 35(3)(za) inserted by 2012 c. 5 s. 63(2)(b)
- s. 45(2A)(a) words substituted by 2011 c. 19 Sch. 3 para. 2(3)(b)
- s. 45(2A)(b) substituted by 2011 c. 19 Sch. 3 para. 2(3)(c)
- s. 46(5)(a) words substituted by 2011 c. 19 Sch. 3 para. 3
- s. 124(1)(ea) inserted by 2012 c. 5 s. 59(2)(a)
- s. 124(1)(ga) inserted by 2009 c. 24 s. 5(1)(a)
- s. 124(1C) inserted by 2012 c. 5 s. 59(2)(b)
- s. 124(6A)(6B) inserted by 2009 c. 24 s. 5(1)(b)
- s. 124A inserted by 2012 c. 5 s. 59(3)
- s. 130C(2)(za) inserted by 2016 asp 19 Sch. 4 para. 5
- s. 164(2)(aa) inserted by 2012 c. 5 s. 63(3)(a)
- s. 164(9)(da) inserted by 2012 c. 5 s. 63(3)(b)
- s. 171ZA(2)(ba) inserted by 2012 c. 5 s. 63(4)(a)
- s. 171ZA(3A) inserted by 2012 c. 5 s. 63(4)(b)
- s. 171ZB(2)(ba) inserted by 2012 c. 5 s. 63(5)(a)
- s. 171ZB(3A) inserted by 2012 c. 5 s. 63(5)(b)
- s. 171ZE(2A) inserted by 2014 c. 6 s. 123(3)(b)
- s. 171ZE(2B) inserted by 2014 c. 6 s. 123(3)(c)
- s. 171ZL(2)(ba) inserted by 2012 c. 5 s. 63(8)(a)
- s. 171ZL(8)(za) inserted by 2012 c. 5 s. 63(8)(c)
- s. 171ZEA(2)(ba) inserted by 2012 c. 5 s. 63(6)(a)
- s. 171ZEA(3)(za) inserted by 2012 c. 5 s. 63(6)(b)
- s. 171ZEB(2)(ba) inserted by 2012 c. 5 s. 63(7)(a)
- s. 171ZEB(3)(za) inserted by 2012 c. 5 s. 63(7)(b)
- s. 173A inserted by 2012 c. 5 s. 63(9)
- s. 176(3A) inserted by 2011 c. 19 Sch. 3 para. 5(2)
- Sch. 4 Pt. 1 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 1 para. 2A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 1A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4B para. 1(1)(a) para. 1(1)(b)(2) words inserted by 2011 c. 19 Sch. 3 para. 6(2)(b)
- Sch. 4C para. 7(2)(c) inserted by 2011 c. 19 Sch. 3 para. 7(7)(b)
- Sch. 4C para. 7(3) inserted by 2011 c. 19 Sch. 3 para. 7(8)
- Sch. 4C para. 3 omitted by 2011 c. 19 Sch. 3 para. 7(3)
- Sch. 4C para. 7(2)(b) words inserted by 2011 c. 19 Sch. 3 para. 7(7)(a)
- Sch. 4C para. 1 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 2 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 5(b) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 6 words substituted by 2011 c. 19 Sch. 3 para. 7(5)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(6)
- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4C(5)(i)(j) repealed by 2007 c. 22 Sch. 4 para. 42(3)(c) Sch. 7 Pt. 7
- s. 30B(4)(aa) inserted by 2012 c. 5 Sch. 9 para. 4
- s. 35(1)(e) and word inserted by 2012 c. 5 s. 63(2)(a)
- s. 35(3)(za) inserted by 2012 c. 5 s. 63(2)(b)
- s. 45(2A)(a) words substituted by 2011 c. 19 Sch. 3 para. 2(3)(b)
- s. 45(2A)(b) substituted by 2011 c. 19 Sch. 3 para. 2(3)(c)
- s. 46(5)(a) words substituted by 2011 c. 19 Sch. 3 para. 3
- s. 124(1)(ea) inserted by 2012 c. 5 s. 59(2)(a)
- s. 124(1)(ga) inserted by 2009 c. 24 s. 5(1)(a)
- s. 124(1C) inserted by 2012 c. 5 s. 59(2)(b)
- s. 124(6A)(6B) inserted by 2009 c. 24 s. 5(1)(b)
- s. 124A inserted by 2012 c. 5 s. 59(3)
- s. 130C(2)(za) inserted by 2016 asp 19 Sch. 4 para. 5
- s. 164(2)(aa) inserted by 2012 c. 5 s. 63(3)(a)
- s. 164(9)(da) inserted by 2012 c. 5 s. 63(3)(b)
- s. 171ZA(2)(ba) inserted by 2012 c. 5 s. 63(4)(a)
- s. 171ZA(3A) inserted by 2012 c. 5 s. 63(4)(b)
- s. 171ZB(2)(ba) inserted by 2012 c. 5 s. 63(5)(a)
- s. 171ZB(3A) inserted by 2012 c. 5 s. 63(5)(b)
- s. 171ZE(2A) inserted by 2014 c. 6 s. 123(3)(b)
- s. 171ZE(2B) inserted by 2014 c. 6 s. 123(3)(c)
- s. 171ZL(2)(ba) inserted by 2012 c. 5 s. 63(8)(a)
- s. 171ZL(8)(za) inserted by 2012 c. 5 s. 63(8)(c)
- s. 171ZEA(2)(ba) inserted by 2012 c. 5 s. 63(6)(a)
- s. 171ZEA(3)(za) inserted by 2012 c. 5 s. 63(6)(b)
- s. 171ZEB(2)(ba) inserted by 2012 c. 5 s. 63(7)(a)
- s. 171ZEB(3)(za) inserted by 2012 c. 5 s. 63(7)(b)
- s. 173A inserted by 2012 c. 5 s. 63(9)
- s. 176(3A) inserted by 2011 c. 19 Sch. 3 para. 5(2)
- Sch. 4 Pt. 1 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 1 para. 2A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 1A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4B para. 1(1)(a) para. 1(1)(b)(2) words inserted by 2011 c. 19 Sch. 3 para. 6(2)(b)
- Sch. 4C para. 7(2)(c) inserted by 2011 c. 19 Sch. 3 para. 7(7)(b)
- Sch. 4C para. 7(3) inserted by 2011 c. 19 Sch. 3 para. 7(8)
- Sch. 4C para. 3 omitted by 2011 c. 19 Sch. 3 para. 7(3)
- Sch. 4C para. 7(2)(b) words inserted by 2011 c. 19 Sch. 3 para. 7(7)(a)
- Sch. 4C para. 1 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 2 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 5(b) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 6 words substituted by 2011 c. 19 Sch. 3 para. 7(5)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(6)
- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)



Social Security Contributions and Benefits Act 1992

1992 CHAPTER 4

[^{F1}PART 12ZB

STATUTORY ADOPTION PAY

Textual Amendments

- F1** Pt. 12ZB inserted (8.12.2002) by [Employment Act 2002 \(c. 22\)](#), ss. 4, 55(2); S.I. 2002/2866, art. 2(2), Sch. 1 Pt. 2

171ZL Entitlement

- (1) Where a person who is, or has been, an employee satisfies the conditions in subsection (2) below, he shall be entitled in accordance with the following provisions of this Part to payments to be known as “statutory adoption pay”.
- (2) The conditions are—
 - (a) that he 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;
 - (b) that he has been in employed earner’s employment with an employer for a continuous period of at least 26 weeks ending with the relevant week;
 - (c) that he has ceased to work for the employer;
 - (d) that his normal weekly earnings for the period of 8 weeks ending with the relevant week are not less than the lower earnings limit in force under section 5(1)(a) at the end of the relevant week; and
 - (e) that he has elected to receive statutory adoption pay.
- (3) The references in subsection (2)(b) and (d) above to the relevant week are to the week in which the person is notified that he has been matched with the child for the purposes of adoption.

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- (4) A person may not elect to receive statutory adoption pay if—
- (a) he has elected in accordance with section 171ZB above to receive statutory paternity pay, or
 - ^{F2}(b) he falls within subsection (4A).]
- [A person falls within this subsection if—
- ^{F3}(4A) (a) the child is, or is expected to be, placed for adoption with him as a member of a couple;
- (b) the other member of the couple is a person to whom the conditions in subsection (2) above apply; and
 - (c) the other member of the couple has elected to receive statutory adoption pay.
- (4B) For the purposes of subsection (4A), a person is a member of a couple if—
- (a) in the case of an adoption or expected adoption under the law of England and Wales [^{F4}or Northern Ireland], he is a member of a couple within the meaning of section 144(4) of the Adoption and Children Act 2002;
 - ^{F5}(b)
 - [in the case of an adoption or expected adoption under the law of Scotland he
 - ^{F6}(c) is a member of a relevant couple within the meaning of section 29(3) of the Adoption and Children (Scotland) Act 2007].]
- (5) A person's entitlement to statutory adoption pay shall not be affected by the placement, or expected placement, for adoption of more than one child as part of the same arrangement.
- (6) A person shall be entitled to payments of statutory adoption pay only if—
- (a) he gives the person who will be liable to pay it notice of the date from which he expects the liability to pay him statutory adoption pay to begin; and
 - (b) the notice is given at least 28 days before that date or, if that is not reasonably practicable, as soon as is reasonably practicable.
- (7) The notice shall be in writing if the person who is liable to pay the statutory adoption pay so requests.
- (8) The Secretary of State may by regulations—
- (a) provide that subsection (2)(b), (c) or (d) above shall have effect subject to prescribed modifications in such cases as may be prescribed;
 - (b) provide that subsection (6) above shall not have effect, or shall have effect subject to prescribed modifications, in such cases as may be prescribed;
 - (c) impose requirements about evidence of entitlement;
 - (d) specify in what circumstances employment is to be treated as continuous for the purposes of this section;
 - (e) provide that a person is to be treated for the purposes of this section as being employed for a continuous period of at least 26 weeks where—
 - (i) he has been employed by the same employer for at least 26 weeks under two or more separate contracts of service; and
 - (ii) those contracts were not continuous;
 - (f) provide for amounts earned by a person under separate contracts of service with the same employer to be aggregated for the purposes of this section;
 - (g) provide that—
 - (i) the amount of a person's earnings for any period, or

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- (ii) the amount of his earnings to be treated as comprised in any payment made to him or for his benefit,

shall be calculated or estimated for the purposes of this section 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 shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of his earnings;

- (h) make provision about elections for statutory adoption pay.

[This section has effect in a case involving a child who is, or is expected to be, placed ^{F7}(9) under section 22C of the Children Act 1989 by a local authority in England with a local authority foster parent who has been approved as a prospective adopter with the following modifications—

- (a) the references in subsections (2)(a) and (4A)(a) to a child being placed for adoption under the law of any part of the United Kingdom are to be treated as references to a child being placed under section 22C in that manner;
- (b) the reference in subsection (3) to the week in which the person is notified that he has been matched with the child for the purposes of adoption is to be treated as a reference to the week in which the person is notified that the child is to be, or is expected to be, placed with him under section 22C;
- (c) the references in subsection (4B)(a) to adoption are to be treated as references to placement under section 22C;
- (d) the reference in subsection (5) to placement, or expected placement, for adoption is to be treated as a reference to placement, or expected placement, under section 22C.

- (10) Where, by virtue of subsection (9), a person becomes entitled to statutory adoption pay in respect of a child who is, or is expected to be, placed under section 22C of the Children Act 1989, the person may not become entitled to payments of statutory adoption pay as a result of the child being, or being expected to be, placed for adoption.]

[This section has effect in a case involving a child who is, or is expected to be, placed ^{F8}(11) 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 with the following modifications—

- (a) the references in subsections (2)(a) and (4A)(a) to a child being placed for adoption under the law of any part of the United kingdom are to be treated as references to a child being placed under section 81 in that manner;
- (b) the reference in subsection (3) to the week in which the person is notified that he has been matched with the child for the purposes of adoption is to be treated as a reference to the week in which the person is notified that the child is to be, or is expected to be placed with him under section 8;
- (c) the references in subsection (4B)(a) to adoption are to be treated as references to placement under section 81;
- (d) the reference in subsection (5) to placement, or expected placement, for adoption is to be treated as a reference to placement, or expected placement under section 81.

- (12) Where, by virtue of subsection (11), a person becomes entitled to statutory adoption pay in respect of a child who is, or is expected to be, placed under section 81 of the Social Services and Well-being (Wales) Act 2014, the person may not become entitled

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to payments of statutory adoption pay as a result of the child being, or being expected to be, placed for adoption.]

Textual Amendments

- F2** S. 171ZL(4)(b) substituted (with effect in accordance with art. 2 of the amending S.I.) by [The Adoption and Children Act 2002 \(Consequential Amendment to Statutory Adoption Pay\) Order 2006 \(S.I. 2006/2012\)](#), arts. 1, **3(a)**
- F3** S. 171ZL(4A)(4B) inserted (with effect in accordance with art. 2 of the amending S.I.) by [The Adoption and Children Act 2002 \(Consequential Amendment to Statutory Adoption Pay\) Order 2006 \(S.I. 2006/2012\)](#), arts. 1, **3(b)**
- F4** Words in s. 171ZL(4B)(a) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **65(a)** (with regs. 6-9)
- F5** S. 171ZL(4B)(b) omitted (13.1.2020) by virtue of [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **65(b)** (with regs. 6-9)
- F6** S. 171ZL(4B)(c) inserted (15.7.2011) by [The Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), **Sch. 1 para. 4**
- F7** S. 171ZL(9)(10) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 121(5)**, 139(6); S.I. 2014/1640, art. 3(1)(e)
- F8** S. 171ZL(11)(12) inserted (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), **135**

Modifications etc. (not altering text)

- C1** S. 171ZL(6) disappplied (8.12.2002) by [The Statutory Paternity Pay and Statutory Adoption Pay \(General\) Regulations 2002 \(S.I. 2002/2822\)](#), regs. 1, **29(2)**

171ZM Liability to make payments

- (1) The liability to make payments of statutory adoption pay is a liability of any person of whom the person entitled to the payments has been an employee as mentioned in section 171ZL(2)(b) above.
- (2) Regulations shall make provision as to a former employer's liability to pay statutory adoption pay to a person in any case where the former employee's contract of service with him has been brought to an end by the former employer solely, or mainly, for the purpose of avoiding liability for statutory adoption pay.
- (3) The Secretary of State may, with the concurrence of the Board, by regulations specify circumstances in which, notwithstanding this section, liability to make payments of statutory adoption pay is to be a liability of the Board.

171ZN Rate and period of pay

^{F9}(1)

- (2) Statutory adoption pay shall be payable, subject to the provisions of this Part of this Act, in respect of each week during a prescribed period ("the adoption pay period") of a duration not exceeding [^{F10}52 weeks].

[Regulations may provide for the duration of the adoption pay period as it applies to a ^{F11}(2A) person ("A") to be reduced, subject to prescribed restrictions and conditions.

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(2B) Regulations under subsection (2A) are to secure that the reduced period ends at a time—

- (a) after a prescribed part of the adoption pay period has expired, and
- (b) when at least a prescribed part of the adoption pay period remains unexpired.

(2C) Regulations under subsection (2A) may, in particular, prescribe restrictions and conditions relating to—

- (a) the end of A's entitlement to adoption leave;
- (b) the doing of work by A;
- (c) the taking of prescribed steps by A or another person as regards leave under section 75G of the Employment Rights Act 1996 in respect of the child;
- (d) the taking of prescribed steps by A or another person as regards statutory shared parental pay in respect of the child.

(2D) Regulations may provide for a reduction in the duration of the adoption pay period as it applies to a person to be revoked, or to be treated as revoked, subject to prescribed restrictions and conditions.]

[Statutory adoption pay shall be payable to a person—

^{F12}(2E) (a) at the earnings-related rate, in respect of the first 6 weeks in respect of which it is payable; and

- (b) at whichever is the lower of the earnings-related rate and such weekly rate as may be prescribed, in respect of the remaining portion of the adoption pay period.

(2F) The earnings-related rate is a weekly rate equivalent to 90 per cent of a person's normal weekly earnings for the period of 8 weeks ending with the week in which the person is notified that the person has been matched with a child for the purposes of adoption.

(2G) The weekly rate prescribed under subsection (2E)(b) must not be less than the weekly rate of statutory sick pay for the time being specified in section 157(1) or, if two or more such rates are for the time being so specified, the higher or highest of those rates.]

(3) [^{F13}Except in such cases as may be prescribed,] a person shall not be liable to pay statutory adoption pay to another in respect of any week during any part of which the other works under a contract of service with him.

(4) It is immaterial for the purposes of subsection (3) above whether the work referred to in that subsection is work under a contract of service which existed immediately before the adoption pay period or a contract of service which did not so exist.

(5) Except in such cases as may be prescribed, statutory adoption pay shall not be payable to a person in respect of any week during any part of which he works for any employer who is not liable to pay him statutory adoption pay.

(6) The Secretary of State may by regulations specify circumstances in which there is to be no liability to pay statutory adoption pay in respect of a week.

[Where for any purpose of this Part of this Act or of regulations it is necessary to

^{F14}(6A) calculate the daily rate of statutory adoption pay, the amount payable by way of statutory adoption pay for any day shall be taken as one seventh of the weekly rate.]

(7) In [^{F15}subsections (2) and (2E)] above, “week” means any period of seven days.

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(8) In subsections (3), (5) and (6) above, “week” means a period of seven days beginning with the day of the week on which the adoption pay period begins.

^{F16} [Where statutory adoption pay is payable to a person by virtue of section 171ZN(9), (9) this section has effect as if the reference in subsection (2F) to the week in which the person is notified that he has been matched with a child for the purposes of adoption were a reference to the week in which the person is notified that a child is to be, or is expected to be, placed with him under section 22C of the Children Act 1989.]

^{F17} [Where statutory adoption pay is payable to a person by virtue of section 171ZN(11), (10) this section has effect as if the reference in subsection (2F) to the week in which the person is notified that he has been matched with a child for the purposes of adoption were a reference to the week in which the person is notified that a child is to be, or is expected to be, placed with him under section 81 of the Social Services and Well-being (Wales) Act 2014.]

Textual Amendments

- F9** S. 171ZN(1) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), **ss. 124(1)(a)**, 139(6); S.I. 2014/1640, art. 6(a) (with art. 13)
- F10** Words in s. 171ZN(2) substituted (27.6.2006 for specified purposes, 1.10.2006 in so far as not already in force) by Work and Families Act 2006 (c. 18), **ss. 2**, 19(2); S.I. 2006/1682, arts. 2(b), 3(b)
- F11** S. 171ZN(2A)-(2D) inserted (30.6.2014) by Children and Families Act 2014 (c. 6), **ss. 120(6)**, 139(6); S.I. 2014/1640, art. 3(1)(d)
- F12** S. 171ZN(2E)-(2G) inserted (5.4.2015) by Children and Families Act 2014 (c. 6), **ss. 124(1)(b)**, 139(6); S.I. 2014/1640, art. 6(a) (with art. 13)
- F13** Words in s. 171ZN(3) inserted (27.6.2006 for specified purposes, 1.10.2006 in so far as not already in force) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 21(2)**; S.I. 2006/1682, arts. 2(d), 3(d)
- F14** S. 171ZN(6A) inserted (27.6.2006 for specified purposes, 1.10.2006 in so far as not already in force) by Work and Families Act 2006 (c. 18), s. 19(2), **Sch. 1 para. 21(3)**; S.I. 2006/1682, arts. 2(d), 3(d)
- F15** Words in s. 171ZN(7) substituted (5.4.2015) by Children and Families Act 2014 (c. 6), **ss. 124(1)(c)**, 139(6); S.I. 2014/1640, art. 6(a) (with art. 13)
- F16** S. 171ZN(9) inserted (30.6.2014) by Children and Families Act 2014 (c. 6), **ss. 121(6)**, 139(6); S.I. 2014/1640, art. 3(1)(e)
- F17** S. 171ZN(10) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **136**

171ZO Restrictions on contracting out

- (1) Any agreement shall be void to the extent that it purports—
 - (a) to exclude, limit or otherwise modify any provision of this Part of this Act, or
 - (b) to require an employee or former employee to contribute (whether directly or indirectly) towards any costs incurred by his employer or former employer under this Part of this Act.
- (2) For the avoidance of doubt, any agreement between an employer and an employee authorising any deductions from statutory adoption pay which the employer is liable to pay to the employee in respect of any period shall not be void by virtue of subsection (1)(a) above if the employer—

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- (a) is authorised by that or another agreement to make the same deductions from any contractual remuneration which he is liable to pay in respect of the same period, or
- (b) would be so authorised if he were liable to pay contractual remuneration in respect of that period.

171ZP Relationship with benefits and other payments etc

- (1) Except as may be prescribed, a day which falls within the adoption pay period shall not be treated as a day of incapacity for work for the purposes of determining, for this Act, whether it forms part of a period of incapacity for work for the purposes of incapacity benefit.
- (2) Regulations may provide that in prescribed circumstances a day which falls within the adoption pay period shall be treated as a day of incapacity for work for the purposes of determining entitlement to the higher rate of short-term incapacity benefit or to long-term incapacity benefit.
- (3) Regulations may provide that an amount equal to a person's statutory adoption pay for a period shall be deducted from any such benefit in respect of the same period and a person shall be entitled to such benefit only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.
- (4) Subject to subsections (5) and (6) below, any entitlement to statutory adoption pay shall not affect any right of a person in relation to remuneration under any contract of service ("contractual remuneration").
- (5) Subject to subsection (6) below—
 - (a) any contractual remuneration paid to a person by an employer of his in respect of a week in the adoption pay period shall go towards discharging any liability of that employer to pay statutory adoption pay to him in respect of that week; and
 - (b) any statutory adoption pay paid by an employer to a person who is an employee of his in respect of a week in the adoption pay period shall go towards discharging any liability of that employer to pay contractual remuneration to him in respect of that week.
- (6) 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 (4) and (5) above.
- (7) In subsection (5) above, "week" means a period of seven days beginning with the day of the week on which the adoption pay period begins.

171ZQ Crown employment-Part 12ZB

The provisions of this Part of this Act 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.

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171ZR Special classes of person

- (1) The Secretary of State may with the concurrence of the Treasury make regulations modifying any provision of this Part of this Act in such manner as he 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) above.
- (2) Regulations under subsection (1) above may, in particular, provide—
 - (a) for any provision of this Part of this Act 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 he 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.

171ZS Part 12ZB: supplementary

- (1) In this Part of this Act—

“adoption pay period” has the meaning given by section 171ZN(2) above;

“the Board” means the Commissioners of Inland Revenue;

[^{F18}“employer”, in relation to a person who is an employee, means a person who—

 - (a) under section 6 above 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;]

[^{F19}“local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);]

[^{F19}“local authority foster parent” has the same meaning as in the Children Act 1989 (see [^{F20}section 105(1)] of that Act);]

“modifications” includes additions, omissions and amendments, and related expressions are to be read accordingly;

“prescribed” means prescribed by regulations.
- (2) In this Part of this Act, “employee” means a person who is—
 - (a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with [^{F21}earnings (within the meaning of Parts 1 to 5 above)]; ^{F22}...
 - ^{F22}(b)
- (3) Regulations may provide—

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- (a) for cases where a person who falls within the definition in subsection (2) above is not to be treated as an employee for the purposes of this Part of this Act, and
 - (b) for cases where a person who would not otherwise be an employee for the purposes of this Part of this Act is to be treated as an employee for those purposes.
- (4) Without prejudice to any other power to make regulations under this Part of this Act, regulations may specify cases in which, for the purposes of this Part of this Act or of such provisions of this Part of this Act 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 sections 171ZN and 171ZP, “week” means a period of 7 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 of this Act, a person’s normal weekly earnings shall, subject to subsection (8) below, be taken to be the average weekly earnings which in the relevant period have been paid to him or paid for his benefit under the contract of service with the employer in question.
- (7) For the purposes of subsection (6) above, “earnings” and “relevant period” shall have the meanings given to them by regulations.
- (8) In such cases as may be prescribed, a person’s normal weekly earnings shall be calculated in accordance with regulations.
- (9) Where—
 - (a) in consequence of the establishment of one or more National Health Service trusts under [^{F23}the National Health Service Act 2006, the National Health Service (Wales) Act 2006] or the National Health Service (Scotland) Act 1978 (c. 29), a person’s contract of employment is treated by a scheme under [^{F24}any of those Acts] as divided so as to constitute two or more contracts, or
 - (b) an order under [^{F25}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 of this Act or such provisions of this Part of this Act as may be prescribed.
- (10) Regulations under subsection (9) above 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, he is to provide it;
 - (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 adoption pay as his employer under the contract.

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- (11) The powers under subsections (9) and (10) are without prejudice to any other power to make regulations under this Part of this Act.
- (12) Regulations under any of subsections (4) to (10) above must be made with the concurrence of the Board.

Textual Amendments

- F18** Words in s. 171ZS(1) substituted (1.10.2006 with application in accordance with Sch. 8 para. 12(4) of the amending S.I.) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 1(1), [Sch. 8 para. 12\(2\)](#)
- F19** Words in s. 171ZS(1) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. [121\(7\)\(b\)](#), [139\(6\)](#); S.I. 2014/1640, art. 3(1)(e)
- F20** Words in s. 171ZS(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), [137](#)
- F21** Words in s. 171ZS(2)(a) substituted (13.5.2014) by [National Insurance Contributions Act 2014 \(c. 7\)](#), s. 15(4), [Sch. 2 para. 6](#)
- F22** S. 171ZS(2)(b) and preceding word omitted (1.10.2006 with application in accordance with Sch. 8 para. 12(4) of the amending S.I.) by virtue of [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 1(1), [Sch. 8 para. 12\(3\)](#)
- F23** Words in s. 171ZS(9)(a) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 150\(a\)\(i\)](#) (with Sch. 3 Pt. 1)
- F24** Words in s. 171ZS(9)(a) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 150\(a\)\(ii\)](#) (with Sch. 3 Pt. 1)
- F25** Words in s. 171ZS(9)(b) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 150\(b\)](#) (with Sch. 3 Pt. 1)

171ZT Power to apply Part 12ZB ^{F26}...

- ^{F27}(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.
- ^{F28}[^{F29}(2) The Secretary of State may by regulations provide for this Part to have effect, with such modifications as the regulations may prescribe, in relation to—
- (a) 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,
 - (b) cases which involve a person who has applied, or intends to apply, for a parental order under section 54A of that Act and a child who is, or will be, the subject of the order.]
- (3) Regulations under subsection (2) may modify section 171ZL(8)(c) so as to enable regulations to impose requirements to make statutory declarations as to—
- (a) eligibility to apply for a parental order [^{F30}under section 54 or 54A of the Human Fertilisation and Embryology Act 2008];
 - (b) intention to apply for such an order.]]

Changes to legislation: *Social Security Contributions and Benefits Act 1992, Part 12ZB is up to date with all changes known to be in force on or before 19 May 2025. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

- F26** Words in s. 171ZT title repealed (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 122(6)(a)**, 139(6); S.I. 2014/1640, art. 3(1)(f)
- F27** S. 171ZT renumbered as s. 171ZT(1) (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 122(6)(b)**, 139(6); S.I. 2014/1640, art. 3(1)(f)
- F28** S. 171ZT(2)(3) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 122(6)(c)**, 139(6); S.I. 2014/1640, art. 3(1)(f)
- F29** S. 171ZT(2) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 1 para. 7(1)**
- F30** Words in s. 171ZT(3)(a) inserted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), art. 1(1), **Sch. 1 para. 7(2)**

Changes to legislation:

Social Security Contributions and Benefits Act 1992, Part 12ZB is up to date with all changes known to be in force on or before 19 May 2025. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- s. 4C(5)(i)(j) repealed by 2007 c. 22 Sch. 4 para. 42(3)(c) Sch. 7 Pt. 7
- s. 30B(4)(aa) inserted by 2012 c. 5 Sch. 9 para. 4
- s. 35(1)(e) and word inserted by 2012 c. 5 s. 63(2)(a)
- s. 35(3)(za) inserted by 2012 c. 5 s. 63(2)(b)
- s. 45(2A)(a) words substituted by 2011 c. 19 Sch. 3 para. 2(3)(b)
- s. 45(2A)(b) substituted by 2011 c. 19 Sch. 3 para. 2(3)(c)
- s. 46(5)(a) words substituted by 2011 c. 19 Sch. 3 para. 3
- s. 124(1)(ea) inserted by 2012 c. 5 s. 59(2)(a)
- s. 124(1)(ga) inserted by 2009 c. 24 s. 5(1)(a)
- s. 124(1C) inserted by 2012 c. 5 s. 59(2)(b)
- s. 124(6A)(6B) inserted by 2009 c. 24 s. 5(1)(b)
- s. 124A inserted by 2012 c. 5 s. 59(3)
- s. 130C(2)(za) inserted by 2016 asp 19 Sch. 4 para. 5
- s. 164(2)(aa) inserted by 2012 c. 5 s. 63(3)(a)
- s. 164(9)(da) inserted by 2012 c. 5 s. 63(3)(b)
- s. 171ZA(2)(ba) inserted by 2012 c. 5 s. 63(4)(a)
- s. 171ZA(3A) inserted by 2012 c. 5 s. 63(4)(b)
- s. 171ZB(2)(ba) inserted by 2012 c. 5 s. 63(5)(a)
- s. 171ZB(3A) inserted by 2012 c. 5 s. 63(5)(b)
- s. 171ZE(2A) inserted by 2014 c. 6 s. 123(3)(b)
- s. 171ZE(2B) inserted by 2014 c. 6 s. 123(3)(c)
- s. 171ZL(2)(ba) inserted by 2012 c. 5 s. 63(8)(a)
- s. 171ZL(8)(za) inserted by 2012 c. 5 s. 63(8)(c)
- s. 171ZEA(2)(ba) inserted by 2012 c. 5 s. 63(6)(a)
- s. 171ZEA(3)(za) inserted by 2012 c. 5 s. 63(6)(b)
- s. 171ZEB(2)(ba) inserted by 2012 c. 5 s. 63(7)(a)
- s. 171ZEB(3)(za) inserted by 2012 c. 5 s. 63(7)(b)
- s. 173A inserted by 2012 c. 5 s. 63(9)
- s. 176(3A) inserted by 2011 c. 19 Sch. 3 para. 5(2)
- Sch. 4 Pt. 1 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 1 para. 2A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 1A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4B para. 1(1)(a) para. 1(1)(b)(2) words inserted by 2011 c. 19 Sch. 3 para. 6(2)(b)
- Sch. 4C para. 7(2)(c) inserted by 2011 c. 19 Sch. 3 para. 7(7)(b)
- Sch. 4C para. 7(3) inserted by 2011 c. 19 Sch. 3 para. 7(8)
- Sch. 4C para. 3 omitted by 2011 c. 19 Sch. 3 para. 7(3)
- Sch. 4C para. 7(2)(b) words inserted by 2011 c. 19 Sch. 3 para. 7(7)(a)
- Sch. 4C para. 1 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 2 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 5(b) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 6 words substituted by 2011 c. 19 Sch. 3 para. 7(5)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(6)
- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4C(5)(i)(j) repealed by 2007 c. 22 Sch. 4 para. 42(3)(c)Sch. 7 Pt. 7
- s. 30B(4)(aa) inserted by 2012 c. 5 Sch. 9 para. 4
- s. 35(1)(e) and word inserted by 2012 c. 5 s. 63(2)(a)
- s. 35(3)(za) inserted by 2012 c. 5 s. 63(2)(b)
- s. 45(2A)(a) words substituted by 2011 c. 19 Sch. 3 para. 2(3)(b)
- s. 45(2A)(b) substituted by 2011 c. 19 Sch. 3 para. 2(3)(c)
- s. 46(5)(a) words substituted by 2011 c. 19 Sch. 3 para. 3
- s. 124(1)(ea) inserted by 2012 c. 5 s. 59(2)(a)
- s. 124(1)(ga) inserted by 2009 c. 24 s. 5(1)(a)
- s. 124(1C) inserted by 2012 c. 5 s. 59(2)(b)
- s. 124(6A)(6B) inserted by 2009 c. 24 s. 5(1)(b)
- s. 124A inserted by 2012 c. 5 s. 59(3)
- s. 130C(2)(za) inserted by 2016 asp 19 Sch. 4 para. 5
- s. 164(2)(aa) inserted by 2012 c. 5 s. 63(3)(a)
- s. 164(9)(da) inserted by 2012 c. 5 s. 63(3)(b)
- s. 171ZA(2)(ba) inserted by 2012 c. 5 s. 63(4)(a)
- s. 171ZA(3A) inserted by 2012 c. 5 s. 63(4)(b)
- s. 171ZB(2)(ba) inserted by 2012 c. 5 s. 63(5)(a)
- s. 171ZB(3A) inserted by 2012 c. 5 s. 63(5)(b)
- s. 171ZE(2A) inserted by 2014 c. 6 s. 123(3)(b)
- s. 171ZE(2B) inserted by 2014 c. 6 s. 123(3)(c)
- s. 171ZL(2)(ba) inserted by 2012 c. 5 s. 63(8)(a)
- s. 171ZL(8)(za) inserted by 2012 c. 5 s. 63(8)(c)
- s. 171ZEA(2)(ba) inserted by 2012 c. 5 s. 63(6)(a)
- s. 171ZEA(3)(za) inserted by 2012 c. 5 s. 63(6)(b)
- s. 171ZEB(2)(ba) inserted by 2012 c. 5 s. 63(7)(a)
- s. 171ZEB(3)(za) inserted by 2012 c. 5 s. 63(7)(b)
- s. 173A inserted by 2012 c. 5 s. 63(9)
- s. 176(3A) inserted by 2011 c. 19 Sch. 3 para. 5(2)
- Sch. 4 Pt. 1 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 1 para. 2A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 1A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4B para. 1(1)(a)para. 1(1)(b)(2) words inserted by 2011 c. 19 Sch. 3 para. 6(2)(b)
- Sch. 4C para. 7(2)(c) inserted by 2011 c. 19 Sch. 3 para. 7(7)(b)
- Sch. 4C para. 7(3) inserted by 2011 c. 19 Sch. 3 para. 7(8)
- Sch. 4C para. 3 omitted by 2011 c. 19 Sch. 3 para. 7(3)
- Sch. 4C para. 7(2)(b) words inserted by 2011 c. 19 Sch. 3 para. 7(7)(a)
- Sch. 4C para. 1 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 2 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 5(b) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 6 words substituted by 2011 c. 19 Sch. 3 para. 7(5)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(6)
- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)



Social Security Contributions and Benefits Act 1992

1992 CHAPTER 4

[^{F1}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;

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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
- ^{F2}(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.

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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 [F3section 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.]

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 4C(5)(i)(j) repealed by 2007 c. 22 Sch. 4 para. 42(3)(c) Sch. 7 Pt. 7
- s. 30B(4)(aa) inserted by 2012 c. 5 Sch. 9 para. 4
- s. 35(1)(e) and word inserted by 2012 c. 5 s. 63(2)(a)
- s. 35(3)(za) inserted by 2012 c. 5 s. 63(2)(b)
- s. 45(2A)(a) words substituted by 2011 c. 19 Sch. 3 para. 2(3)(b)
- s. 45(2A)(b) substituted by 2011 c. 19 Sch. 3 para. 2(3)(c)
- s. 46(5)(a) words substituted by 2011 c. 19 Sch. 3 para. 3
- s. 124(1)(ea) inserted by 2012 c. 5 s. 59(2)(a)
- s. 124(1)(ga) inserted by 2009 c. 24 s. 5(1)(a)
- s. 124(1C) inserted by 2012 c. 5 s. 59(2)(b)
- s. 124(6A)(6B) inserted by 2009 c. 24 s. 5(1)(b)
- s. 124A inserted by 2012 c. 5 s. 59(3)
- s. 130C(2)(za) inserted by 2016 asp 19 Sch. 4 para. 5
- s. 164(2)(aa) inserted by 2012 c. 5 s. 63(3)(a)
- s. 164(9)(da) inserted by 2012 c. 5 s. 63(3)(b)
- s. 171ZA(2)(ba) inserted by 2012 c. 5 s. 63(4)(a)
- s. 171ZA(3A) inserted by 2012 c. 5 s. 63(4)(b)
- s. 171ZB(2)(ba) inserted by 2012 c. 5 s. 63(5)(a)
- s. 171ZB(3A) inserted by 2012 c. 5 s. 63(5)(b)
- s. 171ZE(2A) inserted by 2014 c. 6 s. 123(3)(b)
- s. 171ZE(2B) inserted by 2014 c. 6 s. 123(3)(c)
- s. 171ZL(2)(ba) inserted by 2012 c. 5 s. 63(8)(a)
- s. 171ZL(8)(za) inserted by 2012 c. 5 s. 63(8)(c)
- s. 171ZEA(2)(ba) inserted by 2012 c. 5 s. 63(6)(a)
- s. 171ZEA(3)(za) inserted by 2012 c. 5 s. 63(6)(b)
- s. 171ZEB(2)(ba) inserted by 2012 c. 5 s. 63(7)(a)
- s. 171ZEB(3)(za) inserted by 2012 c. 5 s. 63(7)(b)
- s. 173A inserted by 2012 c. 5 s. 63(9)
- s. 176(3A) inserted by 2011 c. 19 Sch. 3 para. 5(2)
- Sch. 4 Pt. 1 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 1 para. 2A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 1A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4B para. 1(1)(a) para. 1(1)(b)(2) words inserted by 2011 c. 19 Sch. 3 para. 6(2)(b)
- Sch. 4C para. 7(2)(c) inserted by 2011 c. 19 Sch. 3 para. 7(7)(b)
- Sch. 4C para. 7(3) inserted by 2011 c. 19 Sch. 3 para. 7(8)
- Sch. 4C para. 3 omitted by 2011 c. 19 Sch. 3 para. 7(3)
- Sch. 4C para. 7(2)(b) words inserted by 2011 c. 19 Sch. 3 para. 7(7)(a)
- Sch. 4C para. 1 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 2 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 5(b) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 6 words substituted by 2011 c. 19 Sch. 3 para. 7(5)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(6)
- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4C(5)(i)(j) repealed by 2007 c. 22 Sch. 4 para. 42(3)(c)Sch. 7 Pt. 7
- s. 30B(4)(aa) inserted by 2012 c. 5 Sch. 9 para. 4
- s. 35(1)(e) and word inserted by 2012 c. 5 s. 63(2)(a)
- s. 35(3)(za) inserted by 2012 c. 5 s. 63(2)(b)
- s. 45(2A)(a) words substituted by 2011 c. 19 Sch. 3 para. 2(3)(b)
- s. 45(2A)(b) substituted by 2011 c. 19 Sch. 3 para. 2(3)(c)
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- s. 171ZA(2)(ba) inserted by 2012 c. 5 s. 63(4)(a)
- s. 171ZA(3A) inserted by 2012 c. 5 s. 63(4)(b)
- s. 171ZB(2)(ba) inserted by 2012 c. 5 s. 63(5)(a)
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- s. 176(3A) inserted by 2011 c. 19 Sch. 3 para. 5(2)
- Sch. 4 Pt. 1 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 1 para. 2A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 1A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4B para. 1(1)(a)para. 1(1)(b)(2) words inserted by 2011 c. 19 Sch. 3 para. 6(2)(b)
- Sch. 4C para. 7(2)(c) inserted by 2011 c. 19 Sch. 3 para. 7(7)(b)
- Sch. 4C para. 7(3) inserted by 2011 c. 19 Sch. 3 para. 7(8)
- Sch. 4C para. 3 omitted by 2011 c. 19 Sch. 3 para. 7(3)
- Sch. 4C para. 7(2)(b) words inserted by 2011 c. 19 Sch. 3 para. 7(7)(a)
- Sch. 4C para. 1 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
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- Sch. 4C para. 5(b) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 6 words substituted by 2011 c. 19 Sch. 3 para. 7(5)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(6)
- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)



Social Security Contributions and Benefits Act 1992

1992 CHAPTER 4

[^{F1}PART 12ZE

STATUTORY NEONATAL CARE PAY

Textual Amendments

- F1** Pt. 12ZE inserted (17.1.2025) by Neonatal Care (Leave and Pay) Act 2023 (c. 20), s. 3(3), **Sch. para. 5**; S.I. 2025/41, reg. 2

Modifications etc. (not altering text)

- C1** Pt. 12ZE modified (6.4.2025) by The Statutory Neonatal Care Pay (Persons Abroad and Mariners) Regulations 2025 (S.I. 2025/202), regs. 1(2), **5**, 6, 8, 9, 10 (with regs. 3, 4)
- C2** Pt. 12ZE modified (6.4.2025) by The Statutory Neonatal Care Pay (General) Regulations 2025 (S.I. 2025/376), regs. 1(2), **14** (with reg. 2)

171ZZ16Entitlement

- (1) A person who satisfies the conditions in subsection (2) and any condition prescribed under subsection (3) is entitled in accordance with the following provisions of this Part to payments to be known as “statutory neonatal care pay”.
- (2) The conditions are—
- (a) that—
- (i) the person satisfies prescribed conditions as to a parental or other personal relationship with a child who is receiving, or has received, neonatal care, and
- (ii) that care continues without interruption for a period of at least seven days beginning with the day after the day on which the care starts,

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- (b) that the person has been in employed earner’s employment with an employer for a continuous period of at least 26 weeks ending with the relevant week,
 - (c) that at the end of the relevant week the person was entitled to be in that employment (but see subsection (7)), and
 - (d) that the person’s normal weekly earnings for the period of 8 weeks ending with the relevant week are not less than the lower earnings limit in force under section 5(1)(a) at the end of the relevant week.
- (3) Regulations may provide that a person is not entitled to pay in respect of a particular week or period of consecutive weeks unless, at the beginning of that week or period—
 - (a) the person is in employed earner’s employment with the employer by reference to whom the condition in subsection (2)(b) is satisfied, and
 - (b) that employment has been continuous from the end of the relevant week.
- (4) For the purposes of this Part, “neonatal care” means care—
 - (a) of a prescribed medical or palliative kind, and
 - (b) that starts before the end of a period of 28 days beginning with the day after the date of the child’s birth.
- (5) Regulations under subsection (4)(a) may prescribe a kind of care by reference to the kind of place at which care is provided.
- (6) In this section the “relevant week”—
 - (a) in any case where the person is entitled to statutory maternity pay under section 164 in respect of the child, is the week immediately preceding the 14th week before the expected week of confinement (within the meaning of Part 12);
 - (b) in any case where the person is entitled to statutory paternity pay under section 171ZA (birth) in respect of the child, is the same week as the relevant week for the purposes of section 171ZA(2) in that case;
 - (c) in any case where the person is entitled to statutory paternity pay under section 171ZB (adoption) in respect of the child, is the same week as the relevant week for the purposes of section 171ZB(2) in that case;
 - (d) in any case where the person is entitled to statutory adoption pay under section 171ZL in respect of the child, is the same week as the relevant week for the purposes of section 171ZL(2) in that case;
 - (e) in any other case, is the week immediately before the one in which the neonatal care starts.
- (7) In relation to neonatal care that starts before the day on which section 63(3) of the Welfare Reform Act 2012 comes fully into force, subsection (2) above is to be read as if paragraph (c) were omitted.

Modifications etc. (not altering text)

- C3** S. 171ZZ16 modified (6.4.2025) by [The Statutory Neonatal Care Pay \(Persons Abroad and Mariners\) Regulations 2025 \(S.I. 2025/202\)](#), regs. 1(2), 7 (with regs. 3, 4)
- C4** S. 171ZZ16(2)(b) modified (6.4.2025) by [The Statutory Neonatal Care Pay \(General\) Regulations 2025 \(S.I. 2025/376\)](#), regs. 1(2), 24 (with reg. 2)
- C5** S. 171ZZ16(2)(d) modified (6.4.2025) by [The Statutory Neonatal Care Pay \(General\) Regulations 2025 \(S.I. 2025/376\)](#), regs. 1(2), 24 (with reg. 2)

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171ZZ17Entitlement: supplementary

- (1) A person is entitled to payments of statutory neonatal care pay in respect of any period only if the person gives notice to whoever is liable to make the payments stating the week or weeks in respect of which they are to be made.
- (2) Regulations may provide for the time by which notice under subsection (1) must be given.
- (3) The notice must be in writing if the person who is liable to pay the statutory neonatal care pay so requests.
- (4) The Secretary of State may by regulations—
 - (a) make special provision regarding the applicability and extent of the entitlement where a person satisfies the conditions in subsection (2) and (if applicable) subsection (3) of section 171ZZ16 in respect of—
 - (i) more than one child in prescribed circumstances;
 - (ii) a child receiving neonatal care on two or more separate occasions;
 - (b) specify in what circumstances neonatal care is to be treated as continuous despite an interruption for the purposes of section 171ZZ16;
 - (c) provide that subsection (2)(b), (2)(d) or (3) of section 171ZZ16 has effect subject to prescribed modifications in such cases as may be prescribed;
 - (d) provide for circumstances in which section 171ZZ16(2)(c) does not have effect;
 - (e) provide that subsection (1) of this section does not have effect, or has effect subject to prescribed modifications, in such cases as may be prescribed;
 - (f) impose requirements about evidence of entitlement;
 - (g) specify in what circumstances employment is to be treated as continuous for the purposes of section 171ZZ16;
 - (h) provide that a person is to be treated for the purposes of section 171ZZ16 as being employed for a continuous period of at least 26 weeks where—
 - (i) the person has been employed by the same employer for at least 26 weeks under two or more separate contracts of service, and
 - (ii) those contracts were not continuous;
 - (i) provide for amounts earned by a person under separate contracts of service with the same employer to be aggregated for the purposes of section 171ZZ16;
 - (j) 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,
 is to be calculated or estimated for the purposes of section 171ZZ16 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 shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of the person's earnings.

Modifications etc. (not altering text)

- C6** S. 171ZZ17(1) excluded (6.4.2025) by [The Statutory Neonatal Care Pay \(General\) Regulations 2025 \(S.I. 2025/376\)](#), regs. 1(2), **11(10)** (with reg. 2)

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171ZZ18 Liability to make payments

- (1) The liability to make payments of statutory neonatal care pay under section 171ZZ16 is a liability of any person of whom the person entitled to the payments has been an employee as mentioned in subsections (2)(b) and (3) of that section.
- (2) The Secretary of State must by regulations make provision as to a former employer's liability to pay statutory neonatal care pay to a former employee in any case where the employee's contract of service with the employer has been brought to an end by the employer solely, or mainly, for the purpose of avoiding liability for statutory neonatal care pay.
- (3) The Secretary of State may, with the concurrence of the Commissioners for His Majesty's Revenue and Customs, by regulations specify circumstances in which, notwithstanding this section, liability to make payments of statutory neonatal care pay is to be a liability of the Commissioners.

Modifications etc. (not altering text)

- C7 S. 171ZZ18(1) excluded (6.4.2025) by [The Statutory Neonatal Care Pay \(General\) Regulations 2025](#) (S.I. 2025/376), regs. 1(2), **30(1)** (with reg. 2)

171ZZ19 Rate and period of pay

- (1) Statutory neonatal care 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) Statutory neonatal care pay is payable in respect of—
 - (a) such week within the qualifying period, or
 - (b) such number of weeks, not exceeding the prescribed number of weeks, within the qualifying period,
 as the person entitled may choose in accordance with regulations.
- (3) Provision under subsection (2)(b) must secure that the prescribed number of weeks is not less than 12.
- (4) Regulations under subsection (2)(b) may permit a person entitled to receive statutory neonatal care pay to choose to receive such pay in respect of non-consecutive periods each of which is a week or a number of weeks.
- (5) For the purposes of subsection (2), the qualifying period is to be determined in accordance with regulations, which must secure that it is a period of at least 68 weeks beginning with the date of the child's birth.
- (6) A person is not liable to pay statutory neonatal care pay to another in respect of any statutory pay week during any part of which the other works under a contract of service with the person.
- (7) It is immaterial for the purposes of subsection (6) whether the work referred to in that subsection is work under a contract of service which existed immediately before the statutory pay week or a contract of service which did not so exist.

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- (8) Except in such cases as may be prescribed, statutory neonatal care pay is not payable to a person in respect of a statutory pay week during any part of which the person works for any employer who is not liable to pay the person statutory neonatal care pay.
- (9) The Secretary of State may by regulations specify circumstances in which there is to be no liability to pay statutory neonatal care pay in respect of a statutory pay week.
- (10) Where for any purpose of this Part or of regulations it is necessary to calculate the daily rate of statutory neonatal care pay, the amount payable by way of statutory neonatal care pay for any day is to be taken as one seventh of the weekly rate.
- (11) In this section—
 - “statutory pay week”, in relation to a person entitled to statutory neonatal care pay, means a week chosen by the person as a week in respect of which statutory neonatal care pay is to be payable;
 - “week” means any period of seven days.

Modifications etc. (not altering text)

- C8** [S. 171ZZ19\(8\)](#) excluded (6.4.2025) by [The Statutory Neonatal Care Pay \(General\) Regulations 2025](#) (S.I. 2025/376), [regs. 1\(2\), 13\(1\)](#) (with [reg. 2](#))

171ZZ20 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) An agreement between an employer and an employee, authorising any deductions from statutory neonatal care 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.

171ZZ21 Relationship with contractual remuneration

- (1) Subject to subsections (2) and (3), any entitlement to statutory neonatal care pay does not 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 neonatal care pay to that person in respect of that period; and
 - (b) any statutory neonatal care pay paid by an employer to a person who is an employee of that employer in respect of any period is to go towards

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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).

171ZZ22Crown 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.

171ZZ23Special 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.

171ZZ24Supplementary

- (1) In this Part—

“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;

“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 earnings (within the meaning of Parts 1 to 5).
- (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 section 171ZZ19, “week” means a period of 7 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 in consequence of the establishment of one or more National Health Service trusts under the National Health Service (Wales) Act 2006, a person’s contract of employment is treated by a scheme under that Act as divided so as to constitute two or more contracts, 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;
 - (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 neonatal care pay as the person’s employer under the contract.

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- (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 His Majesty's Revenue and Customs.]

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 4C(5)(i)(j) repealed by 2007 c. 22 Sch. 4 para. 42(3)(c)Sch. 7 Pt. 7
- s. 30B(4)(aa) inserted by 2012 c. 5 Sch. 9 para. 4
- s. 35(1)(e) and word inserted by 2012 c. 5 s. 63(2)(a)
- s. 35(3)(za) inserted by 2012 c. 5 s. 63(2)(b)
- s. 45(2A)(a) words substituted by 2011 c. 19 Sch. 3 para. 2(3)(b)
- s. 45(2A)(b) substituted by 2011 c. 19 Sch. 3 para. 2(3)(c)
- s. 46(5)(a) words substituted by 2011 c. 19 Sch. 3 para. 3
- s. 124(1)(ea) inserted by 2012 c. 5 s. 59(2)(a)
- s. 124(1)(ga) inserted by 2009 c. 24 s. 5(1)(a)
- s. 124(1C) inserted by 2012 c. 5 s. 59(2)(b)
- s. 124(6A)(6B) inserted by 2009 c. 24 s. 5(1)(b)
- s. 124A inserted by 2012 c. 5 s. 59(3)
- s. 130C(2)(za) inserted by 2016 asp 19 Sch. 4 para. 5
- s. 164(2)(aa) inserted by 2012 c. 5 s. 63(3)(a)
- s. 164(9)(da) inserted by 2012 c. 5 s. 63(3)(b)
- s. 171ZA(2)(ba) inserted by 2012 c. 5 s. 63(4)(a)
- s. 171ZA(3A) inserted by 2012 c. 5 s. 63(4)(b)
- s. 171ZB(2)(ba) inserted by 2012 c. 5 s. 63(5)(a)
- s. 171ZB(3A) inserted by 2012 c. 5 s. 63(5)(b)
- s. 171ZE(2A) inserted by 2014 c. 6 s. 123(3)(b)
- s. 171ZE(2B) inserted by 2014 c. 6 s. 123(3)(c)
- s. 171ZL(2)(ba) inserted by 2012 c. 5 s. 63(8)(a)
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- s. 171ZEA(2)(ba) inserted by 2012 c. 5 s. 63(6)(a)
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- s. 176(3A) inserted by 2011 c. 19 Sch. 3 para. 5(2)
- Sch. 4 Pt. 1 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 1 para. 2A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 1A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4B para. 1(1)(a)para. 1(1)(b)(2) words inserted by 2011 c. 19 Sch. 3 para. 6(2)(b)
- Sch. 4C para. 7(2)(c) inserted by 2011 c. 19 Sch. 3 para. 7(7)(b)
- Sch. 4C para. 7(3) inserted by 2011 c. 19 Sch. 3 para. 7(8)
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- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(6)
- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4C(5)(i)(j) repealed by 2007 c. 22 Sch. 4 para. 42(3)(c) Sch. 7 Pt. 7
- s. 30B(4)(aa) inserted by 2012 c. 5 Sch. 9 para. 4
- s. 35(1)(e) and word inserted by 2012 c. 5 s. 63(2)(a)
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- s. 171ZEA(2)(ba) inserted by 2012 c. 5 s. 63(6)(a)
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- s. 171ZEB(2)(ba) inserted by 2012 c. 5 s. 63(7)(a)
- s. 171ZEB(3)(za) inserted by 2012 c. 5 s. 63(7)(b)
- s. 173A inserted by 2012 c. 5 s. 63(9)
- s. 176(3A) inserted by 2011 c. 19 Sch. 3 para. 5(2)
- Sch. 4 Pt. 1 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 1 para. 2A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 1A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4B para. 1(1)(a) para. 1(1)(b)(2) words inserted by 2011 c. 19 Sch. 3 para. 6(2)(b)
- Sch. 4C para. 7(2)(c) inserted by 2011 c. 19 Sch. 3 para. 7(7)(b)
- Sch. 4C para. 7(3) inserted by 2011 c. 19 Sch. 3 para. 7(8)
- Sch. 4C para. 3 omitted by 2011 c. 19 Sch. 3 para. 7(3)
- Sch. 4C para. 7(2)(b) words inserted by 2011 c. 19 Sch. 3 para. 7(7)(a)
- Sch. 4C para. 1 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 2 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 5(b) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 6 words substituted by 2011 c. 19 Sch. 3 para. 7(5)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(6)
- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)



Social Security Contributions and Benefits Act 1992

1992 CHAPTER 4

[^{F1}PART 12ZD

STATUTORY PARENTAL BEREAVEMENT PAY

Textual Amendments

- F1** Pt. 12ZD inserted (18.1.2020) by [Parental Bereavement \(Leave and Pay\) Act 2018 \(c. 24\)](#), s. 2(2), [Sch. para. 5](#); [S.I. 2020/45](#), reg. 2

Modifications etc. (not altering text)

- C1** Pt. 12ZD modified (10.3.2020) by [The Statutory Parental Bereavement Pay \(General\) Regulations 2020 \(S.I. 2020/233\)](#), regs. 1, **11** (with reg. 2)
- C2** Pt. 12ZD modified (6.4.2020) by [The Statutory Parental Bereavement Pay \(Persons Abroad and Mariners\) Regulations 2020 \(S.I. 2020/252\)](#), regs. 1, **5-7**, **9**, **10** (with reg. 3)

171ZZ6 Entitlement

- (1) A person who satisfies the conditions in subsection (2) is entitled in accordance with the following provisions of this Part to payments to be known as “statutory parental bereavement pay”.
- (2) The conditions are—
 - (a) that the person is a bereaved parent,
 - (b) that the person has been in employed earner's employment with an employer for a continuous period of at least 26 weeks ending with the relevant week,
 - (c) that at the end of the relevant week the person was entitled to be in that employment (but see subsection (7)),

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- (d) that the person's normal weekly earnings for the period of 8 weeks ending with the relevant week are not less than the lower earnings limit in force under section 5(1)(a) at the end of the relevant week, and
 - (e) that the person has been in employed earner's employment with the employer by reference to whom the condition in paragraph (b) is satisfied for a continuous period beginning with the end of the relevant week and ending with the day on which the child dies.
- (3) For the purposes of subsection (2) an employee is a “bereaved parent” if the employee satisfies prescribed conditions as to relationship with a child who has died.
 - (4) The conditions prescribed under subsection (3) may be framed, in whole or in part, by reference to the employee's care of the child before the child's death.
 - (5) In subsection (2) “relevant week” means the week immediately before the one in which the child dies.
 - (6) Where a person satisfies the conditions in subsection (2) as a result of the death of more than one child, the person is entitled to statutory parental bereavement pay in respect of each child.
 - (7) In relation to a bereaved parent whose child dies before the day on which section 63(3) of the Welfare Reform Act 2012 comes fully into force, subsection (2) above is to be read as if paragraph (c) were omitted.

171ZZ7 Entitlement: supplementary

- (1) A person is entitled to payments of statutory parental bereavement pay in respect of any period only if the person gives notice to whoever is liable to make the payments stating the week or weeks in respect of which they are to be made.
- (2) Regulations may provide for the time by which notice under subsection (1) must be given.
- (3) The notice must be in writing if the person who is liable to pay the statutory parental bereavement pay so requests.
- (4) The Secretary of State may by regulations—
 - (a) provide that section 171ZZ6(2)(b), (d) or (e) has effect subject to prescribed modifications in such cases as may be prescribed;
 - (b) provide for circumstances in which section 171ZZ6(2)(c) does not have effect;
 - (c) provide that subsection (1) of this section does not have effect, or has effect subject to prescribed modifications, in such cases as may be prescribed;
 - (d) impose requirements about evidence of entitlement;
 - (e) specify in what circumstances employment is to be treated as continuous for the purposes of section 171ZZ6;
 - (f) provide that a person is to be treated for the purposes of section 171ZZ6 as being employed for a continuous period of at least 26 weeks where—
 - (i) the person has been employed by the same employer for at least 26 weeks under two or more separate contracts of service, and
 - (ii) those contracts were not continuous;
 - (g) provide for amounts earned by a person under separate contracts of service with the same employer to be aggregated for the purposes of section 171ZZ6;

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- (h) 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,is to be calculated or estimated for the purposes of section 171ZZ6 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 shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of the person's earnings.

171ZZ8 Liability to make payments

- (1) The liability to make payments of statutory parental bereavement pay under section 171ZZ6 is a liability of any person of whom the person entitled to the payments has been an employee as mentioned in subsection (2)(b) and (e) of that section.
- (2) The Secretary of State must by regulations make provision as to a former employer's liability to pay statutory parental bereavement pay to a former employee in any case where the employee's contract of service with the employer has been brought to an end by the employer solely, or mainly, for the purpose of avoiding liability for statutory parental bereavement 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 parental bereavement pay is to be a liability of the Commissioners.

171ZZ9 Rate and period of pay

- (1) Statutory parental bereavement 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) Statutory parental bereavement pay is payable in respect of—
 - (a) such week within the qualifying period, or
 - (b) such number of weeks, not exceeding the prescribed number of weeks, within the qualifying period,as the person entitled may choose in accordance with regulations.
- (3) Provision under subsection (2)(b) must secure that the prescribed number of weeks is not less than two.
- (4) Regulations under subsection (2)(b) may permit a person entitled to receive statutory parental bereavement pay to choose to receive such pay in respect of non-consecutive periods each of which is a week or a number of weeks.
- (5) For the purposes of subsection (2), the qualifying period is to be determined in accordance with regulations, which must secure that it is a period of at least 56 days beginning with the date of the child's death.
- (6) A person is not liable to pay statutory parental bereavement pay to another in respect of any statutory pay week during any part of which the other works under a contract of service with the person.

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- (7) It is immaterial for the purposes of subsection (6) whether the work referred to in that subsection is work under a contract of service which existed immediately before the statutory pay week or a contract of service which did not so exist.
- (8) Except in such cases as may be prescribed, statutory parental bereavement pay is not payable to a person in respect of a statutory pay week during any part of which the person works for any employer who is not liable to pay the person statutory parental bereavement pay.
- (9) The Secretary of State may by regulations specify circumstances in which there is to be no liability to pay statutory parental bereavement pay in respect of a statutory pay week.
- (10) Where for any purpose of this Part or of regulations it is necessary to calculate the daily rate of statutory parental bereavement pay, the amount payable by way of statutory parental bereavement pay for any day is to be taken as one seventh of the weekly rate.
- (11) In this section—
 - “statutory pay week”, in relation to a person entitled to statutory parental bereavement pay, means a week chosen by the person as a week in respect of which statutory parental bereavement pay is to be payable;
 - “week” means any period of seven days.

171ZZ10 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) An agreement between an employer and an employee, authorising any deductions from statutory parental bereavement 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.

171ZZ11 Relationship with contractual remuneration

- (1) Subject to subsections (2) and (3), any entitlement to statutory parental bereavement pay does not 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 parental bereavement pay to that person in respect of that period; and

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- (b) any statutory parental bereavement 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).

171ZZ12Crown 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.

171ZZ13Special 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.

171ZZ14Supplementary

- (1) In this Part—
 - “child” means a person under the age of 18 (see also section 171ZZ15 for the application of this Part in relation to stillbirths);
 - “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;

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“modifications” includes additions, omissions and amendments, and related expressions are to be read accordingly;

“prescribed” means prescribed by regulations.

- (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 earnings (within the meaning of Parts 1 to 5).
- (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 section 171ZZ9, “week” means a period of 7 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 in consequence of the establishment of one or more National Health Service trusts under the National Health Service (Wales) Act 2006, a person's contract of employment is treated by a scheme under that Act as divided so as to constitute two or more contracts, 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;
 - (e) the time for which such an election is to have effect;

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- (f) which one of the person's employers under two or more contracts is to be regarded for the purposes of statutory parental bereavement 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.

171ZZ15Application in relation to stillbirths

In this Part—

- (a) references to a child include a child stillborn after twenty-four weeks of pregnancy, and
- (b) references to the death of a child are to be read, in relation to a stillborn child, as references to the birth of the child.]

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 4C(5)(i)(j) repealed by 2007 c. 22 Sch. 4 para. 42(3)(c) Sch. 7 Pt. 7
- s. 30B(4)(aa) inserted by 2012 c. 5 Sch. 9 para. 4
- s. 35(1)(e) and word inserted by 2012 c. 5 s. 63(2)(a)
- s. 35(3)(za) inserted by 2012 c. 5 s. 63(2)(b)
- s. 45(2A)(a) words substituted by 2011 c. 19 Sch. 3 para. 2(3)(b)
- s. 45(2A)(b) substituted by 2011 c. 19 Sch. 3 para. 2(3)(c)
- s. 46(5)(a) words substituted by 2011 c. 19 Sch. 3 para. 3
- s. 124(1)(ea) inserted by 2012 c. 5 s. 59(2)(a)
- s. 124(1)(ga) inserted by 2009 c. 24 s. 5(1)(a)
- s. 124(1C) inserted by 2012 c. 5 s. 59(2)(b)
- s. 124(6A)(6B) inserted by 2009 c. 24 s. 5(1)(b)
- s. 124A inserted by 2012 c. 5 s. 59(3)
- s. 130C(2)(za) inserted by 2016 asp 19 Sch. 4 para. 5
- s. 164(2)(aa) inserted by 2012 c. 5 s. 63(3)(a)
- s. 164(9)(da) inserted by 2012 c. 5 s. 63(3)(b)
- s. 171ZA(2)(ba) inserted by 2012 c. 5 s. 63(4)(a)
- s. 171ZA(3A) inserted by 2012 c. 5 s. 63(4)(b)
- s. 171ZB(2)(ba) inserted by 2012 c. 5 s. 63(5)(a)
- s. 171ZB(3A) inserted by 2012 c. 5 s. 63(5)(b)
- s. 171ZE(2A) inserted by 2014 c. 6 s. 123(3)(b)
- s. 171ZE(2B) inserted by 2014 c. 6 s. 123(3)(c)
- s. 171ZL(2)(ba) inserted by 2012 c. 5 s. 63(8)(a)
- s. 171ZL(8)(za) inserted by 2012 c. 5 s. 63(8)(c)
- s. 171ZEA(2)(ba) inserted by 2012 c. 5 s. 63(6)(a)
- s. 171ZEA(3)(za) inserted by 2012 c. 5 s. 63(6)(b)
- s. 171ZEB(2)(ba) inserted by 2012 c. 5 s. 63(7)(a)
- s. 171ZEB(3)(za) inserted by 2012 c. 5 s. 63(7)(b)
- s. 173A inserted by 2012 c. 5 s. 63(9)
- s. 176(3A) inserted by 2011 c. 19 Sch. 3 para. 5(2)
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- Sch. 4 Pt. 1 para. 2A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 1A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4B para. 1(1)(a) para. 1(1)(b)(2) words inserted by 2011 c. 19 Sch. 3 para. 6(2)(b)
- Sch. 4C para. 7(2)(c) inserted by 2011 c. 19 Sch. 3 para. 7(7)(b)
- Sch. 4C para. 7(3) inserted by 2011 c. 19 Sch. 3 para. 7(8)
- Sch. 4C para. 3 omitted by 2011 c. 19 Sch. 3 para. 7(3)
- Sch. 4C para. 7(2)(b) words inserted by 2011 c. 19 Sch. 3 para. 7(7)(a)
- Sch. 4C para. 1 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
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- Sch. 4C para. 5(b) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 6 words substituted by 2011 c. 19 Sch. 3 para. 7(5)
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- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(6)
- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4C(5)(i)(j) repealed by 2007 c. 22 Sch. 4 para. 42(3)(c)Sch. 7 Pt. 7
- s. 30B(4)(aa) inserted by 2012 c. 5 Sch. 9 para. 4
- s. 35(1)(e) and word inserted by 2012 c. 5 s. 63(2)(a)
- s. 35(3)(za) inserted by 2012 c. 5 s. 63(2)(b)
- s. 45(2A)(a) words substituted by 2011 c. 19 Sch. 3 para. 2(3)(b)
- s. 45(2A)(b) substituted by 2011 c. 19 Sch. 3 para. 2(3)(c)
- s. 46(5)(a) words substituted by 2011 c. 19 Sch. 3 para. 3
- s. 124(1)(ea) inserted by 2012 c. 5 s. 59(2)(a)
- s. 124(1)(ga) inserted by 2009 c. 24 s. 5(1)(a)
- s. 124(1C) inserted by 2012 c. 5 s. 59(2)(b)
- s. 124(6A)(6B) inserted by 2009 c. 24 s. 5(1)(b)
- s. 124A inserted by 2012 c. 5 s. 59(3)
- s. 130C(2)(za) inserted by 2016 asp 19 Sch. 4 para. 5
- s. 164(2)(aa) inserted by 2012 c. 5 s. 63(3)(a)
- s. 164(9)(da) inserted by 2012 c. 5 s. 63(3)(b)
- s. 171ZA(2)(ba) inserted by 2012 c. 5 s. 63(4)(a)
- s. 171ZA(3A) inserted by 2012 c. 5 s. 63(4)(b)
- s. 171ZB(2)(ba) inserted by 2012 c. 5 s. 63(5)(a)
- s. 171ZB(3A) inserted by 2012 c. 5 s. 63(5)(b)
- s. 171ZE(2A) inserted by 2014 c. 6 s. 123(3)(b)
- s. 171ZE(2B) inserted by 2014 c. 6 s. 123(3)(c)
- s. 171ZL(2)(ba) inserted by 2012 c. 5 s. 63(8)(a)
- s. 171ZL(8)(za) inserted by 2012 c. 5 s. 63(8)(c)
- s. 171ZEA(2)(ba) inserted by 2012 c. 5 s. 63(6)(a)
- s. 171ZEA(3)(za) inserted by 2012 c. 5 s. 63(6)(b)
- s. 171ZEB(2)(ba) inserted by 2012 c. 5 s. 63(7)(a)
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- Sch. 4C para. 5(b) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 6 words substituted by 2011 c. 19 Sch. 3 para. 7(5)
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- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)