

**2015 No. 149**

**SOCIAL SECURITY**

**The Maternity Allowance (Curtailement) Regulations (Northern Ireland) 2015**

*Made* - - - - *11th March 2015*

*Coming into operation* - *15th March 2015*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 35(3A), (3B), (3C) and (3D) and 171(1), (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), and now vested in it(b).

**Citation and commencement**

1. These Regulations may be cited as the Maternity Allowance (Curtailement) Regulations (Northern Ireland) 2015 and shall come into operation on 15th March 2015.

**Interpretation**

2.—(1) In these Regulations—

“the 1992 Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the 1996 Order” means the Employment Rights (Northern Ireland) Order 1996(c);

“C” means the child in respect of whom an entitlement to—

(a) shared parental leave arises under Article 107E (entitlement to shared parental leave: birth) of the 1996 Order(d); or

(b) statutory shared parental pay arises under section 167ZU (entitlement: birth) of the 1992 Act(e);

“M” means the mother (or expectant mother) of C;

“maternity allowance period curtailement date” means, subject to regulation 5(5), the date specified in a maternity allowance period curtailement notification;

“maternity allowance period curtailement notification” means a notification given in accordance with regulation 4 and regulation 6(4);

“P” means the father of C, or the person who is married to, or the civil partner or the partner of, M;

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(a) 1992 c. 7; section 35(3A) to (3D) was inserted by section 6(1) and (2) of the Work and Families Act (Northern Ireland) 2015 (c. 6) (“the 2015 Act”) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(b) See Article 8(b) of S.R. 1999 No. 481

(c) 1996 No. 1919 (N.I. 16)

(d) Article 107E was inserted by section 2(2) of the 2015 Act

(e) Section 167ZU was inserted by section 5(2) of the 2015 Act

“partner” in relation to M, means a person (whether of a different sex or the same sex) who lives with M and C in an enduring family relationship but is not M’s child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew;

“SPL Regulations” means the Shared Parental Leave Regulations (Northern Ireland) 2015(a); and

“ShPP Regulations” means the Statutory Shared Parental Pay (General) Regulations (Northern Ireland) 2015(b).

(2) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Assembly.

### **Curtailment of maternity allowance period (statutory shared parental pay: P)**

3. M’s maternity allowance period shall end on the maternity allowance period curtailment date if—

- (a) M gives a maternity allowance period curtailment notification (unless the notification is revoked under regulation 6);
- (b) P satisfies the condition in sub-paragraph (a) of regulation 5(2) (entitlement of father or partner to statutory shared parental pay (birth)) of the ShPP Regulations; and
- (c) M satisfies the conditions of sub-paragraphs (b) and (c) of regulation 5(3) of the ShPP Regulations.

### **Curtailment of maternity allowance period (shared parental leave: P)**

4. M’s maternity allowance period shall end on the maternity allowance period curtailment date if—

- (a) M gives a maternity allowance period curtailment notification (unless the notification is revoked under regulation 6);
- (b) P satisfies the condition in sub-paragraph (a) of regulation 5(2) (father’s or partner’s entitlement to shared parental leave) of the SPL Regulations; and
- (c) M satisfies the conditions in sub-paragraphs (a) and (c) of regulation 5(3) of the SPL Regulations.

### **Maternity allowance period curtailment notification**

5.—(1) A maternity allowance period curtailment notification must—

- (a) be given to the Department; and
- (b) specify the date on which M wants her maternity allowance period to end.

(2) The date specified in accordance with paragraph (1)(b) must be—

- (a) the last day of a week;
- (b) if M has the right to maternity leave under Article 103 (ordinary maternity leave) of the 1996 Order(d), at least one day after the end of the compulsory maternity leave period or, if M does not have that right, at least two weeks after the end of the pregnancy;
- (c) at least eight weeks after the date on which M gives the maternity allowance period curtailment notification; and
- (d) at least one week before the last day of M’s maternity allowance period.

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(a) S.R. 2015 No. 93

(b) S.R. 2015 No. 94

(c) 1954 c.33 (N.I.)

(d) Article 103 was substituted by Article 9 and Part 1 of Schedule 4 to the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9)) (“the 1999 Order”). Article 103(3) was substituted by Article 13(1) and section 30 of Schedule 1 to the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)) and Article 103(4) and (7) was amended by Article 14(2) and (3) of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2))

(3) Where the Department considers it appropriate the eight week period set out in paragraph (2)(c) may be reduced in any particular case.

(4) In paragraph (2)(b) “the end of the compulsory maternity leave period” means whichever is the later of—

- (a) the last day of the compulsory maternity leave period provided for in regulations under Article 104(2) (compulsory maternity leave) of the 1996 Order(a); or
- (b) where section 205 of the Public Health Act 1936(b) (women not to be employed in factories or workshops within four weeks after birth of a child) applies to M’s employment, the last day of the period in which an occupier of a factory is prohibited from knowingly allowing M to be employed in that factory.

(5) Where M—

- (a) returns to work before giving a notification under paragraph (1); and
- (b) subsequently gives such a notification;

the “maternity allowance period curtailment date” shall be the last day of the week in which that notification is submitted (irrespective of the date given in that notification under paragraph (1)).

(6) For the purposes of paragraphs (2)(a) and (5), “week” has the meaning given in section 161(8) of the 1992 Act(c) (the maternity pay period).

(7) For the purposes of paragraph (5)(a), a woman is treated as returning to work where maternity allowance is not payable to her in accordance with regulation 2(1) of the Social Security (Maternity Allowance) Regulations (Northern Ireland) 1987(d) (disqualification for the receipt of a maternity allowance).

#### **Revocation (maternity allowance period curtailment notification)**

6.—(1) Subject to paragraph (2), M may revoke a maternity allowance period curtailment notification before the maternity allowance period curtailment date if—

- (a) M provided the maternity allowance period curtailment notification before the birth of C; or
- (b) P dies.

(2) Revocation is effective under paragraph (1) where M gives a notification (“a revocation notification”) to the Department that—

- (a) if given under paragraph (1)(a), is given within six weeks of the date of C’s birth;
- (b) if given under paragraph (1)(b), is given within a reasonable period from the date of P’s death.

(3) A revocation notification must—

- (a) state that M revokes the maternity allowance period curtailment notification; and
- (b) if given under paragraph (1)(b), state the date of P’s death.

(4) M may not give a maternity allowance period curtailment notification in respect of the same maternity allowance period subsequent to giving a revocation notification unless the revocation was made in accordance with paragraph (1)(a).

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(a) Article 104(2) was substituted by Article 9 and Part 1 of Schedule 4 to the 1999 Order  
(b) 1936 c. 49 as amended by the Statute Law (Repeals) Act 1993 (c. 50), section 1, Schedule 1, Part 14 and the Statute Law (Repeals) Act 2004 (c. 14), section 1, Schedule 1, Part 13  
(c) Section 161(8) was added by paragraph 6(4) of Schedule 1 to S.I. 2006/1947 (N.I. 16)  
(d) S.R. 1987 No. 170; regulation 2 was substituted by regulation 2(3) of S.R. 2014 No. 140

Sealed with the Official Seal of the Department for Social Development on 11th March 2015

(L.S.)

*Anne McCleary*  
A senior officer of the Department for Social Development

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations allow eligible women to curtail their maternity allowance period in accordance with section 35(3A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the 1992 Act”) in order to enable their partner (which includes their spouse or child’s father) to take statutory shared parental pay in accordance with section 167ZU of the 1992 Act. The Regulations also allow eligible women to curtail their maternity allowance period in accordance with section 35(3A) of the 1992 Act in order to allow their partner to take shared parental leave in accordance with Article 107E of the Employment Rights (Northern Ireland) Order 1996.

Regulation 3 applies to a woman curtailing her maternity allowance period so that her partner can take statutory shared parental pay.

Regulation 4 applies to a woman who is not eligible for statutory maternity leave to curtail her maternity allowance period so that her partner can take shared parental leave. In these circumstances, an eligible partner will be entitled to 52 weeks of shared parental leave less the amount of maternity allowance the child’s mother has taken at the point of curtailing the maternity allowance period.

Regulation 5 prescribes the requirements with which a maternity allowance period curtailment notification must comply.

Regulation 6 allows a woman to revoke a maternity allowance period curtailment notification in specified circumstances and subject to certain conditions being satisfied.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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