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STATUTORY INSTRUMENTS

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**2014 No. 2866**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Social Security Contributions and Benefits Act 1992 (Application of Parts 12ZA, 12ZB and 12ZC to Parental Order Cases) Regulations 2014**

*Made - - - - 20th October 2014*

*Laid before Parliament 28th October 2014*

*Coming into force in accordance with regulation 1*

This instrument contains only regulations made by virtue of, or consequential upon, sections 119(1) and 122(5)(c) and (6)(c) of the Children and Families Act 2014(1) and is made before the end of the period of 6 months beginning with the coming into force of that enactment(2).

The Secretary of State, in exercise of the powers conferred by sections 171ZK(2), 171ZT(2) and 171ZZ5(2) of the Social Security Contributions and Benefits Act 1992(3), makes the following Regulations.

**Citation, commencement and application**

1. (1) These Regulations may be cited as the Social Security Contributions and Benefits Act 1992 (Application of Parts 12ZA, 12ZB and 12ZC to Parental Order Cases) Regulations 2014.

(2) Subject to paragraphs (3) and (4), these Regulations come into force on 19th November 2014.

(3) The modification of section 171ZA of the Social Security Contributions and Benefits Act 1992(4) by the insertion of subsection (3C) as set out in Schedule 1 to these Regulations comes into force on the date that section 171ZA(2)(ba)(5) comes into force.

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(1) 2014 c. 6.

(2) See section 173(5) of the Social Security Administration Act 1992 (c. 5). Pursuant to section 172 of that Act, where the Secretary of State proposes to make regulations under the Social Security Contributions and Benefits Act 1992 (c. 4), the Secretary of State is required to refer such proposals, normally in the form of draft regulations, to the Social Security Advisory Committee. This requirement does not apply where the regulations are contained in a statutory instrument made before the end of a period of six months beginning with the coming into force of the enactments by virtue of or as a consequence of which the regulations are being made.

(3) 1992 c. 4. Section 171ZK was inserted by the Employment Act 2002 (c. 2), section 2, and moved by the Work and Families Act 2006 (c. 18), Schedule 1, paragraph 17, and subsection (2) was inserted by the Children and Families Act 2014, section 122(5). Section 171ZT was inserted by the Employment Act 2002, section 4, and moved by the Work and Families Act 2006, Schedule 1, paragraph 17, and subsection (2) was inserted by the Children and Families Act 2014, section 122(6). Section 171ZZ5(2) was inserted by the Children and Families Act 2014, section 119(1).

(4) Section 171ZA was inserted by the Employment Act 2002, section 2; there are amending instruments but none is relevant.

(5) Section 171ZA(2)(ba) was inserted by the Welfare Reform Act 2012 (c. 5), section 63(1) and (4) as from a day to be appointed.

(4) The modification of section 171ZL of the Social Security Contributions and Benefits Act 1992(6) by the insertion of subsection (3B) as set out in Schedule 2 to these Regulations comes into force on the date that section 171ZL(2)(ba)(7) comes into force.

(5) Regulation 4 does not have effect in cases involving children whose expected week of birth ends on or before 4th April 2015.

## **Interpretation**

### **2. In these Regulations—**

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

“intended parent”, in relation to a child, means a person who, on the day of the child’s birth—

(a) applies, or intends to apply during the period of 6 months beginning with that day, with another person for a parental order in respect of the child, and

(b) expects the court to make a parental order on that application in respect of the child;

“parental order” means an order under section 54(1) of the Human Fertilisation and Embryology Act 2008(8); and

“parental order parent” means a person—

(a) on whose application the court has made a parental order in respect of a child, or

(b) who is an intended parent of a child.

## **Application of Part 12ZA of the Act to parental order parents**

**3.** Part 12ZA of the Act(9) (statutory paternity pay) has effect in relation to parental order parents with the modifications of sections 171ZA, 171ZB and 171ZE of the Act specified in the second column of Schedule 1 to these Regulations.

## **Application of Part 12ZB of the Act to parental order parents**

**4.** Part 12ZB of the Act(10) (statutory adoption pay) has effect in relation to parental order parents with the modifications of sections 171ZL and 171ZN of the Act specified in the second column of Schedule 2 to these Regulations.

## **Application of Part 12ZC of the Act to parental order parents**

**5.** Part 12ZC of the Act(11) (statutory shared parental pay) has effect in relation to parental order parents with the modifications of section 171ZV of the Act specified in the second column of Schedule 3 to these Regulations.

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(6) Section 171ZL was inserted by the Employment Act 2002, section 4; there are amending instruments but none is relevant.

(7) Section 171ZL(2)(ba) was inserted by the Welfare Reform Act 2012, section 63(1) and (8) as from a day to be appointed.

(8) 2008 c. 22. Section 54 was amended by the Crime and Courts Act 2013 (c. 22), Schedule 11, Part 1, paragraph 206.

(9) Part 12ZA was inserted by the Employment Act 2002, section 2.

(10) Part 12ZB was inserted by the Employment Act 2002, section 4.

(11) Part 12ZC was inserted by the Children and Families Act 2014, section 119(1).

20th October 2014

*Jo Swinson*  
Parliamentary Under Secretary of State for  
Employment Relations and Consumer Affairs  
Department for Business, Innovation and Skills

## SCHEDULE 1

Regulation 3

## Application of Part 12ZA of the Act to parental order cases

<b>Provision</b>	<b>Modification</b>
Section 171ZA	<p>After subsection (4) insert—</p> <p>“(4A) A person who satisfies the conditions in section 171ZB(2)(a) to (d) in relation to a child is not entitled to statutory paternity pay under this section in respect of that child.”.</p>
Section 171ZB	<p>For paragraph (a) of subsection (2) substitute—</p> <p>“(a) “(a) that he satisfies prescribed conditions as to being a person—</p> <p style="padding-left: 40px;">(i) on whose application the court has made a parental order in respect of a child, or</p> <p style="padding-left: 40px;">(ii) who is an intended parent of a child;</p> <p style="padding-left: 20px;">(ab) that he satisfies prescribed conditions as to relationship with the other person on whose application the parental order was made or who is an intended parent of the child;”.</p> <p>In paragraph (d) of subsection (2), for “placed for adoption” substitute “born”.</p> <p>In paragraph (e) of subsection (2), omit “where he is a person with whom the child is placed for adoption.”.</p> <p>For subsection (3) substitute—</p> <p>“(3) The references in this section to the relevant week are to the week immediately preceding the 14th week before the expected week of the child’s birth.”.</p> <p>After subsection (3) insert—</p> <p>“(3B) In a case where a child is born earlier than the 14th week before the expected week of the child’s birth—</p> <p style="padding-left: 40px;">(a) subsection (2)(b) shall be treated as satisfied in relation to a person if, had the birth occurred after the end of the relevant week, the person would have been in employed earner’s employment with an employer for a continuous period of at least 26 weeks ending with the relevant week;</p>

Provision	Modification
	<p>(b) subsection (2)(c) shall be treated as satisfied in relation to a person if the person’s normal weekly earnings for the period of 8 weeks ending with the week immediately preceding the week in which the child is born are not less than the lower earnings limit in force under section 5(1)(a) immediately before the commencement of the week in which the child is born; and</p> <p>(c) subsection (2)(d) shall not apply.</p> <p>(3C) In a case where a child is born before the end of the relevant week, subsection (2) (ba) shall be treated as satisfied in relation to a person if, had the birth occurred after the end of the relevant week, the person would have been entitled to be in the relevant employment at the end of the relevant week.</p> <p>In this subsection “the relevant employment” means the employment by reference to which the person satisfies the condition in subsection (2)(b).”.</p> <p>In subsection (6), for “placement for adoption of more than one child as part of the same arrangement” substitute “birth, or expected birth, of more than one child as a result of the same pregnancy”.</p> <p>For subsection (7) substitute—</p> <p>“(7) In this section—</p> <p>“intended parent”, in relation to a child, means a person who, on the day of the child’s birth—</p> <p>(a) applies, or intends to apply during the period of 6 months beginning with that day, with another person for a parental order in respect of the child, and</p> <p>(b) expects the court to make a parental order on that application in respect of the child; and</p> <p>“parental order” means an order under section 54(1) of the Human Fertilisation and Embryology Act 2008.”.</p> <p>Omit subsection (8).</p> <p>Omit subsection (9).</p> <p>In paragraph (b) of subsection (3), for “placement for adoption” substitute “birth”.</p>

Section 171ZE

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Provision	Modification
	<p>In subsection (4)—</p> <p>(a) in paragraph (a), for “sub-paragraph (i) of section 171ZA(2)(a)” substitute “section 171ZA(2)(a)(i)”;</p> <p>(b) in paragraph (b), for “sub-paragraph (ii) of that provision” substitute “section 171ZA(2)(a)(ii) or 171ZB(2)(ab)”.</p> <p>In subsection (9), for “the reference in subsection (3)(a) to the date of the child’s birth shall be read as a reference” substitute “the references in subsection (3)(a) and (b) to the date of the child’s birth shall be read as references”.</p> <p>Omit subsection (10).</p> <p>Omit subsection (12).</p>

SCHEDULE 2

Regulation 4

Application of Part 12ZB of the Act to parental order cases

Provision	Modification
Section 171ZL	<p>For paragraph (a) of subsection (2) substitute—</p> <p>“(a) “(a) that he is—</p> <p style="padding-left: 40px;">(i) a person on whose application the court has made a parental order in respect of a child, or</p> <p style="padding-left: 40px;">(ii) an intended parent of a child;”</p> <p>For subsection (3) substitute—</p> <p>“(3) The references in this section to the relevant week are to the week immediately preceding the 14th week before the expected week of the child’s birth.”</p> <p>After subsection (3) insert—</p> <p>“(3A) In a case where a child is born earlier than the 14th week before the expected week of the child’s birth—</p> <p style="padding-left: 40px;">(a) subsection (2)(b) shall be treated as satisfied in relation to a person if, had the birth occurred after the end of the relevant week, the person would have been in employed earner’s employment with an employer for a continuous period of at least 26</p>

Provision	Modification
	<p>weeks ending with the relevant week; and</p> <p>(b) subsection (2)(d) shall be treated as satisfied in relation to a person if the person’s normal weekly earnings for the period of 8 weeks ending with the week immediately preceding the week in which the child is born are not less than the lower earnings limit in force under section 5(1)(a) immediately before the commencement of the week in which the child is born.</p> <p>(3B) In a case where a child is born before the end of the relevant week, subsection (2) (ba) shall be treated as satisfied in relation to a person if, had the birth occurred after the end of the relevant week, the person would have been entitled to be in the relevant employment at the end of the relevant week. In this subsection “the relevant employment” means the employment by reference to which the person satisfies the condition in subsection (2)(b).”.</p> <p>For paragraph (b) of subsection (4), substitute —</p> <p>“(b) “(b) the other person on whose application the court has made a parental order in respect of the child or who is an intended parent of the child—</p> <p>(i) is a person to whom the conditions in subsection (2) above apply, and</p> <p>(ii) has elected to receive statutory adoption pay.”.</p> <p>Omit subsection (4A)(12).</p> <p>Omit subsection (4B)(13).</p> <p>In subsection (5), for “placement, or expected placement, for adoption of more than one child as part of the same arrangement” substitute “birth, or expected birth, of more than one child as a result of the same pregnancy”.</p> <p>After subsection (8) insert—</p>

(12) Section 171ZL(4A) was inserted by S.I. 2006/2012.

(13) Section 171ZL(4B) was inserted by S.I. 2006/2012 and amended by S.I. 2011/1740.

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Provision	Modification
Section 171ZN	<p>“(8A) In this section—  “intended parent”, in relation to a child, means a person who, on the day of the child’s birth—  (a) applies, or intends to apply during the period of 6 months beginning with that day, with another person for a parental order in respect of the child, and  (b) expects the court to make a parental order on that application in respect of the child; and  “parental order” means an order under section 54(1) of the Human Fertilisation and Embryology Act 2008.”.</p> <p>Omit subsection (9)(14).  Omit subsection (10)(15).</p> <p>In subsection (2F) (16), for “in which the person is notified that the person has been matched with a child for the purposes of adoption” substitute “immediately preceding the 14th week before the expected week of the child’s birth”.</p> <p>Omit subsection (9)(17).</p>

## SCHEDULE 3

Regulation 5

## Application of Part 12ZC of the Act to parental order cases

Provision	Modification
Section 171ZV	<p>In subsection (1), for “with whom a child is, or is expected to be, placed for adoption under the law of any part of the United Kingdom” substitute “on whose application the court has made a parental order in respect of a child or who is an intended parent of a child”.</p> <p>In paragraph (a) of subsection (2), for “another person” substitute “the other person on whose application the court has made a parental order in respect of the child or who is an intended parent of the child”.</p> <p>In paragraph (g) of subsection (2), for “the placement for adoption of the child” substitute</p>

(14) Subsection (9) was inserted by the Children and Families Act 2014, section 121(5).

(15) Subsection (10) was inserted by the Children and Families Act 2014, section 121(5).

(16) Subsection (2F) was inserted by the Children and Families Act 2014, section 124(1).

(17) Subsection (9) was inserted by the Children and Families Act 2014, section 121(6).



<b>Provision</b>	<b>Modification</b>
	<p>“being a person on whose application the court has made a parental order in respect of the child or being an intended parent of the child”.</p> <p>In paragraph (a) of subsection (4), for “with whom a child is, or is expected to be, placed for adoption under the law of any part of the United Kingdom” substitute “on whose application the court has made a parental order in respect of a child or who is an intended parent of a child”.</p> <p>In paragraph (h) of subsection (4), for “the placement for adoption of the child” substitute “being a person on whose application the court has made a parental order in respect of the child or being an intended parent of the child”.</p> <p>In subsection (16), for “the placement for adoption of more than one child as part of the same arrangement” substitute “the birth of more than one child as a result of the same pregnancy”.</p> <p>After subsection (16) insert—</p> <p>“(16A) In this section—</p> <p>“intended parent”, in relation to a child, means a person who, on the day of the child’s birth—</p> <p>(a) applies, or intends to apply during the period of 6 months beginning with that day, with another person for a parental order in respect of the child, and</p> <p>(b) expects the court to make a parental order on that application in respect of the child; and</p> <p>“parental order” means an order under section 54(1) of the Human Fertilisation and Embryology Act 2008.”.</p> <p>Omit subsection (17).</p> <p>Omit subsection (18).</p>

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## EXPLANATORY NOTE

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

These Regulations apply Parts 12ZA, 12ZB and 12ZC of the Social Security Contributions and Benefits Act 1992, as modified by these Regulations, to parental order parents. A parental order parent is a person who has applied, or intends to apply, with another person, under section 54 of the Human Fertilisation and Embryology Act 2008 for a parental order in respect of a child or someone who has such an order. Part 12ZA provides for entitlement to statutory paternity pay. Part 12ZB provides for entitlement to statutory adoption pay. Part 12ZC provides for entitlement to statutory shared parental pay.

An impact assessment has not been prepared for these Regulations. These Regulations are part of a package of legislative measures and the relevant impact assessment is the *Modern Workplaces: shared parental leave and pay administration consultation impact assessment* which was published in February 2013. A copy of that impact assessment can be obtained from the Department for Business, Innovation and Skills, Labour Market Directorate, 1 Victoria Street, London, SW1H 0ET. Copies have also been placed in the libraries of both Houses of Parliament.