

2014 No. XXXX

SOCIAL SECURITY

The Maternity Allowance (Curtilment) Regulations 2014

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - - - *1st December 2014*

This instrument contains only regulations made by virtue of, or consequential upon, section 120(1) and (2) of the Children and Families Act 2014(a) and is made before the end of the period of 6 months beginning with the coming into force of that enactment(b).

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 35(3A), (3B), (3C) and (3D) and 175(1), (3), (4) and (5) of the Social Security Contributions and Benefits Act 1992(c), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Maternity Allowance (Curtilment) Regulations 2014 and come into force on 1st December 2014.

Interpretation

2. In these Regulations—

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

“the 1996 Act” means the Employment Rights Act 1996(d);

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

(a) shared parental leave arises under section 75E (entitlement to shared parental leave: birth) of the 1996 Act(e); or

(b) statutory shared parental pay arises under section 171ZU (entitlement: birth) of the 1992 Act(f);

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

(a) 2014 c. 6.

(b) See section 173(5) of the Social Security Administration Act 1992 (c. 5). Pursuant to sections 170 and 172 of that Act, where the Secretary of State proposes to make regulations under the Social Security Contributions and Benefits Act 1992, the Secretary of State is usually 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 enactment by virtue of which the regulations are being made.

(c) 1992 c. 4. Section 35(3A) to (3D) was inserted by the Children and Families Act 2014, section 120(1) and (2) (“the 2014 Act”). See section 122 of the 1992 Act for the definition of “prescribe”.

(d) 1996 c. 18.

(e) Section 75E was inserted by the 2014 Act, section 117.

(f) Section 171ZU was inserted by the 2014 Act, section 119.

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

“maternity allowance period curtailment notification” means a notification given in accordance with regulation 5 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;

“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 2014(a);

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

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 in sub-paragraphs (b) and (c) of regulation 5(3) of the ShPP Regulations.

Curtailment of maternity allowance period (statutory 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 Secretary of State; 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 section 71 (ordinary maternity leave) of the 1996 Act(c), at least one day after the end of the compulsory maternity leave period or, if M does not have that right, at least 2 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

(a) [S.I. 2014/].

(b) [S.I. 2014/].

(c) Section 71 was substituted by the Employment Relations Act 1999 (c. 26) (“the 1999 Act”), section 7, Schedule 4, Part 1. Section 71(3) was amended by the Work and Families Act 2006 (c.18) (“the 2006 Act”), section 11(1), Schedule 1, paragraph 31. No other relevant amendments have been made to section 71.

(d) at least one week before the last day of M's maternity allowance period.

(3) Where the Secretary of State 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 section 72(2) (compulsory maternity leave) of the 1996 Act(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 notice is submitted (irrespective of the date given in that notice under paragraph (1)).

(6) For the purposes of paragraphs (2)(a) and (5), "week" has the meaning given in section 165(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 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 Secretary of State that—

- (a) if given in accordance with paragraph (1)(a), is given within six weeks of the date of C's birth;
- (b) if given in accordance with 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 in accordance with 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).

(a) Section 72 was substituted by the 1999 Act, section 7, Schedule 4, Part 1.

(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 165(8) was inserted by the 2006 Act, section 11(1), Schedule 1, paragraph 7(1) and (4).

(d) S.I.1987/416.

Signed by authority of the Secretary of State for Work and Pensions

Date

Name
Minister of State
Department for Work and Pensions

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 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 171ZU 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 section 75E of the Employment Rights Act 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 statutory 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 that a maternity allowance period curtailment notification must comply with.

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

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.