
STATUTORY INSTRUMENTS

1999 No. 3147

The Welfare Reform and Pensions
(Northern Ireland) Order 1999

PART VI

WELFARE

CHAPTER I

SOCIAL SECURITY BENEFITS

State maternity allowance

Extension of entitlement to state maternity allowance

50.—(1) In section 35 of the Contributions and Benefits Act (state maternity allowance), for subsections (1) and (1A) there shall be substituted—

“(1) A woman shall be entitled to a maternity allowance, at the appropriate weekly rate determined under section 35A below, if—

- (a) she has become pregnant and has reached, or been confined before reaching, the commencement of the 11th week before the expected week of confinement; and
- (b) she has been engaged in employment as an employed or self-employed earner for any part of the week in the case of at least 26 of the 66 weeks immediately preceding the expected week of confinement; and
- (c) (within the meaning of section 35A) her average weekly earnings are not less than the maternity allowance threshold; and
- (d) she is not entitled to statutory maternity pay for the same week in respect of the same pregnancy.”.

(2) In subsection (3) of that section—

- (a) in paragraph (b), for “Schedule 3, Part I, paragraph 3” there shall be substituted “section 35A below”; and
- (b) in paragraph (c), for “and (c) above” there shall be substituted “above or in section 35A(2) or (3) below”.

(3) After that section there shall be inserted—

“Appropriate weekly rate of maternity allowance.

35A.—(1) For the purposes of section 35(1) above the appropriate weekly rate is that specified in whichever of subsection (2) or (3) below applies.

(2) Where the woman's average weekly earnings are not less than the lower earnings limit for the relevant tax year, the appropriate weekly rate is a weekly rate equal to the lower rate of statutory maternity pay for the time being prescribed under section 162(3) below.

(3) Where the woman's average weekly earnings—

- (a) are less than the lower earnings limit for the relevant tax year, but
- (b) are not less than the maternity allowance threshold for that tax year,

the appropriate weekly rate is a weekly rate equivalent to 90 per cent. of her average weekly earnings or (if lower) the rate specified in subsection (2) above.

(4) For the purposes of this section a woman's

“average weekly earnings” shall be taken to be the average weekly amount (as determined in accordance with regulations) of specified payments which—

- (a) were made to her or for her benefit as an employed earner, or
- (b) are (in accordance with regulations) to be treated as made to her or for her benefit as a self-employed earner,

during the specified period.

(5) Regulations may, for the purposes of subsection (4) above, provide—

- (a) for the amount of any payments falling within paragraph (a) or (b) of that subsection to be calculated or estimated in such manner and on such basis as may be prescribed;
- (b) for a payment made outside the specified period to be treated as made during that period where it was referable to that period or any part of it;
- (c) for a woman engaged in employment as a self-employed earner to be treated as having received a payment in respect of a week—
 - (i) equal to the lower earnings limit in force on the last day of the week, if she paid a Class 2 contribution in respect of the week, or
 - (ii) equal to the maternity allowance threshold in force on that day, if she was excepted (under section 11(4) above) from liability for such a contribution in respect of the week;
- (d) for aggregating payments made or treated as made to or for the benefit of a woman where, either in the same week or in different weeks, she was engaged in two or more employments (whether, in each case, as an employed earner or a self-employed earner).

(6) In this section—

- (a) “the maternity allowance threshold”, in relation to a tax year, means (subject to subsection (7) below) £30;
- (b) “the relevant tax year” means the tax year in which the beginning of the period of 66 weeks mentioned in section 35(1)(b) above falls; and
- (c) “specified” means prescribed by or determined in accordance with regulations.

(7) Whenever the Secretary of State makes an order under section 35A of the Great Britain Contributions and Benefits Act (increase of maternity allowance threshold), the Department may make a corresponding order for Northern Ireland.”.

(4) This Article applies in relation to the payment of maternity allowance in cases where a woman's expected week of confinement (within the meaning of section 35 of the Contributions and Benefits Act) begins on or after 20th August 2000.