

1975 No. 107

## SOCIAL SECURITY

**The Social Security (Maternity Benefit) Regulations (Northern Ireland) 1975***Made* . . . . . 4th April 1975*Coming into operation* . . . . . 6th April 1975

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 17(2), 21(4) and (5), 22(1) and (6) to (9), 33 and 79(4) of the Social Security (Northern Ireland) Act 1975(a), and section 2 of, and paragraph 3 of Part I of Schedule 3 to, the Social Security (Consequential Provisions) Act 1975(b), and of all other powers enabling it in that behalf, hereby makes the following regulations:

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Social Security (Maternity Benefit) Regulations (Northern Ireland) 1975 and shall come into operation on 6th April 1975.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security (Northern Ireland) Act 1975;

“determining authority” means, as the case may require, an insurance officer, a local tribunal or a Commissioner by whom the relevant question falls to be determined under Part III of the Act;

“expected week of confinement” means, in relation to a woman who is pregnant, the week in which it is to be expected that she will be confined and, in relation to a woman who has been confined, the week in which it was to have been expected that she would be confined;

and other expressions have the same meanings as in the Act.

(3) Unless the context otherwise requires, any reference in these regulations—

(a) to a numbered section or Schedule is to the section of or, as the case may be, the Schedule to the Act bearing that number;

(b) to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number;

(c) to any provision made by or contained in any enactment or instrument shall be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(c) shall apply for the purposes of the interpretation of this statutory rule as they apply for the purposes of the interpretation of an Act of Parliament.

*Maternity grants in respect of multiple births*

2. A woman who has given birth to twins or a greater number of children shall, if the other conditions for the payment of a maternity grant are satisfied in respect of the confinement, be entitled to a maternity grant for each child who has lived for at least 12 hours after being born; but it shall be a condition for such entitlement that she makes a claim for the grant before the expiration of the prescribed time for making a claim for it and furnishes sufficient evidence as to the number of the children who lived for at least 12 hours after being born.

*Maternity grant in respect of expectation of confinement*

3. Where a woman makes a claim for a maternity grant and indicates in it that she wishes that the provisions of section 21 (which confers title to a maternity grant) shall apply to her with the substitution, for the condition that she has been confined, of the condition that she is pregnant and has reached a stage in her pregnancy which is not more than 11 weeks before the expected week of confinement, then—

- (a) that section shall so apply to her in relation to that claim; and
- (b) the contribution conditions for a maternity grant as set out in paragraph 2 of Part I of Schedule 3 shall apply in her case as if, for subparagraph (4)(a) of that paragraph, there were substituted the following—

“(a) “the relevant time” is the beginning of the week in which it is to be expected that the claimant will be confined or, where the relevant person is the husband and he was dead or over pensionable age when the claim was made, the date of his attaining pensionable age or dying under that age.”

*Conditions attaching to a maternity allowance in respect of expectation of confinement*

4.—(1) For the purposes of section 22(1)(a) (which specifies, as a condition of a woman's entitlement to a maternity allowance, the condition that she shall have reached a stage in her pregnancy which is not more than the prescribed number of weeks before the expected week of confinement), the prescribed number of weeks shall be 14.

(2) A woman who has become entitled to a maternity allowance in respect of expectation of her confinement shall cease to be entitled to it if, before the beginning of the 11th week before the expected week of confinement, her pregnancy is terminated otherwise than by confinement.

(3) A woman who has made a claim for a maternity allowance in respect of expectation of her confinement shall, on receipt of not less than 3 clear days' notice in writing given by or on behalf of the Department, submit herself to medical examination at such time and place as may be specified in the notice, unless she has been confined by then.

*Duration of a maternity allowance in respect of expectation of confinement*

5.—(1) Where a woman makes a claim for a maternity allowance in expectation of confinement (other than a claim which is disallowed) and she is confined more than 11 weeks before the expected week of confinement, section 22(2) (which specifies the maternity allowance period) shall have effect as if the maternity allowance period were the period of 18 weeks beginning with the week in which she was confined.

(2) Subject to paragraph (3), where a woman has become entitled to a maternity allowance in expectation of her confinement and the date of the confinement has not occurred before the end of the expected week of confinement—

- (a) if she has not been confined before the end of the maternity allowance period, it shall be extended for a period of 6 weeks and thereafter if and so long as she has still not been confined, be further extended for a like period at intervals of 6 weeks; and
  - (b) if she was confined before the end of the maternity allowance period, or before the end of that period as extended or further extended in accordance with sub-paragraph (a), it shall be extended or further extended until the end of the 6th week after the week in which she was confined.
- (3) No extension or further extension shall be made in accordance with paragraph (2)(a) unless—
- (a) the beneficiary gives to the Department written notice, in such form as is approved by it for the purpose, that it is still to be expected that she will be confined or (as the case may be) that she has been confined; and
  - (b) that notice is given before the expiration of 6 weeks, or such longer period, not exceeding 3 months, as the determining authority may for good cause allow, calculated—
    - (i) in a case falling within paragraph (2)(a), from the end of the maternity allowance period or that period as extended or further extended; or
    - (ii) in a case falling within paragraph (2)(b), from the end of the week in which she was confined; and
  - (c) the beneficiary thereafter furnishes sufficient evidence in confirmation of her notice.

*Conditions for, and duration of, a maternity allowance by virtue of the fact of confinement*

6.—(1) In relation to a case where a woman has been confined without having previously made a claim for a maternity allowance in expectation of the confinement (other than any claim which has been disallowed)—

- (a) section 22(1) shall have effect as if, for the condition for entitlement to a maternity allowance contained in paragraph (a) of that section, there were substituted the condition that the woman has been confined;
- (b) for the purposes of section 22 (and not for the purposes of the relevant contribution conditions), subsection (2) shall (subject to the following provisions of this regulation) have effect as if, for the period mentioned in it, there were substituted the period of 7 weeks beginning with the week in which she was confined;
- (c) for the purposes of the relevant contribution conditions, subsection (2) of that section shall have effect as if, for the words “expected week of confinement” there were substituted the words “week in which she was confined”.

(2) Where, in any case mentioned in paragraph (1) (not being a case to which paragraph (3) applies), the woman—

- (a) was confined before the expected week of confinement;
- (b) failed to make, before her confinement, a claim for a maternity allowance in respect of expectation of the confinement; and

(c) makes a claim for a maternity allowance by virtue of the fact that she has been confined, section 22(2) shall, in relation to that case, have effect as if, for the period mentioned in it, there were substituted a reference—

- (i) where she was confined more than 11 weeks before the expected week of confinement, to the period of 18 weeks beginning with the week in which she was confined; and
  - (ii) where the confinement was not more than 11 weeks before the expected week of confinement, to the period beginning with the first day of the week in which she was confined and ending with the last day of the 6th week after the expected week of confinement.
- (3) Where, in any case mentioned in paragraph (1), the woman—
- (a) was confined on a date not earlier than the first day of the 11th week before the expected week of confinement;
  - (b) makes a claim for a maternity allowance by virtue of the fact that she has been confined; and
  - (c) shows that throughout a period beginning not earlier than the 11th week before the week in which she was confined and ending one day before the date of the confinement she—
    - (i) did no work in employment as an employed or self-employed earner; and
    - (ii) had good cause for her failure to make a claim in respect of expectation of her confinement,

section 22(2) shall, in relation to that case, have effect as if, for the period mentioned in it, there were substituted a reference to the period commencing with the first day of the period referred to in sub-paragraph (c) of this paragraph and ending with the last day of the 6th week after the week which includes the date of confinement, except where that first day is a day in the week which includes the date of confinement.

#### *Modification of s. 22(5)*

7. Where, in accordance with regulation 5 or 6, section 22(2) is to have effect as if, for the period mentioned in it, there were substituted another period, section 22(5) (which relates to the death of a woman entitled to a maternity allowance) shall have effect accordingly but in relation only to a death after the beginning of that other period.

#### *Maternity allowance at a reduced rate where contribution conditions are not satisfied in full*

8.—(1) Where a woman, would be entitled to a maternity allowance but for the fact that the second contribution condition set out in paragraph 3 of Part I of Schedule 3 is not satisfied, she shall, if a rate is prescribed for her in paragraph (2), be entitled to such benefit at that rate.

(2) The weekly rate of the allowance shall be calculated as a percentage of the rate set out in Part I of Schedule 4; in a case where the second contribution condition would have been satisfied if the multiplier in that condition (instead of being 50) had been  $37\frac{1}{2}$ , that percentage shall be 75 per cent, and in a case where that condition would have been satisfied if the multiplier had been 25, it shall be 50 per cent.

(3) The amount of any increase of the allowance payable by virtue of paragraph (1)—

- (a) in the case of an increase under section 41 (child dependants) shall be the same as if both of the relevant contribution conditions were satisfied;
- (b) in the case of an increase under section 44(2) (adult dependants), shall be a percentage of the amount of maternity allowance specified in column (4) of Part IV of Schedule 4, the percentage being the same as that ascertained under paragraph (2).

*Disqualification for the receipt of a maternity allowance*

9.—(1) A woman shall be disqualified for receiving a maternity allowance—

- (a) if, during the period for which the allowance is payable, she does any work in employment as an employed or self-employed earner, and such disqualification shall be for such part of the said period (but for not less than the number of days on which the woman so worked during the said period) as may be reasonable in the circumstances;
- (b) if, during the said period, she fails without good cause to observe the following rule of behaviour, namely, to take due care of her health and to answer reasonable enquiries (not being enquiries relating to medical examination, treatment or advice), by the Department or its officers directed to ascertaining whether she is doing so, and such disqualification shall be for such part of the said period as may be reasonable in the circumstances; or
- (c) if she fails without good cause to attend for or to submit herself to any medical examination required in accordance with regulation 4(3) and such disqualification shall be for such part of the said period (being a part beginning not earlier than the day on which the failure occurs) as may be reasonable in the circumstances, except that in the event of her being confined after such failure she shall not by reason of such failure be so disqualified for the day on which the confinement occurs or any day after it.

(2) References in paragraph (1) to the period for which a maternity allowance is payable shall be construed as references to the period mentioned in section 22(2) or, in a case in relation to which that section is modified in accordance with the provisions of these regulations, as references to the period mentioned in that section as so modified.

*Days to be treated as days of incapacity*

10. Any day in the maternity allowance period shall be treated as a day of incapacity for work for the purposes of section 22(1)(b).

*Special provision for certain persons who have been employed abroad*

11.—(1) Subject to the following paragraphs, for the purposes of maternity benefit (but not for the purposes of an earnings-related supplement to maternity allowance) where a person has been absent from Northern Ireland and—

- (a) has paid Class 1 contributions at the standard rate under the Act to the full extent of his liability under regulation 89 of the Social Security (Contributions) (Northern Ireland) Regulations 1974(d), as amended(e); and

(d) S.R. 1974 No. 234

(e) The relevant amending regulation is S.R. 1975 No. 56

- (b) the employment by reference to which his liability arose continued throughout the first 52 weeks after its commencement; and
- (c) has returned to Northern Ireland; and
- (d) throughout the whole period of his absence he was ordinarily resident in Northern Ireland,

he shall be treated as if he had paid Class 1 contributions on earnings at the lower earnings limit for any weeks between the end of the period of Class 1 liability and the date of his return to Northern Ireland which are relevant to his claim.

(2) Where a person—

- (a) would have been liable to pay Class 1 contributions at the standard rate by virtue of the said regulation 89 but for the provisions of either—
  - (i) an Order in Council made under section 134 (reciprocity with countries outside the United Kingdom), or
  - (ii) Council Regulation No. 1408/71/EEC(f) (application of social security schemes to employed persons and their families moving within the Community); and

(b) has returned to Northern Ireland; and

- (c) throughout the whole period of his absence was ordinarily resident in Northern Ireland; and

(d) remained in the employment by virtue of which he was a person to whom sub-paragraph (a) applied to him throughout the first 52 weeks after its commencement,

he shall be treated as having paid Class 1 contributions on earnings at the lower earnings limit for each week of his absence.

(3) Paragraph (2) shall not apply in relation to maternity benefit for any day in respect of which the person concerned is entitled to a corresponding benefit under the social security scheme of the country in which he was employed.

(4) Where a person satisfies the requirements of paragraph (2)(a) to (c) but the relevant employment did not continue for 52 weeks, he shall be treated as having paid Class 1 contributions on earnings at the lower earnings limit for each week for which it did continue.

(5) Where a person to whom regulation 3 of the National Insurance (Residence and Persons Abroad) Regulations (Northern Ireland) 1973(g), applies—

(a) has paid contributions to the full extent of his liability under that regulation; and

(b) he has paid 45 contributions of any Class under the National Insurance Act (Northern Ireland) 1966(h) during each contribution year from the year in which his liability ceased until the last contribution year relevant to him which ended before 5th April 1975 (inclusive of both these years),

paragraph (1)(a) shall not apply to him and paragraph (1)(b) shall apply as if the reference to his liability were a reference to his liability under the said regulation 3.

(f) O.J. No. L149, 5.7.71, p. 2 (O.J. SE 1971 (II) p. 416)

(g) S.R. & O. (N.I.) 1973 No. 175 (I. p. 923)

(h) 1966 c. 6 (N.I.)

(6) Paragraph (1) shall not apply to any case where the employment which gave rise to the liability mentioned in sub-paragraph (a) of that paragraph commenced before 6th April 1975 unless the person concerned paid contributions under the said Act of 1966 to the full extent of his liability under the said regulation 3.

*Special provisions relating to delay or failure in claiming maternity allowance*

12. For the purposes of section 22(4) (earnings-related supplement of maternity allowance), a woman shall be treated as having been entitled to maternity allowance for any day if she would have been so entitled but for any delay or failure to make or prosecute a claim, so however that she shall not be so treated where she shows that she did not intend, by failing to acquire or establish a right to benefit for that day, to cause a new period of interruption of employment to begin for the purposes of earnings-related supplement.

*Transitional provisions*

13.—(1) For the purposes of regulation 3 of the Social Security (Short-Term Benefits) (Transitional) (Northern Ireland) Regulations 1975(i) the contribution conditions for a maternity grant shall be deemed to be satisfied in any case where the claimant at any time in the maternity allowance period satisfies the contribution conditions for sickness benefit but the contribution conditions for maternity allowance in the Social Security (Maternity Allowance) (Transitional) (Northern Ireland) Regulations 1974(j) are not satisfied.

(2) The provisions of these regulations shall have effect subject to the provisions of the Social Security (Short-Term Benefits) (Transitional) (Northern Ireland) Regulations 1975 and the Social Security (Maternity Allowance) (Transitional) (Northern Ireland) Regulations 1974.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 4th April 1975.

(L.S.)

C. G. Oakes

Assistant Secretary

(i) S.R. 1975 No. 44

(j) S.R. 1974 No. 34

## EXPLANATORY NOTE

*(This note is not part of the regulations but is intended to indicate their general purport.)*

These regulations contain provisions relating to maternity benefit under the Social Security (Northern Ireland) Act 1975.

The provisions relate to—payment of more than one maternity grant in respect of multiple births (regulation 2); entitlement to a maternity grant in expectation of confinement (regulation 3); conditions for, and duration of, a maternity allowance whether in expectation of confinement or by virtue of confinement (regulations 4 to 7); entitlement to maternity allowance at a reduced rate where the contribution conditions are not satisfied in full (regulation 8); disqualification for the receipt of a maternity allowance in certain circumstances (regulation 9); days to be treated as days of incapacity for work (regulation 10). Special provisions are made for certain persons who have been employed abroad (regulation 11) and for persons who have delayed or failed in claiming maternity allowance (regulation 12).

The regulations also contain transitional provisions.