

1988 No. 128

STATUTORY MATERNITY PAY**The Statutory Maternity Pay (General) (Amendment) Regulations (Northern Ireland) 1988***Made* 1st April 1988*Coming into operation* 6th April 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 47(8) and (9) of, and paragraphs 11 and 11A of Schedule 4 to, the Social Security (Northern Ireland) Order 1986(a) 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 Statutory Maternity Pay (General) (Amendment) Regulations (Northern Ireland) 1988 and shall come into operation on 6th April 1988.

(2) In these regulations “the principal regulations” means the Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987(b).

Amendment of regulation 4 of the principal regulations

2. In regulation 4 of the principal regulations (modification of entitlement provisions) after paragraph (2) there shall be added the following paragraph—

“(3) In relation to a woman to whom either paragraph (1) or (2) of this regulation applies, Article 49 of the 1986 Order shall be modified so that—

- (a) paragraph (2) of Article 49 has effect as if the reference to the period of 8 weeks immediately preceding the 14th week before the expected week of confinement was a reference—
 - (i) in a case to which paragraph (1) of this regulation applies, to the period of 8 weeks ending with the last day in respect of which she was paid in accordance with her contract of service with her employer, or
 - (ii) in a case to which paragraph (2) of this regulation applies, to the period of 8 weeks immediately preceding the week in which her confinement occurred;
- (b) paragraph (4) of Article 49 has effect as if after “expected week of confinement has been” there were inserted “or would but for her dismissal or confinement have been”; and

(a) S.I. 1986/1888 (N.I. 18); Article 47(8) and paragraph 11 of Schedule 4 were amended by, and Article 47(9) and paragraph 11A of Schedule 4 were inserted by, paragraphs 12 and 15 of Schedule 4 to the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2))

(b) S.R. 1987 No. 30

(c) paragraph (5) of Article 49 has effect as if there were added at the end of that paragraph—

“and for the purpose of this paragraph—

(a) a contract of service which ended before the end of the week immediately preceding the 14th week before the expected week of confinement shall be deemed to have continued until the end of that week; and

(b) in any week which falls—

(i) after the week preceding the week in which her employment ended or confinement occurred, but

(ii) before the 14th week before the expected week of confinement,

the woman shall be deemed to have been employed under her contract of service for the same number of hours weekly as that which her contract involved in the week preceding the week in which her employment ended or her confinement occurred.””.

Effect of statutory maternity pay on invalidity benefit

3. After regulation 21 of the principal regulations there shall be inserted the following regulation—

“Effect of statutory maternity pay on invalidity benefit

21A.—(1) For the purpose of determining a woman’s entitlement to invalidity pension under section 15 of the Act(a) or under Article 17 of the Social Security Pensions (Northern Ireland) Order 1975(b), a day which falls within the maternity pay period shall, notwithstanding paragraph 11 of Schedule 4 to the 1986 Order, be treated as a day of incapacity for work where—

(a) on that day she was incapable of work by reason of some specific disease or bodily or mental disablement, work for this purpose being work which the woman can reasonably be expected to do;

(b) that day is not treated under section 17(2) of the Act as a day which is not a day of incapacity for work;

(c) that day and the day immediately preceding the first day of the maternity pay period both fall within the same spell of incapacity for work, and for this purpose a spell of incapacity for work consists of 4 or more consecutive days of incapacity for work; and

(d) the woman was entitled to invalidity pension on the day immediately preceding the first day of the maternity pay period.

(a) 1975 c. 15; section 15 was amended by paragraph 22 of Schedule 5 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), paragraph 1 of Schedule 1 and paragraph 6 of Schedule 3 to, the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)), paragraph 6 of Schedule 4 to the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)) and paragraph 53 of Schedule 9 to the Social Security (Northern Ireland) Order 1986

(b) S.I. 1975/1503 (N.I. 15); Article 17 was amended by Article 5(4) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)) and paragraph 45 of Schedule 9 to the Social Security (Northern Ireland) Order 1986

(2) Where by virtue of paragraph (1) a woman is entitled to invalidity pension for any week (including part of a week), the total amount of invalidity pension (including any increase for a dependant) and invalidity allowance (invalidity benefit) payable to her for that week shall be reduced by an amount equivalent to any statutory maternity pay to which she is entitled in accordance with Part VI of the 1986 Order for the same week, and only the balance, if any, of the invalidity benefit shall be payable to her.”.

Sealed with the Official Seal of the Department of Health and Social Services on 1st April 1988.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations, which come into operation on 6th April 1988, amend the Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987. They correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

Article 47(8) and (9) and paragraphs 11 and 11A of Schedule 4 to the Social Security (Northern Ireland) Order 1986 (“the 1986 Order”) are the enabling provisions under which these regulations are made. They are inserted or amended by paragraphs 12 and 15 of Schedule 4 to the Social Security (Northern Ireland) Order 1988 and brought into operation on 6th April 1988 by virtue of Part I of the Schedule to the Social Security (1988 Order) (Commencement No. 1) Order (Northern Ireland) 1988 (S.R. 1988 No. 126 (C. 6)).

Regulation 2 contains modifications of Article 49 of the 1986 Order where a woman’s employment is ended, or her confinement occurs, before the 14th week before the expected week of confinement.

Regulation 3 enables a woman who was entitled to invalidity benefit immediately before the maternity pay period began to retain her entitlement during that period for so long as her incapacity persists, but the amount of benefit payable to her is abated by a sum equal to the amount of statutory maternity pay to which she is entitled.