

1994 No. 191

**SOCIAL SECURITY; STATUTORY MATERNITY PAY;
STATUTORY SICK PAY**

**The Social Security Maternity Benefits, Statutory Maternity Pay
and Statutory Sick Pay (Amendment) Regulations
(Northern Ireland) 1994**

Made 20th May 1994

Coming into operation 11th June 1994

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 35(3)(b)(i) and (c), 119, 149(6), 160(4) and (9)(e), 161(1) and (3) and 162(3) of, and paragraph 1 of Schedule 11 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Social Security Maternity Benefits, Statutory Maternity Pay and Statutory Sick Pay (Amendment) Regulations (Northern Ireland) 1994 and shall come into operation on 11th June 1994 and shall have effect immediately after the coming into operation of the Maternity Allowance and Statutory Maternity Pay Regulations (Northern Ireland) 1994(b).

Amendment of the Statutory Maternity Pay (General) Regulations

2.—(1) The Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987(c) shall be amended in accordance with paragraphs (2) to (6) of this regulation.

(2) In regulation 2 (the maternity pay period)—

(a) in paragraph (1)—

- (i) for “Subject to paragraph (3)” there shall be substituted “Subject to paragraphs (3) to (5)”, and
- (ii) for “or the 6th week before the expected week of confinement” there shall be substituted “or the week immediately following the week in which she is confined”;

(a) 1992 c. 7; sections 35, 161 and 162 were amended by regulations 2, 3 and 4 respectively of the Maternity Allowance and Statutory Maternity Pay Regulations (Northern Ireland) 1994 (S.R. 1994 No. 176)

(b) S.R. 1994 No. 176

(c) S.R. 1987 No. 30; relevant amending provisions are S.R. 1988 No. 128 and S.R. 1994 No. 74

(b) for paragraph (2) there shall be substituted the following paragraph—
 “(2) The maternity pay period shall be a period of 18 consecutive weeks.”;

(c) in paragraph (3)(b) the words “but before the 6th week” shall be omitted; and

(d) after paragraph (3) there shall be added the following paragraphs—
 “(4) Subject to paragraph (5), where a woman is absent from work wholly or partly because of pregnancy or confinement on any day which falls on or after the beginning of the 6th week before the expected week of confinement, but not later than the week immediately following the week in which she is confined, the first week of her maternity pay period shall be the week which includes that day.

(5) Where—

(a) a woman is employed by an employer who is liable to pay her statutory maternity pay;

(b) she is absent from work wholly or partly because of pregnancy or confinement on any day which falls on or after the beginning of the 6th week before the expected week of confinement but not later than the week immediately following the week in which she is confined; and

(c) she has worked for that employer or is entitled to statutory sick pay on any day which falls on or after the start of the week in which the absence mentioned in sub-paragraph (b) falls,

the first week of her maternity pay period shall be the week next following that day.”.

(3) In regulation 4 (modification of entitlement provisions)—

(a) paragraph (1) shall be omitted;

(b) in paragraph (2)—

(i) for “Article 47(2)(a) and (b) of the 1986 Order” there shall be substituted “section 160(2)(a) and (b) of the Contributions and Benefits Act”, and

(ii) in sub-paragraph (b) for “section 4(1)(a) of the Act” there shall be substituted “section 5(1)(a) of the Contributions and Benefits Act”; and

(c) for paragraph (3) there shall be substituted the following paragraph—

“(3) In relation to a woman to whom paragraph (2) applies, section 162 of the Contributions and Benefits Act shall be modified so that subsection (2) 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 to the period of 8 weeks immediately preceding the week in which her confinement occurred.”.

(4) In regulation 6 (lower rate of statutory maternity pay) for “£48·80” there shall be substituted “£52·50”.

- (5) In regulation 21 (normal weekly earnings)—
- (a) in paragraph (1) for “Part VI of the 1986 Order” there shall be substituted “Part XII of the Contributions and Benefits Act”;
 - (b) in paragraph (2) in the definition of “the appropriate date” the words after “whichever is the earlier” shall be omitted; and
 - (c) in paragraph (3) for “Article 51(3) of the 1986 Order” there shall be substituted “section 167(4) of the Contributions and Benefits Act”.
- (6) In regulation 23 (notice of absence from work)—
- (a) in paragraph (2) for “Article 47(4) of the 1986 Order” there shall be substituted “section 160(4) of the Contributions and Benefits Act”; and
 - (b) for paragraphs (4) and (5) there shall be substituted the following paragraphs—
 - “(4) Subject to paragraph (5), section 160(4) of the Contributions and Benefits Act shall not apply to a woman who leaves her employment with the person who will be liable to pay her statutory maternity pay after the beginning of the 15th week before the expected week of confinement for a reason wholly unconnected with her pregnancy.
 - (5) A woman who is exempted from section 160(4) of the Contributions and Benefits Act by paragraph (4) but who is confined before the 11th week before the expected week of confinement shall only be entitled to statutory maternity pay if she gives the person who will be liable to pay it notice specifying the date she was confined.”.

Amendment of the Social Security (Maternity Allowance) Regulations

3.—(1) Regulation 3 of the Social Security (Maternity Allowance) Regulations (Northern Ireland) 1987(a) (modification of the maternity allowance period) shall be amended in accordance with paragraphs (2) and (3) of this regulation.

- (2) After paragraph (2) there shall be inserted the following paragraph—
- “(2A) In relation to a woman who—
- (a) is not entitled to maternity allowance at the 11th week before the expected week of confinement;
 - (b) subsequently becomes entitled to maternity allowance before being confined; and
 - (c) has stopped work,
- the maternity allowance period shall be a period of 18 weeks commencing with the week following that in which she stopped work.”.

(3) For paragraph (4)(ii) there shall be substituted the following—

“(ii) where she is absent from work wholly or partly due to pregnancy or confinement, at the end of the 18th week following the week in which she was absent from work.”.

Amendment of the Social Security (Maternity Allowance) (Work Abroad) Regulations

4. In regulation 2(4) of the Social Security (Maternity Allowance) (Work Abroad) Regulations (Northern Ireland) 1987(a) (special provision for certain persons who have been employed abroad) for “52 weeks preceding the 14th week before” there shall be substituted “66 weeks immediately preceding”.

Amendment of the Statutory Sick Pay (General) Regulations

5. In regulation 3 of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(b) (period of entitlement ending or not arising)—

(a) in paragraph (3)—

(i) for “Article 5(2)” there shall be substituted “section 149(2) of the Contributions and Benefits Act”, and

(ii) for “Article 5(5)” there shall be substituted “section 149(6) of that Act”;

(b) for paragraph (4) there shall be substituted the following paragraph—

“(4) Where a period of entitlement is current as between an employee and her employer and the employee—

(a) is pregnant or has been confined;

(b) is incapable of work wholly or partly because of pregnancy or confinement on any day which falls on or after the beginning of the 6th week before the expected week of confinement; and

(c) is not by virtue of that pregnancy or confinement entitled to statutory maternity pay under Part XII of the Contributions and Benefits Act or to maternity allowance under section 35 of that Act,

the period of entitlement shall end on that day or, if the confinement was earlier than that day, on the day she was confined.”;

(c) in paragraph (5)(b) for “under Part VI of the Social Security (Northern Ireland) Order 1986 or to maternity allowance under section 22 of the Social Security (Northern Ireland) Act 1975” there shall be substituted “under Part XII of the Contributions and Benefits Act or to maternity allowance under section 35 of that Act”;

(d) for paragraph (6) there shall be substituted the following paragraph—

(a) S.R. 1987 No. 151

(b) S.R. 1982 No. 263; relevant amending regulations are S.R. 1986 No. 83 and S.R. 1987 No. 248

“(6) Where an employee—

- (a) has reached the beginning of the 6th week before the expected week of her confinement;
- (b) is incapable of work wholly or partly because of pregnancy or confinement; and
- (c) is not in expectation of that confinement entitled to statutory maternity pay under Part XII of the Contributions and Benefits Act or to maternity allowance under section 35 of that Act, a period of entitlement as between her and her employer shall not arise in relation to a period of incapacity for work where the first day in that period of incapacity falls in the 6th week before the expected week of her confinement or within 17 weeks after the 6th week before the expected week of her confinement.”; and
- (e) in paragraph (7) for “Article 51 of the Social Security (Northern Ireland) Order 1986” there shall be substituted “section 167 of the Contributions and Benefits Act(a)”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 20th May 1994.

(L.S.)

W. G. Purdy

Assistant Secretary

(a) Section 167 was amended by Article 4(b) of the Still Birth (Definition) (Northern Ireland) Order 1992 (S.I. 1992/1310 (N.I. 10))

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987 (“the Statutory Maternity Pay Regulations”), the Social Security (Maternity Allowance) Regulations (Northern Ireland) 1987 (“the Maternity Allowance Regulations”), the Social Security (Maternity Allowance) (Work Abroad) Regulations (Northern Ireland) 1987 (“the Maternity Allowance (Work Abroad) Regulations”) and the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982 (“the Statutory Sick Pay Regulations”).

The regulations exercise powers under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (as amended by the Maternity Allowance and Statutory Maternity Pay Regulations (Northern Ireland) 1994 (S.R. 1994 No. 176)) to implement the requirements of Council Directive 92/85/EEC in relation to allowances to be made to women on maternity leave.

Regulation 2 amends the Statutory Maternity Pay Regulations as follows—

- (a) to provide that the maternity pay period begins from the week following the week in which a woman stops work whether or not this falls after the 6th week before the expected week of confinement;
- (b) to prescribe the beginning of the maternity pay period where a woman is absent from work wholly or partly because of pregnancy or confinement on or after the beginning of the 6th week before the expected week of confinement;
- (c) to provide that the entitlement provisions are no longer modified where a woman is dismissed or not offered a new contract of service before the qualifying week for statutory maternity pay;
- (d) to prescribe an increase from £48·80 to £52·50 in the lower rate of statutory maternity pay;
- (e) by amending the definition of "the appropriate date" in relation to the calculation of normal weekly earnings; and
- (f) by omitting references to women dismissed because of pregnancy.

Regulation 3 amends the Maternity Allowance Regulations by omitting references to the maternity allowance period ending not later than the end of the 11th week following the expected week of confinement and inserts a new definition of the maternity allowance period, where a woman was not entitled to maternity allowance at the 11th week before the expected week of confinement but subsequently becomes entitled.

Regulation 4 amends the Maternity Allowance (Work Abroad) Regulations by substituting a reference to a period of employment of 66 weeks (instead of 52 weeks) for certain women employed abroad.

Regulation 5 amends the Statutory Sick Pay Regulations to provide, where a woman is not entitled to maternity benefits and is incapable of work wholly or partly because of pregnancy or confinement after the beginning of the 6th week before the expected week of confinement, that her entitlement to statutory sick pay will end on that date, and it further provides that where a woman is not entitled to maternity benefits a period of entitlement to statutory sick pay shall not arise in such circumstances.

These regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.