
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 104

SOCIAL SECURITY

**The Social Security (Maternity Allowance) (Earnings)
Regulations (Northern Ireland) 2000**

Made 21st March 2000

Coming into operation 2nd April 2000

The Department for Social Development, in exercise of the powers conferred by sections 35A(4) and (5) and 171(1) to (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), and now vested in it(b), and of all other powers enabling it in that behalf, by this statutory rule which contains only regulations made by virtue of, or consequential upon, Article 50 of the Welfare Reform and Pensions (Northern Ireland) Order 1999(c) and which is made before the end of the period of six months beginning with the coming into operation of that Article(d), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Maternity Allowance) (Earnings) Regulations (Northern Ireland) 2000 and shall come into operation on 2nd April 2000.

(2) In these Regulations—

“certificate of small earnings exception” means a certificate issued pursuant to regulation 24(1) of the Social Security (Contributions) Regulations (Northern Ireland) 1979(e);

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“test period” means the period of 66 weeks specified in section 35(1)(b) of the Contributions and Benefits Act(f).

(3) The Interpretation Act (Northern Ireland) 1954(g) shall apply to these Regulations as it applies to an Act of the Assembly.

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- (a) 1992 c. 7; section 35A was inserted by Article 50(3) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and section 171(2) was amended by paragraph 28(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
- (b) See Article 8(b) of S.R. 1999 No. 481
- (c) S.I. 1999/3147 (N.I. 11)
- (d) See section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
- (e) S.R. 1979 No. 186
- (f) Section 35(1) was substituted by Article 50(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999
- (g) 1954 c. 33 (N.I.)

Specified payments for employed earners

2.—(1) Subject to paragraph (2), for the purposes of section 35A(4)(a) of the Contributions and Benefits Act, the payments specified for a woman who is an employed earner in any week falling within the test period shall be all payments made to her or for her benefit as an employed earner including—

- (a) any sum payable in respect of arrears of pay in pursuance of an order for reinstatement under Article 148 or re-engagement under Article 149 of the Employment Rights (Northern Ireland) Order 1996(a) (orders for reinstatement and re-engagement);
- (b) any sum payable by way of pay in pursuance of an order made under Article 164 of the Employment Rights (Northern Ireland) Order 1996(b) (procedure on hearing of application and making of order) for the continuation of a contract of employment;
- (c) any sum payable by way of remuneration in pursuance of a protective award under Article 217 of the Employment Rights (Northern Ireland) Order 1996 (complaint and protective award);
- (d) any sum payable by way of statutory sick pay, including sums payable in accordance with regulations made under section 147(6) of the Contributions and Benefits Act(c) (employer's liability);
- (e) any sum payable by way of statutory maternity pay, including sums payable in accordance with regulations made under section 160(9)(b) of the Contributions and Benefits Act(d) (statutory maternity pay – entitlement and liability to pay).

(2) The payments specified shall not include any sum excluded from the computation of a person's earnings under regulation 19, 19A or 19B of the Social Security (Contributions) Regulations (Northern Ireland) 1979(e) (payments to be disregarded).

Specified payments for self-employed earners

3. For the purposes of section 35A(4)(b) of the Contributions and Benefits Act, where a woman is a self-employed earner in any week falling within the test period, the payments treated as made to her or for her benefit shall be—

- (a) a payment equal to the lower earnings limit in force on the last day of that week where she has paid a Class 2 contribution and she does not hold a certificate of small earnings exception in respect of that week; or

(a) S.I. 1996/1919 (N.I. 16)

(b) Article 164 was amended by S.R. 1998 No. 386

(c) Section 147(6) was amended by paragraph 10 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(d) Section 160(9) was amended by paragraph 14(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(e) Regulation 19 was amended by S.R. 1983 No. 64, S.R. 1984 No. 43, S.R. 1987 Nos. 143 and 348, S.R. 1988 No. 204, S.R. 1991 No. 490, S.R. 1993 Nos. 114 and 437, S.R. 1995 No. 257, S.R. 1996 Nos. 89 and 566, S.R. 1997 Nos. 163 and 180, S.R. 1998 Nos. 103, 317 and 332 and S.R. 1999 Nos. 117, 118 and 119; regulation 19A was inserted by S.R. 1987 No. 348 and regulation 19B was inserted by S.R. 1987 No. 468 and amended by S.R. 1991 No. 106 and S.R. 1996 No. 89

- (b) a payment equal to the maternity allowance threshold in force on the last day of that week, where she holds a certificate of small earnings exception in respect of that week.

Aggregation of specified payments

4.—(1) In a case other than one to which regulation 5(2) applies where a woman, either in the same week or different weeks falling within the test period, is engaged in two or more employments (whether, in each case, as an employed earner or a self-employed earner), any payments which are made or treated in accordance with these Regulations as made to her or for her benefit shall be aggregated for the purpose of calculating the average weekly amount of specified payments applicable in her case.

(2) In a case to which regulation 5 (2) applies, any payments which are made or treated in accordance with these Regulations as made to her or for her benefit shall not be aggregated for the purpose of determining the average weekly amount of specified payments applicable in her case.

The specified period

5.—(1) The specified period for the purposes of section 35A(4) and (5) of the Contributions and Benefits Act shall, subject to paragraph (2), be the period of 13 consecutive weeks falling within the test period in respect of which a woman's average weekly earnings determined in accordance with these Regulations are greatest.

(2) Where a woman's entitlement to maternity allowance would not otherwise equal the appropriate weekly rate specified in section 35A(2) of the Contributions and Benefits Act, and the payments made or treated in accordance with these Regulations as made to her or for her benefit are equal to or greater than the lower earnings limit in force on the last day of the week in 13 or more weeks (whether consecutive or not) falling within the test period, the specified period shall be the test period.

(3) Where a woman is normally paid other than weekly, the payments made to her or for her benefit for the purposes of paragraph (2) shall be calculated by dividing the payments made to her in any week by the nearest whole number of weeks in the period in respect of which she is paid.

Determination of average weekly amount of specified payments

6.—(1) For the purposes of section 35A(4) of the Contributions and Benefits Act, a woman's average weekly amount of specified payments shall, subject to paragraph (2), be determined—

- (a) in a case to which regulation 5(1) applies, by dividing by 13 the payments made or treated as made in accordance with these Regulations which fall within the specified period; or
- (b) in a case to which regulation 5(2) applies, by dividing by 13 the payments made or treated as made in accordance with these Regulations in the first 13 such weeks which fall within the specified period.

(2) In any case where a woman receives a back-dated pay increase after the end of the period specified in regulation 5 which includes a sum in respect of any week falling within that period, her average weekly amount of specified payments shall be determined as if such sum had been paid in that week.

Sealed with the Official Seal of the Department for Social Development
on 21st March 2000.

(L.S.)

John O'Neill

Senior Officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide for the payments which are or are to be treated as earnings for the purpose of calculating entitlement to State Maternity Allowance.

Regulation 2 specifies payments for women who are employed earners.

Regulation 3 specifies the payments to be treated as made to or for the benefit of a woman who is a self-employed earner.

Regulation 4 provides for the aggregation of payments for the purpose of determining the average weekly amount of specified payments applicable in her case.

Regulation 5 specifies periods for the purposes of sections 35A(4) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the Contributions and Benefits Act”).

Regulation 6 provides for the determination of the average weekly amount of specified payments for the purposes of section 35A(4) of the Contributions and Benefits Act.

These Regulations are made in consequence of Article 50 of the Welfare Reform and Pensions (Northern Ireland) Order 1999. Article 50 came into operation for the purposes only of the exercise of any power to make regulations on 12th January 2000 and comes into operation for all other purposes on 2nd April 2000 by virtue of Article 2(1)(a) of the Welfare Reform and Pensions (1999 Order) (Commencement No. 1) Order (Northern Ireland) 1999 (S.R. 1999 No. 494 (C. 38)). As these Regulations are made before the end of the period of 6 months from the coming into operation of Article 50 they are accordingly exempt, by virtue of section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8), from reference to the Social Security Advisory Committee.

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