

2014 No. 140

SOCIAL SECURITY

**The Social Security (Maternity Allowance) (Miscellaneous
Amendments) Regulations (Northern Ireland) 2014**

Made - - - - *16th May 2014*

Coming into operation - *18th May 2014*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Article 39(1) of, and paragraph 4(1)(b) of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(a), sections 35(3), 35B(11) and 171(1), (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b), and now vested in it(c), and section 25(2) of, and paragraph 1(a) of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007(d).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Maternity Allowance) (Miscellaneous Amendments) Regulations (Northern Ireland) 2014 and shall come into operation on 18th May 2014.

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

Amendment of the Social Security (Maternity Allowance) Regulations

2.—(1) The Social Security (Maternity Allowance) Regulations (Northern Ireland) 1987(f) are amended in accordance with paragraphs (2) to (4).

(2) After regulation 1(2) (interpretation) insert—

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

(3) For regulation 2(g) (disqualification for the receipt of a maternity allowance) substitute—

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- (a) 1991/2628 (N.I. 23); Part 1 of Schedule 1 was substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.)
- (b) 1992 c. 7; section 35(3)(a) was amended by paragraph 5 of Schedule 1 to the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)) and section 35B(11) was inserted by regulation 2(5) of S.R. 2014 No. 102. Section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
- (c) See Article 8(b) of S.R. 1999 No. 481
- (d) 2007 c. 2 (N.I.)
- (e) 1954 c.33 (N.I.)
- (f) S.R. 1987 No. 170; relevant amending Regulations are S.R., 2006 No. 361, S.R. 1997 No. 156 and S.R. 2002 No. 354
- (g) Regulation 2 was amended by regulation 4(2) of S.R. 2006 No. 361

“Disqualification for the receipt of a maternity allowance

2.—(1) A woman shall be disqualified for receiving a maternity allowance under section 35 of the 1992 Act if during the maternity allowance period she does any work in employment as an employed or self-employed earner, for more than 10 days, whether consecutive or not, falling within that period.

(2) The disqualification referred to in paragraph (1) shall be for such part of the maternity allowance period as may, in the opinion of the Department, be reasonable in the circumstances, provided that the disqualification shall, in any event, be for at least the number of days on which she so worked in excess of 10 days.

(3) A woman shall be disqualified for receiving a maternity allowance under section 35B of the 1992 Act if during the maternity allowance period—

- (a) she works with S (as defined in subsection (1)(b) of that section); or
- (b) she does any work in employment as an employed or self-employed earner.

(4) The disqualification referred to in paragraph (3) shall be for such part of the maternity allowance period as may, in the opinion of the Department, be reasonable in the circumstances and in any event shall be for at least the number of days she so worked.

(5) A woman shall be disqualified for receiving a maternity allowance under section 35 or 35B of the 1992 Act if during the maternity allowance period she fails without good cause to take due care of her health or 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.

(6) The disqualification referred to in paragraph (5) shall be for such part of the maternity allowance period as may, in the opinion of the Department, be reasonable in the circumstances.

(7) A woman shall be disqualified for receiving a maternity allowance under section 35 or 35B of the 1992 Act if at any time before she is confined she fails without good cause to attend for or to submit herself to any medical examination for which she was given at least 3 days notice in writing by or on behalf of the Department.

(8) The disqualification referred to in paragraph (7) shall be for such part of the maternity allowance period (being a part beginning not earlier than the day on which the failure occurs) as may, in the opinion of the Department, be reasonable in the circumstances, except that in the event of her being confined after such failure the woman shall not by reason of such failure be so disqualified for the day on which the confinement occurs or any day thereafter.”

(4) In regulation 3 (modification of the maternity allowance period)—

(a) in paragraph (1)(a), for “the following provisions of this regulation” substitute “paragraph (2A)”; and

(b) after paragraph (2A)(b) add—

“(2B) The provisions of section 35B of the 1992 Act which relate to the maternity allowance period shall, 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 ceased to work with S,

be modified in accordance with paragraph (2C).

(2C) The maternity allowance period shall be a period of 14 weeks commencing—

(a) Paragraph (1) was amended by regulation 2(a) of S.R. 1997 No. 156 and regulation 5(a) of S.R. 2002 No. 354

(b) Paragraph (2A) was inserted by regulation 3(2) of S.R. 1994 No. 191 and amended by regulation 4(3) of S.R. 2006 No. 361

- (a) on the day after she ceases work, or, if later, the day she becomes entitled to maternity allowance; and
- (b) no later than the day following the day on which she is confined.”.

Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations, the Child Support (Maintenance Calculations and Special Cases) Regulations and the Child Support Maintenance Calculation Regulations

3.—(1) In paragraph (a)(iv) of Schedule 4 (the payments and awards specified for the purposes of regulation 26(1)(b)(i) to the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(a) after “section 35” insert or “35B”.

(2) In regulation 4(1)(a)(vii) of the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001(b) (flat rate) after “section 35” insert or “35B”.

Amendment of the Employment and Support Allowance Regulations

4.—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008(c) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) omit the definition of “the maternity allowance period”.

(3) In regulation 20(1)(e)(d) (certain claimants to be treated as having limited capability for work)—

- (a) in head (i) omit “section 35(2) of”; and
- (b) in head (ii) after “section 35(1)” insert “or 35B(1)”.

Revocations

5. Regulation 2(a) of the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1997(e) and regulation 4(2) of the Statutory Maternity Pay, Social Security (Maternity Allowance) and Social Security (Overlapping Benefits) (Amendment) Regulations (Northern Ireland) 2006(f) are revoked.

Sealed with the Official Seal of the Department for Social Development on 16th May 2014

(L.S.)

Andrew Hamilton

A senior officer of the Department for Social Development

(a) S.R. 1992 No. 341; paragraph (a)(iv) has amendments not relevant to these Regulations
(b) S.R. 2001 No. 18; sub-paragraph (a)(vii) has an amendment not relevant to these Regulations
(c) S.R. 2008 No. 280; relevant amending Regulations are S.R. 2011 No. 357 and S.R. 2013 Nos. 2 and 246
(d) Regulation 20(1) was amended by regulation 21(4) of S.R. 2011 No. 357, regulation 3(3) of S.R. 2013 No. 2 and regulation 11(7) of S.R. 2013 No. 246
(e) S.R. 1997 No. 156
(f) S.R. 2006 No. 361

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2(5) of the Social Security (Maternity Allowance) (Participating Wife or Civil Partner of Self-employed Earner) Regulations (Northern Ireland) 2014 (S.R. 2014 No. 102) inserted new section 35B (state maternity allowance for participating wife or civil partner of self-employed earner) into the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the 1992 Act”). Section 35B provides an entitlement to maternity allowance for women who work with a spouse or civil partner who is engaged in self-employment. This implements Article 8 of Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity (OJ No. L 180, 15.7.2010, p. 1) in respect of the women referred to in Article 2(b) of the Directive. Section 35 (state maternity allowance) of the 1992 Act provides for the payment of maternity allowance to women who are employed or self-employed earners.

Regulation 2(3) of these Regulations amends the Social Security (Maternity Allowance) Regulations (Northern Ireland) 1987 by substituting a new regulation 2 (disqualification for the receipt of a maternity allowance) in order to provide for disqualification from maternity allowance under section 35B.

Regulation 2(4) modifies the maternity allowance period for the purposes of maternity allowance under section 35B.

Regulations 3 and 4 of these Regulations make minor amendments to take account of the introduction of maternity allowance under section 35B.

Regulation 5 makes consequential revocations.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions 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, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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