

1987 No. 91

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Maternity Pay (Compensation of Employers) Regulations 1987

<i>Made</i>	- - -	<i>27th January 1987</i>
<i>Laid before Parliament</i>		<i>4th February 1987</i>
<i>Coming into force</i>	-	<i>6th April 1987</i>

The Secretary of State for Social Services, with the concurrence of the Inland Revenue insofar as their concurrence is required, in exercise of powers conferred on him by sections 49(1) and 84(1) of, and paragraphs 1 and 5 of Schedule 4 to, the Social Security Act 1986(a) and section 166(1) of the Social Security Act 1975(b) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Statutory Maternity Pay (Compensation of Employers) Regulations 1987 and shall come into force on 6th April 1987.

(2) In these regulations—

“contributions payments” means any payments which an employer is required, by or under any enactment, to make in discharge of any liability in respect of primary or secondary Class 1 contributions;

“regulation 2”, “regulation 3”, “regulation 4” and “regulation 5” mean, respectively, regulations 2, 3, 4 and 5 of these regulations;

“statutory sick pay” has the same meaning as in Part I of the Social Security and Housing Benefits Act 1982(c);

and other expressions have the same meaning as in the Social Security Act 1986.

(3) For the purposes of regulations 4 and 5 “the Secretary of State” shall include a reference to the Commissioners of Inland Revenue acting on his behalf.

Right of employers to prescribed amount

2. An employer who has made a payment of statutory maternity pay shall be entitled to an amount, determined in accordance with the provisions of regulation 3, which he shall be entitled to deduct or, as the case may be, receive in accordance with the provisions of regulation 4 or 5.

Determination of the amount an employer shall be entitled to under regulation 2

3. In respect of a payment of statutory maternity pay made in the tax year commencing 6th April 1987, an employer shall be entitled under regulation 2 to an amount equal to 7 per cent. of the payment, that percentage being the total amount of

(a) 1986 c.50.

(b) 1975 c.14; see section 83(1) of the Social Security Act 1986.

(c) 1982 c.24.

secondary Class 1 contributions estimated by the Secretary of State as to be paid in respect of statutory maternity pay and statutory sick pay by all employers in that year, expressed as a percentage of the total amount of statutory maternity pay and statutory sick pay estimated by him to be paid by all employers in that year.

Deductions from contributions payments

4. An employer who has made a payment of statutory maternity pay may recover—
- (i) the amount so paid, and
 - (ii) the amount determined in accordance with regulation 3,
- by making one or more deductions from his contributions payments except where and insofar as—
- (a) the contributions payments relate to earnings paid before the beginning of the income tax month in which the payment of statutory maternity pay was made;
 - (b) the contributions payments are made by him later than 6 years after the end of the tax year in which the payment of statutory maternity pay was made;
 - (c) the amount of the payment of statutory maternity pay or the amount determined in accordance with regulation 3 have been paid to him under regulation 5 by the Secretary of State; or
 - (d) the employer has made a request in writing under regulation 5 that the amount of the payment of statutory maternity pay or the amount determined in accordance with regulation 3 be paid to him and he has not received notification by the Secretary of State that the request is refused.

Payments to employers by the Secretary of State

5.—(1) If the total amount which an employer is or would otherwise be entitled to deduct under regulation 4 exceeds the total amount which the employer is liable to pay by way of primary and secondary Class 1 contributions in respect of the earnings paid in an income tax month, and the Secretary of State is satisfied that that is so, then provided that the employer has in writing requested him to do so, the Secretary of State shall pay the employer such amount as the employer was unable to deduct.

(2) If an employer is not liable to pay any primary or secondary Class 1 contributions but would otherwise be entitled to deduct an amount under regulation 4, and the Secretary of State is satisfied that that is so, then provided the employer has in writing requested him to do so, the Secretary of State shall pay the employer that amount.

Date when certain contributions are to be treated as paid

6. Where an employer has made a deduction from a contributions payment under regulation 4, the date on which it is to be treated as having been paid for the purposes of paragraph 5 of Schedule 4 to the Social Security Act 1986 (amount deducted to be treated as paid and received towards discharging liability in respect of Class 1 contributions) is—

- (a) in a case where the deduction did not extinguish the contributions payment, the date on which the remainder of the contributions payment or, as the case may be, the first date on which any part of the remainder of the contributions payment, was paid; and
- (b) in a case where the deduction extinguished the contributions payment, the fourteenth day after the end of the income tax month during which there were paid the earnings in respect of which the contributions payment was payable.

Signed by authority of the Secretary of State for Social Services.

John Major

23rd January 1987

Minister of State, Department of Health and Social Security

The Commissioners of Inland Revenue hereby concur.
By Order of the Commissioners of Inland Revenue.

B. Pollard
A.J.G. Isaac

27th January 1987

Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations provide for compensation of employers who have made payments of statutory maternity pay under the Social Security Act 1986.

They are made under section 49(1) of, and paragraphs 1 and 5 of Schedule 4 to, the Social Security Act 1986, all of which come into force on 6th April 1987 (see the Social Security Act 1986 (Commencement No. 4) Order 1986, S.I. 1986/1959 (C.73)). As the regulations are made before the end of a period of 12 months from the coming into force of the above provisions, they are exempted by section 61(5)(a) of the Social Security Act 1986 from the requirement under section 10(1) of the Social Security Act 1980 (c.30) to refer proposals to the Social Security Advisory Committee and are made without reference to that Committee.

Regulations 2 and 3 provide that an employer who has made a payment of statutory maternity pay shall be entitled to a sum equal to a percentage of the statutory maternity pay he has paid.

Regulation 4 provides that, subject to specified exceptions, an employer may recover the amount of the statutory maternity pay he has paid and the additional sum to which he is entitled under regulations 2 and 3 by making one or more deductions from the payments of Class 1 contributions which he is required to make under the Social Security Act 1975 (c.14).

Regulation 5 specifies circumstances in which the Secretary of State is to pay to an employer a sum which the employer has paid as statutory maternity pay or to which he is entitled under regulations 2 and 3.

When a deduction has been made under regulation 4, the amount deducted is treated under paragraph 5 of Schedule 4 to the Social Security Act 1986 as having been paid towards discharging the liability for contributions under the 1975 Act. Regulation 6 makes provision for determining the date on which it is to be treated as having been paid.