
STATUTORY INSTRUMENTS

1990 No. 536

SOCIAL SECURITY

**The Social Security (Refunds) (Repayment of
Contractual Maternity Pay) Regulations 1990**

<i>Made</i>	- - - -	<i>8th March 1990</i>
<i>Laid before Parliament</i>		<i>9th March 1990</i>
<i>Coming into force</i>	- -	<i>31st March 1990</i>

The Secretary of State for Social Security, in exercise of the powers conferred by section 166(2) of, and by paragraph 6(1)(gg) and (m) of Schedule 1 and Schedule 20 to, the Social Security Act 1975 (1) and of all other powers enabling him in that behalf, and after agreement by the Social Security Advisory Committee that proposals to make these regulations should not be referred to it (2), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Refunds) (Repayment of Contractual Maternity Pay) Regulations 1990 and shall come into force on 31st March 1990.

(2) In these Regulations “the Act” means the Social Security Act 1975 and “the Contributions Regulations” means the Social Security (Contributions) Regulations 1979 (3).

Refunds of contributions

- 2.—(1) Where contractual maternity pay becomes repayable after 31st March 1990 and —
- (a) subject to paragraph (2) below, an application for refund of contributions paid in respect of that pay is made in accordance with paragraph (3) below; and
 - (b) the net amount of the refund which would, but for this sub-paragraph, be payable exceeds the amount of one fifteenth of a standard rate primary Class 1 contribution payable on earnings at the upper earnings limit in respect of primary Class 1 contributions prescribed in regulation 7 of the Contributions Regulations (lower and upper earnings limits) for the last or only year in respect of which the contributions were paid,

(1) 1975 c. 14; Schedule 1, paragraph 6 was amended by the Social Security Act 1989 (c. 24), section 2; Schedule 20 is cited because of the meanings ascribed to the words “Prescribe” and “Regulations”.

(2) See section 61(1)(b) of the Social Security Act 1986 (c. 50)

(3) S.I.1979/591

the Secretary of State shall refund the whole of any primary or secondary Class 1 contributions paid in respect of that pay or, as the case may be, such part of those contributions as is prescribed in regulation 3 below.

- (2) No application under this regulation may be made unless —
- (a) where the application is by the employee, the contractual maternity pay has been repaid; or
 - (b) where the application is by the employer, he has been repaid the contractual maternity pay or can satisfy the Secretary of State that he has taken all reasonable steps to recover it.
- (3) A person desiring to apply for the refund of any contribution under this regulation shall make the application in writing and within the period of 6 years from the end of the year in which that contribution was paid or, if the Secretary of State is satisfied that the person making the application had good cause for not making it within the said period, within such longer period as the Secretary of State may allow.
- (4) In this regulation —
- (a) “contractual maternity pay” means earnings payable under a contract of service by reason of pregnancy or confinement and repayable to the employer in the event of the employee failing to resume that employment after the birth or confinement; and
 - (b) “standard rate” means the appropriate percentage rate specified in section 4(6A) of the Act for primary Class 1 contributions.

Refund of part of contributions

3. Where there has been paid an amount by way of any of the contributory benefits (as described in section 12(1) of the Act) which would not have been paid had any of the contributions (in respect of which an application for their refund is duly made in accordance with regulation 2 above) not been paid in the first instance, the Secretary of State shall refund that part of the contributions remaining after the deduction of the amount paid by way of such benefits.

Consequential amendment of Schedule 1 to the Contributions Regulations

4. In regulation 26 of Schedule 1 to the Contributions Regulations —
- (a) in paragraph (3)(a) after the word “pay” in the first place where it occurs there shall be inserted the words “, or which has been refunded in accordance with regulation 2 (refunds of contributions) of the Social Security (Refunds) (Repayment of Contractual Maternity Pay) Regulations 1990”; and
 - (b) in paragraph (3)(b) for the full stop at the end there shall be substituted the following —
 - “; or
 - (iii) a refund has been made under regulation 2 of the Social Security (Refunds) (Repayment of Contractual Maternity Pay) Regulations 1990.”.

8th March 1990

Nicholas Scott
Minister of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the refund of National Insurance contributions where contractual maternity pay becomes repayable to an employer because the employee fails to return to her employment after the pregnancy or confinement.

Regulation 2(1) provides for the refunds of contributions in respect of maternity pay which becomes repayable after 31st March 1990 if application is made to the Secretary of State and if the net amount of contributions to be refunded exceeds a specified amount. No application may be made unless the contractual maternity pay has been refunded or unless an employer can satisfy the Secretary of State that he has taken all reasonable steps to recover it (regulation 2(2)). The manner of application and time limits are specified in regulation 2(3). Regulation 2(4) defines “contractual maternity pay” and “standard rate”.

Regulation 3 provides for the deduction from the amount of contributions refundable of any amount paid by way of contributory benefit which would not have been paid had any of the refundable contributions not been originally paid.

Regulation 4 effects consequential amendments to the Social Security (Contributions) Regulations 1979, to allow an employer to make “in-year” adjustments in respect of repaid contractual maternity pay.