STATUTORY INSTRUMENTS

1991 No. 590

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Maternity Pay (National Health Service Employees) Regulations 1991

Made - - - -	*11 March 1991*
Laid before Parliament	*11th March 1991*
Coming into force - -	*1st April 1991*

The Secretary of State for Social Security, in exercise of the powers conferred by sections 49, 50(2A), 84(1) of, and paragraph 6 of Schedule 4 to the Social Security Act 1986(**1**) and of all other powers enabling him in that behalf, by this instrument, which contains only Regulations consequential upon paragraph 22 of Schedule 6 to the Social Security Act 1990(**2**), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Statutory, Maternity Pay (National Health Service Employees) Regulations 1991 and shall come into force on 1st April 1991.

(2) In these Regulations, a "health authority" shall in relation to England and Wales have the same meaning it has in section 128(1) of the National Health Service Act 1977(**3**), and in relation to Scotland mean the health board within the meaning of section 2 of the National Health Service (Scotland) Act 1978(**4**).

Treatment of more than one contract of employment as one contract

2. Where, in consequence of the establishment of one or more National Health Service Trusts under Part I of the National Health Service and Community Care Act 1990(**5**), or the National Health Service (Scotland) Act 1978, a woman's contract of employment is treated by a scheme under that Part or Act as divided so as to constitute two or more contracts, she may elect for all those contracts to be treated as one contract for the purposes of Part V of the Social Security Act 1986.

(**1**) 1986 c. 50; section 50(2A) is added by paragraph Schedule 6 to the Social Security Act 1990 (c. 27); section 84(1) is an interpretation provision and is cited because of the meaning ascribed to the words "prescribed" and "regulations".
(**2**) 1990 c. 27.
(**3**) 1977 c. 49.
(**4**) 1978 c. 29.
(**5**) 1990 c. 19.

Notification of election

3. A woman who makes an election under regulation 2 above shall give written notification of that election to each of her employers under the two or more contracts of service mentioned in that regulation at least 21 days before the first day she is going to be absent from work with any of her employers, wholly or partly because of pregnancy, or if in the particular circumstances that is not practicable, as soon as is reasonably practicable.

Provision of information

4. A woman who makes an election under regulation 2 above shall, within 21 days of giving notice of that election or if in the particular circumstances that is not practicable, as soon as is reasonably practicable thereafter, provide each of her employers under the two or more contracts of service mentioned under that rcgu1ation with the following information—

    (a) the name and address of each of those employers; and

    (b) the date her employment with each of those employers commenced; and

    (c) details of her earnings during the relevant period from each employer and for this purpose the expressions "earnings" and "relevant period" have the same meanings as they have for the purposes of section 50(3) of the Social Security Act 1986(**6**).

Treatment of two or more employers as one

5. The employer to be regarded for the purposes of statutorv maternity pay as the employer under the one contract where 2 or more contracts of service are treated as one in accordance with regulation 2 above shall be—

    (a) the Health Authority, in any case where any one of the contracts of service is with the Health Authority; or

    (b) the first NHS trust to which a contract of service is transferred in any case where none of the contracts of service are with with the Health Authority.

Time for which an election is to have effect

6. An election made under regulation 2 shall lapse at the end of the maternity pay period.

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

Henley
Parliamentary Under-Secretary of State,
Department of Social Security

11th March 1991

(**6**)   See section 50(4) of the Social Security Act 1986 (c. 50), and regulations 20 and 21 of the Statutory Maternity Pay (General) Regulations 1986/1960 as amended by S.I.1990/622.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations contained in this instrument are consequential upon the coming into force on 1st April 1991 of paragraph 22 of Schedule 6 to the Social Security Act 1990 (c. 27) (which relates to statutory maternity pay for National Health Service Staff with divided contracts). The instrument is made before the end of the period of 6 months beginning with the coming into force of that provision; the regulations in it are therefore exempted by section 61(5) of the Social Security Act 1986 (c. 50) (as amended by the Social Security Act 1989 (c. 24) Schedule 8, paragraph 12(3)) from the requirement under section 10 of the Social Security Act 1980 (c. 30) to refer the proposals to the Social Security Advisory Committee and are made without reference to that Committee.

Regulation 2 provides for employees whose contract of service has been divided into two or more such contracts with different bodies as a consequence of the National Health Service and Community Care Act 1990 or, the National Health Service (Scotland) Act 1978 to elect to have those contracts treated as one contract for the purposes of entitlement to statutory maternity pay.

Regulation 3 provides for the manner in which, and the lime within which, such an election is to be made.

Regulation 4 makes provision for the information that is to he provided by a woman to her employers.

Regulation 5 provides for one of a woman's employers under the two or more contracts to be regarded for the purposes of statutory maternity pay as her employer under the one contract.

Regulation 6 provides for the time for which an election 'Is to have effect.