
Status: Point in time view as at 23/06/1994. This version of this provision has been superseded.

Changes to legislation: Social Security Act 1989, Paragraph 5 is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 5

EMPLOYMENT-RELATED SCHEMES FOR PENSIONS OR OTHER BENEFITS: EQUAL TREATMENT FOR MEN AND WOMEN

PART I

COMPLIANCE BY SCHEMES

Unfair maternity provisions

- 5 (1) In this Schedule “unfair maternity provisions”, in relation to an employment-related benefit scheme, means any provision—
- (a) which relates to continuing membership of, or the accrual of rights under, the scheme during any period of paid maternity absence in the case of any woman who is (or who, immediately before the commencement of such a period, was) an employed earner and which treats such a woman otherwise than in accordance with the normal employment requirement; or
 - (b) which requires the amount of any benefit payable under the scheme to or in respect of any such woman, to the extent that it falls to be determined by reference to her earnings during a period which included a period of paid maternity absence, to be determined otherwise than in accordance with the normal employment requirement.
- (2) In the case of any unfair maternity provision—
- (a) the more favourable treatment required by paragraph 3(1) above is treatment no less favourable than would be accorded to the women [F1members]in accordance with the normal employment requirement;
 - (b) paragraph 3(2) above does not authorise the making of any such election as is there mentioned; and
 - (c) paragraph 4(1)(a) above does not authorise the making of any modification which does not satisfy the requirements of paragraph (a) above;
- but, in respect of a period of paid maternity absence, a woman shall only be required to pay contributions on the amount of contractual remuneration or statutory maternity pay actually paid to or for her in respect of that period.
- (3) In this paragraph—
- (a) “period of paid maternity absence” means any period—
 - (i) throughout which a woman is absent from work due to pregnancy or confinement; and

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- (ii) for which her employer (or, if she is no longer in his employment, her former employer) pays her any contractual remuneration or statutory maternity pay;
- (b) “the normal employment requirement” is the requirement that any period of paid maternity absence shall be treated as if it were a period throughout which the woman in question works normally and receives the remuneration likely to be paid for doing so.

Textual Amendments

- F1** Words inserted in Sch. 5 para. 5(2)(a) (*prosp.*) by Social Security Act 1990 (c. 27, SIF113:1), **Sch. 6 para. 29**

Commencement Information

- I1** Sch. 5 Pt. I para. 5 partly in force; Sch. 5 Pt. I para. 5 not in force at Royal Assent see s. 33(2)(3); Sch. 5 Pt. I para. 5(1)(2)(a)(3) in force at 23.6.1994 by S.I. 1994/1661, art. 2, **Sch. Pt. II**

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