

1987 No. 406

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Maternity Pay and Maternity Allowance  
(Transitional) Regulations 1987**

<i>Made</i> . . . . .	<i>10th March 1987</i>
<i>Laid before Parliament</i>	<i>13th March 1987</i>
<i>Coming into force—</i>	
<i>Regulations 1 and 4</i>	<i>5th April 1987</i>
<i>Regulations 2 and 3</i>	<i>6th April 1987</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 84(1) and 89(1) of the Social Security Act 1986(a) and of all other powers enabling him in that behalf, by this instrument, which is made before the end of a period of 12 months from the commencement of those sections, makes the following Regulations:—

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Maternity Pay and Maternity Allowance (Transitional) Regulations 1987 and shall come into force in the case of regulations 1 and 4 on 5th April 1987 and in the case of regulations 2 and 3 on 6th April 1987.

(2) In these Regulations, unless the context otherwise requires—

“the 1975 Act” means the Social Security Act 1975(b);

“the 1978 Act” means the Employment Protection (Consolidation) Act 1978(c);

“the 1986 Act” means the Social Security Act 1986;

“employee” has the same meaning as in the 1978 Act;

“confinement” has the same meaning as in section 50(1) of the 1986 Act;

“maternity pay” has the meaning given by section 33(1) of the 1978 Act, as continued in force from 6th April 1987 by regulation 2(1);

“Maternity Pay Fund” means the Fund referred to in section 37 of the 1978 Act, as continued in force from 6th April 1987 by regulation 2(3).

(3) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation is a reference to the regulation bearing that number in these Regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number.

**Savings in respect of maternity pay and maternity allowance**

2.—(1) In the case of a woman whose expected date of confinement—

(a) is before 21st June 1987, or

(b) is after 20th June 1987 but who is in fact confined before 6th April 1987,

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(a) 1986 c. 50; section 84(1) is cited because of the meaning ascribed to the word “regulations”.

(b) 1975 c. 14.

(c) 1978 c. 44.

Part V of and Schedule 4 to the 1986 Act shall not apply to her, but, in relation to that confinement—

- (i) the provisions of the 1978 Act relating to maternity pay shall continue in force as if section 49(3) of and paragraph 15 of Part III of Schedule 4 to the 1986 Act had not been enacted and notwithstanding the repeal of those provisions by section 86(2) of and Schedule 11 to the 1986 Act;
- (ii) sections 22 and 23 of and paragraph 3 of Part I of Schedule 3 to the 1975 Act shall continue in force as if section 49(2) of and Part II of Schedule 4 to the 1986 Act had not been enacted;
- (iii) the provisions amended by section 86(1) of and paragraphs 72 and 77 of Schedule 10 to the 1986 Act shall continue in force as if those paragraphs had not been enacted; and
- (iv) the words “or a maternity allowance” in paragraph 8(3) of Part II of Schedule 3 to the 1975 Act shall continue in force.

(2) In the case of a woman to whom paragraph (1)(b) applies, the week in which she is confined shall be treated for the purposes of the provisions of the 1978 Act relating to maternity pay as the expected week of confinement.

(3) Notwithstanding their repeal by section 86(2) of and Schedule 11 to the 1986 Act and without prejudice to the generality of paragraph (1), the provisions of

- (a) the 1975 Act;
- (b) section 40 of the Employment Protection Act 1975(a);
- (c) the 1978 Act; and
- (d) section 18 of the Social Security (Miscellaneous Provisions) Act 1977(b),

in so far as they relate to the Maternity Pay Fund, shall continue in force until such time as the Fund ceases to exist in accordance with section 49(3) of and paragraph 17 of Part III of Schedule 4 to the 1986 Act.

(4) Notwithstanding the repeal of any enactment relating to maternity pay or the Maternity Pay Fund by the 1986 Act and without prejudice to the generality of the preceding paragraphs, the Employment Appeal Tribunal and the industrial tribunals may continue to exercise jurisdiction conferred upon them by the 1978 Act with respect to matters arising out of or in connection with any of those enactments, including any such enactment continued in force by these Regulations.

(5) Where in accordance with this Regulation any provision of the 1978 Act relating to maternity pay or the Maternity Pay Fund is continued in force after 5th April 1987, paragraphs 73 to 75 of Schedule 10 to the 1986 Act, and section 86(1) in so far as it relates to them, shall, for the purposes for which and for so long as that provision is continued in force, be treated as not having been enacted.

(6) This Regulation in so far as it relates to maternity pay and the Maternity Pay Fund shall have effect in relation to Crown employees and relevant members of the House of Commons staff as it has effect in relation to other employees and for this purpose Crown employment and relevant House of Commons staff have the same meanings as in respectively sections 138 and 139 of the 1978 Act.

#### **Meaning of “week”**

3. Notwithstanding section 50(1) of the 1986 Act, the 6 days commencing 6th April 1987 shall be treated as a week for the purposes of calculating—

- (a) the maternity pay period under section 47 of the 1986 Act, and
- (b) the maternity allowance period under section 22(2) of the 1975 Act.

#### **Women not entitled to maternity pay**

4. A woman for whom 5th April 1987 is the commencement of the 11th week before the expected week of confinement shall not be entitled to maternity pay except where she is in

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(a) 1975 c. 71.

(b) 1977 c. 5.

fact confined before 6th April 1987 and satisfies the conditions of entitlement to maternity pay specified in the 1978 Act.

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

10th March 1987.

*Nicholas Lyell*  
Parliamentary Under-Secretary of State,  
Department of Health and Social Security

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under section 89(1) of the Social Security Act 1986 ("the 1986 Act"). As they are made earlier than 12 months from the commencement of that provision, they are exempted by section 61(5) of the 1986 Act from reference to the Social Security Advisory Committee and have not been so referred.

These Regulations, which come into force on 5th and 6th April 1987, contain consequential and transitional provisions and savings made in connection with the coming into force on the same day of provisions in Part V of and Schedule 4 to the 1986 Act relating to statutory maternity pay and maternity allowance.

Regulation 2 provides that where a woman's expected date of confinement is before 21st June 1987 or after 20th June 1987 if she is confined before 6th April 1987, Part V of and Schedule 4 to the 1986 Act shall not apply to her. Instead provisions in the Employment Protection (Consolidation) Act 1978 relating to maternity pay and in sections 22 and 23 of the Social Security Act 1975 relating to maternity allowance shall continue to apply.

Regulation 3 provides for the 6 days commencing 6th April 1987 to be treated as a week for the purpose of determining entitlement to statutory maternity pay and maternity allowance.

Regulation 4 provides that where Sunday, 5th April 1987 is the beginning of the 11th week before the expected week of confinement, a woman is not entitled to maternity pay.