STATUTORY RULES OF NORTHERN IRELAND

2020 No. 69

SOCIAL SECURITY

TERMS AND CONDITIONS OF EMPLOYMENT

The Maternity Allowance and Statutory Maternity Pay (Normal Weekly Earnings etc.) (Coronavirus) (Amendment) Regulations (Northern Ireland) 2020

Made - - - -	*24th April 2020*
Coming into operation	*25th April 2020*

The Department for Communities(**1**), makes the following Regulations in exercise of the powers conferred by sections 35A(5)(a), 167(6) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**), and now vested in it(**3**), and of all other powers enabling it in that behalf, with the concurrence of the Commissioners of Inland Revenue, in so far as such concurrence is required(**4**).

Citation and commencement

1. These Regulations may be cited as the Maternity Allowance and Statutory Maternity Pay (Normal Weekly Earnings etc.) (Coronavirus) (Amendment) Regulations (Northern Ireland) 2020 and come into operation on 25th April 2020.

Application

2.—(1) The amendments made by regulation 3 apply only in relation to the calculation of normal weekly earnings for the purpose of determining—

(a) the entitlement of a person to statutory maternity pay under section 160 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 ("the 1992 Act"); or

(**1**) The Department for Social Development was renamed the Department for Communities in accordance with section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))

(**2**) 1992 c. 7; section 35A was inserted by Article 50(3) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(**3**) Functions previously discharged by the Department of Health and Social Services were transferred to the Department for Social Development in accordance with Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016

(**4**) See section 167(7) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as added by paragraph 17(3) of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(b) the rate at which statutory maternity pay under section 162 of the 1992 Act is to be paid to that person,

in a case where the first day of the period in respect of which statutory maternity pay is to be made is on or after the day on which these Regulations come into operation.

(2) The amendments made by regulation 4 apply only in relation to the calculation of the average weekly amount of specified payments made to a woman for the purpose of determining—

(a) the entitlement of the woman to a maternity allowance under section 35 of the 1992 Act; or

(b) the rate at which that allowance is to be paid to the woman,

in a case where the first day of the period in respect of which payment of that allowance is to be made is on or after the day on which these Regulations come into operation.

Amendment of the Statutory Maternity Pay (General) Regulations

3. In regulation 21 of the Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987(**5**) (normal weekly earnings), after paragraph (7)(**6**) add—

"(8) Paragraph (9) applies where for all or part of the relevant period—

(a) a woman is a furloughed employee;

(b) the woman's employer has claimed and is in receipt of financial support in respect of the woman's earnings under the Coronavirus Job Retention Scheme; and

(c) the woman's earnings are lower than they would otherwise have been as a result of that woman being a furloughed employee.

(9) Where this paragraph applies, the woman's normal weekly earnings are to be calculated as if, during the parts of the relevant period when the woman was a furloughed employee, she was paid the amount which she would have derived from her employment had she not been a furloughed employee.

(10) For the purposes of paragraphs (8) and (9)—

"Coronavirus Job Retention Scheme" ("the Scheme") means any scheme to provide for payments to be made to employers on a claim made in respect of them incurring costs of employment in respect of furloughed employees arising from the health, social and economic emergency in the United Kingdom resulting from coronavirus and coronavirus disease and contained in such Directions as may be issued from time to time pursuant to section 76 of the Coronavirus Act 2020(**7**);

"coronavirus" and "coronavirus disease" have the meanings given in section 1 of that Act;

"furloughed employee" has the meaning given for the purposes of the Scheme.".

Amendment of the Social Security (Maternity Allowance) (Earnings) Regulations

4. In regulation 6 of the Social Security (Maternity Allowance) (Earnings) Regulations (Northern Ireland) 2000(**8**) (determination of average weekly amount of specified payments), after paragraph (3)(**9**) add—

"(4) Paragraph (5) applies in respect of a week where–

(a) a woman is a furloughed employee;

(**5**) S.R. 1987 No. 30; relevant amending Regulations is S.R. 2005 No. 134
(**6**) Paragraph (7) was substituted by regulation 2(3) of S.R. 2005 No. 134
(**7**) 2020 c. 7
(**8**) S.R. 2000 No. 104; relevant amending Regulations is S.R. 2002 No. 354
(**9**) Paragraph (3) was added by regulation 6(5)(b) of S.R. 2002 No. 354