Draft Regulations laid before Parliament under paragraph 2(2) of Schedule 2 to the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

SOCIAL SECURITY

The Social Security (Maternity Allowance) (Participating Wife or Civil Partner of Self-employed Earner) Regulations 2014

Made - - - -	****2014*
Coming into force - -	*1st April 2014*

The Secretary of State is designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to allowances made to women on maternity leave.

In accordance with paragraph 2(2) of Schedule 2(**3**) to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

The Secretary of State, in exercise of the power conferred by section 2(2) of that Act, makes the following Regulations.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Social Security (Maternity Allowance) (Participating Wife or Civil Partner of Self-employed Earner) Regulations 2014.

(2) They come into force on 1st April 2014.

(3) Regulation 2 applies in relation to the payment of maternity allowance in cases where a woman's expected week of confinement (within the meaning of section 35 of the Social Security Contributions and Benefits Act 1992(**4**)) begins on or after 27th July 2014.

(**1**) S.I.1993/2661.
(**2**) 1972 c.68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51) ("the 2006 Act"), section 27(1)(a) and section 3(3) of and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
(**3**) Paragraph 2(2) of Schedule 2 was amended by the 2006 Act, section 27(2)(a).
(**4**) Section 35 was amended by the Welfare Reform and Pensions Act 1999 (c.30) ("the 1999 Act"), sections 53(1) and 53(2)(a); the Employment Act 2002 (c.22) ("the 2002 Act"), Schedule 7, paragraphs 2 and 4(1), (2), (3) and (4); the Welfare Reform Act 2012 (c.5), section 63(1) and (2)(a) and (2)(b); the Work and Families Act 2006 (c.18), Schedule 1, paragraph 6; the Maternity Allowance and Statutory Maternity Pay Regulations 1994 (SI 1994/1230), regulation 2(3); the Social Security Act 1998 (c.14), section 67; and the Still-Birth (Definition) Act 1992 (c.29), sections 2(1) and 4(2).

Amendment of the Social Security Contributions and Benefits Act 1992

2.—(1) The Social Security Contributions and Benefits Act 1992(**5**) is amended as follows.

(2) In section 21(**6**) (contribution conditions), in subsection (1), after "section 35" insert "or 35B".

(3) In section 35 (state maternity allowance)—

(a) in the heading, after "allowance" insert "for employed or self-employed earner";

(b) in subsections (1), (2), (3)(a), (3)(b)(i), (3)(b)(ii), (4) and (5), after "a maternity allowance" insert "under this section";

(c) in subsection (7), after "maternity allowance" insert "under this section".

(4) In section 35A(**7**) (appropriate weekly rate of maternity allowance), in the heading, after "allowance" insert "under section 35".

(5) After section 35A (appropriate weekly rate of maternity allowance) insert—

"**State maternity allowance for participating wife or civil partner of self-employed earner**

35B.—(1) A woman (W) shall be entitled to a maternity allowance under this section, at the weekly rate given by subsection (3) below, if—

(a) W has become pregnant and has reached, or been confined before reaching, the commencement of the 11th week before the expected week of confinement; and

(b) for any part of the week in the case of at least 26 of the 66 weeks immediately preceding the expected week of confinement, W has worked with a person (S) who at the time of her doing so—

(i) was her spouse or civil partner, and

(ii) was engaged in employment as a self-employed earner; and

(c) S is liable to pay a Class 2 contribution in respect of the 26 weeks referred to in paragraph (1)(b); and

(d) W is not entitled to a maternity allowance under section 35 above, or statutory maternity pay, for the same week in respect of the same pregnancy.

(2) In this section—

(a) a reference to W working with S is a reference to W participating in the activities engaged in by S as a self-employed earner, performing the same tasks or ancillary tasks, without being employed by S or being in partnership with S;

(b) a reference to W ceasing to work with S is a reference to W ceasing to do so either permanently or until after her confinement.

(3) The rate of allowance under this section for any particular week is 90 per cent of the amount of the maternity allowance threshold for the tax year in which the week ends.

(4) Subject to subsections (10) and (11) below, a maternity allowance under this section shall be payable for the period of 14 weeks ("the 14-week period") beginning as set out in subsection (5), (6), (7) or (8) below (whichever applies).

(**5**) 1992 c.4.

(**6**) Section 21(1) was amended by the 1999 Act, Schedule 8, paragraphs 30 and 31(1) and (2). No other relevant amendments have been made to section 21(1).

(**7**) Section 35A was inserted by the 1999 Act, section 53(3). Section 35A was amended by the 2002 Act, section 48(1)(a), (1)(b) and (1)(c) and Schedule 7, paragraphs 2 and 5.