STATUTORY RULES OF NORTHERN IRELAND

2006 No. 372

EMPLOYMENT

WORK AND FAMILIES

The Maternity and Parental Leave etc. (Amendment) Regulations (Northern Ireland) 2006

Made - - - - 15th September 2006

Coming into operation 1st October 2006

The Department for Employment and Learning(**1**), in exercise of the powers conferred by Articles 70C(2)(**2**), 103(3), 105(2) and (3), 106(2), (3) and (4), 107(**3**), 131(1)(**4**) and 251(6)(**5**) of the Employment Rights (Northern Ireland) Order 1996(**6**), and now vested in it(**7**), makes the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Maternity and Parental Leave etc. (Amendment) Regulations (Northern Ireland) 2006 and shall come into operation on 1st October 2006.

2. In these Regulations "the principal Regulations" means the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999(**8**).

(**1**) Formerly the Department of Higher and Further Education, Training and Employment; S*ee*2001 c.15 (N.I.)

(**2**) Article 70C was inserted by paragraph 3 of Part III of Schedule 4 to the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9)) ("the 1999 Order") and paragraph (2) was amended by Article 17 and sub-paragraphs (6) and (7) of paragraph 4 of Schedule 2 to the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)) ("the 2002 Order"). Further amendments which are not relevant to these Regulations have been made to Article 70C by paragraph 29 of Schedule 1 to the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)) ("the 2006 Order"). The word "prescribed" in Article 70C is defined in paragraph (2) of that Article

(**3**) Articles 103 to 112 were substituted by Article 9 and Part I of Schedule 4 to the 1999 Order. Paragraph (3) of Article 103 was substituted by paragraph 30 of Schedule 1 to the 2006 Order. Paragraph (3) of Article 105 was substituted by paragraph 31 of Schedule 1 to the 2006 Order. The word "prescribed" in Articles 103 and 105 of the 1996 Order is defined in Article 107(2) of that Order. Paragraph (4) of Article 106 was amended by Article 14(5) of the 2002 Order

(**4**) Article 131 was substituted by paragraph 8 of Part III of Schedule 4 to the 1999 Order

(**5**) Article 251 was amended by paragraph 16 of Part III of Schedule 4 to the 1999 Order, sub-paragraph (19) of paragraph 4 of Schedule 2 to the 2002 Order and sub-paragraph (10) of paragraph 2 of Schedule 5 to the Employment (Northern Ireland) Order 2003 (S.I. 2003/2902 (N.I. 15))

(**6**) S.I. 1996/1919 (N.I. 16)

(**7**) *See*S.R. 1999 No. 481 Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999

(**8**) S.R. 1999 No. 471 as amended by the Maternity and Parental Leave etc. (Amendment) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 110), the Maternity and Parental Leave etc. (Amendment No. 2) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 135) and the Maternity and Parental Leave etc. (Amendment No. 3) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 355)

Application

3. The amendments to the principal Regulations provided for in these Regulations have effect only in relation to employees whose expected week of childbirth begins on or after 1st April 2007.

Amendments to the principal Regulations

4. The principal Regulations shall be amended as follows.

5. In regulation 2(1) (interpretation) after the definition of "statutory leave" there shall be inserted the following definitions—

> ""statutory maternity leave" means ordinary maternity leave and additional maternity leave;
>
> "statutory maternity leave period" means the period during which the employee is on statutory maternity leave;".

6. In regulation 4 (entitlement to ordinary maternity leave)—

(1) in the heading, after "Entitlement to ordinary maternity leave", insert "and to additional maternity leave";

(2) in paragraph (1), after "An employee is entitled to ordinary maternity leave" insert "and to additional maternity leave";

(3) in paragraph (3)(b), after "she is not entitled to ordinary maternity leave" insert "or to additional maternity leave";

(4) in paragraph (4), for "Where, by virtue of regulation 5(2)," substitute "Where, by virtue of regulation 6(2),";

(5) in paragraph (4)(b), after "she is not entitled to ordinary maternity leave" insert "or to additional maternity leave".

7. Omit regulation 5 (entitlement to additional maternity leave).

8. In regulation 7(6) (duration of maternity leave periods)(**9**)—

(1) omit sub-paragraphs (a) and (b); and

(2) after "shall notify the employee of the date on which" insert "her additional maternity leave period shall end.".

9. In regulation 11 (requirement to notify intention to return during a maternity leave period)—

(1) for paragraph (1) substitute—

> "(1) An employee who intends to return to work earlier than the end of her additional maternity leave period, shall give to her employer not less than 8 weeks' notice of the date on which she intends to return.";

(2) in paragraph (2)—

(a) for "a maternity leave period" substitute "her additional maternity leave period";

(b) for "28 days'" substitute "8 weeks';

(3) after paragraph (2) insert—

> "(2A) An employee who complies with her obligations in paragraph (1) or whose employer has postponed her return in the circumstances described in paragraph (2), and who then decides to return to work—
>
> (a) earlier than the original return date, must give her employer not less than 8 weeks' notice of the date on which she now intends to return;

(**9**) Regulation 7(6) was inserted by regulation 8(c) of S.R. 2002 No. 355

(b) later than the original return date, must give her employer not less than 8 weeks' notice ending with the original return date.

(2B) In paragraph (2A) the "original return date" means the date which the employee notified to her employer as the date of her return to work under paragraph (1), or the date to which her return was postponed by her employer under paragraph (2).";

(4) in paragraphs (3) and (5), for "the relevant maternity leave period" substitute "her additional maternity leave period".

10. After regulation 11(**10**) insert—

"**Work during maternity leave period**

12A.—(1) Subject to paragraph (5), an employee may carry out up to 10 days' work for her employer during her statutory maternity leave period without bringing her maternity leave to an end.

(2) For the purposes of this regulation, any work carried out on any day shall constitute a day's work.

(3) Subject to paragraph (4), for the purposes of this regulation, work means any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

(4) Reasonable contact from time to time between an employee and her employer which either party is entitled to make during a statutory maternity leave period (for example to discuss an employee's return to work) shall not bring that period to an end.

(5) Paragraph (1) shall not apply in relation to any work carried out by the employee at any time from childbirth to the end of the period of two weeks which commences with the day on which childbirth occurs.

(6) This regulation does not confer any right on an employer to require that any work be carried out during the statutory maternity leave period, nor any right on an employee to work during the statutory maternity leave period.

(7) Any days' work carried out under this regulation shall not have the effect of extending the total duration of the statutory maternity leave period.".

11. In regulation 19 (protection from detriment), after paragraph (2)(ee)(**11**) insert—

"(eee) undertook, considered undertaking or refused to undertake work in accordance with regulation 12A;".

12. In regulation 20 (unfair dismissal)—

(1) after paragraph (3)(ee)(**12**) insert—

"(eee) the fact that she undertook, considered undertaking or refused to undertake work in accordance with regulation 12A;";

(2) omit paragraph (6);

(3) in paragraph (8) omit "(6) or".

(**10**) Regulation 12 was omitted by regulation 11 of S.R. 2002 No. 355
(**11**) Paragraph 2(ee) was inserted by regulation 13(a) of S.R. 2002 No. 355
(**12**) Paragraph 3(ee) was inserted by regulation 14 of S.R. 2002 No. 355