STATUTORY RULES OF NORTHERN IRELAND

2006 No. 361

STATUTORY MATERNITY PAY
SOCIAL SECURITY

The Statutory Maternity Pay, Social Security (Maternity Allowance) and Social Security (Overlapping Benefits) (Amendment) Regulations (Northern Ireland) 2006

Made - - - - 8th September 2006
Coming into operation in accordance with regulation 1(2)

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 35(3)(a)(i) and (c), 161(1), (3), (4) and (7) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and sections 5(1)(m)(**2**), 71(1)(a) and 165(1), (3) and (4) of the Social Security Administration (Northern Ireland) Act 1992(**3**) and now vested in it(**4**).

These Regulations are made by virtue of, or consequential upon, the coming into operation of the Work and Families (Northern Ireland) Order 2006(**5**) or, in the case of regulation 2, by virtue of, or consequential upon, the coming into operation of Article 63 of the Social Security (Northern Ireland) Order 1998(**6**).

(**1**) 1992 c. 7; section 35 was amended by Article 4 of the Still-Birth (Definition) (Northern Ireland) Order 1992 (1992/1310 (N.I. 10)), regulation 2(3) of S.R. 1994 No. 176, Article 50(1) and (2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), paragraph 2 of Schedule 1 to the Social Security Act (Northern Ireland) 2002 (c. 10 (N.I.)) and paragraph 5 of Schedule 1 to the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)), section 161 was amended by regulation 3 of S.R. 1994 No. 176 and Article 3 of, and paragraph 6 of Schedule 1 to, the Work and Families (Northern Ireland) Order 2006, section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(**2**) Section 5(1)(m) applies as if statutory maternity pay were a benefit by virtue of section 5(4) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

(**3**) 1992 c. 8; section 71(1) was amended by paragraph 32(2) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and section 165(3) was amended by paragraph 10 of Schedule 4 to the Tax Credits Act 2002

(**4**) *See* Article 8(b) of S.R. 1999 No. 481

(**5**) S.I. 2006/1947 (N.I. 16)

(**6**) S.I. 1998/1506 (N.I. 10)

Citation, application and commencement

1.—(1) These Regulations may be cited as the Statutory Maternity Pay, Social Security (Maternity Allowance) and Social Security (Overlapping Benefits) (Amendment) Regulations (Northern Ireland) 2006.

(2) These Regulations shall apply to women whose expected week of confinement begins on or after 1st April 2007 and shall come into operation on 1st October 2006.

Amendment of the Social Security (Overlapping Benefits) Regulations

2. In regulation 14 of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**7**) (provisions for adjusting benefit for part of a week) for paragraph (1) substitute—

> "(1) Where an adjustment falls to be made under these regulations for part of a week, benefit (whether under the Contributions and Benefits Act or otherwise) shall be deemed to be payable at a rate equal to one seventh of the appropriate weekly rate for each day of the week in respect of any such benefit.".

Amendment of the Statutory Maternity Pay (General) Regulations

3.—(1) The Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987(**8**) shall be amended in accordance with paragraphs (2) to (4).

(2) For regulation 2(**9**) (the maternity pay period) substitute—

"**The maternity pay period**

2.—(1) Subject to paragraphs (3) to (5), where—

(a) a woman gives notice to her employer of the date from which she expects his liability to pay her statutory maternity pay to begin; and

(b) in conformity with that notice ceases to work for him in a week which is later than the 12th week before the expected week of confinement,

the first day of the maternity pay period shall be the day on which she expects his liability to pay her statutory maternity pay to begin in conformity with that notice provided that day is not later than the day immediately following the day on which she is confined.

(2) The maternity pay period shall be a period of 39 consecutive weeks.

(3) In a case where a woman is confined—

(a) before the 11th week before the expected week of confinement; or

(b) after the 12th week before the expected week of confinement and the confinement occurs on a day which precedes that mentioned in a notice given to her employer as being the day on which she expects his liability to pay her statutory maternity pay to begin,

section 161 of the Contributions and Benefits Act shall have effect so that the first day of the maternity pay period shall be the day following the day on which she is so confined.

(4) In a case where a woman is absent from work wholly or partly because of pregnancy or confinement on any day—

(**7**) S.R. 1979 No. 242; paragraph (1) was substituted by regulation 14(7)(a) of S.R. 1995 No. 150 and amended by regulation 11(5)(a) of S.R. 1996 No. 289

(**8**) S.R. 1987 No. 30; relevant amending Regulations are S.R. 1994 No. 191 and S.R. 2002 No. 354

(**9**) Regulation 2 was amended by regulation 2(2) of S.R. 1994 No. 191 and regulation 2(2) of S.R. 2002 No. 354

(a) which falls on or after the beginning of the 4th week before the expected week of confinement; but

(b) not later than the day immediately following the day on which she is confined,

the first day of the maternity pay period shall be the day following the day on which she is so absent.

(5) In a case where a woman leaves her employment—

(a) at any time falling after the beginning of the 11th week before the expected week of confinement and before the start of the maternity pay period; but

(b) not later than the day on which she is confined,

the first day of the maternity pay period shall be the day following the day on which she leaves her employment.".

(3) After regulation 9 (no liability to pay statutory maternity pay) insert—

"**Working for not more than 10 days in the maternity pay period**

9A. In a case where a woman does any work under a contract of service with her employer on any day, but for not more than 10 days (whether consecutive or not), during her maternity pay period, statutory maternity pay shall continue to be payable to the employee by the employer.".

(4) For regulation 28(**10**) (rounding to avoid fractional amounts) substitute—

"**Rounding to avoid fractional amounts**

28. Where any payment of statutory maternity pay is paid for any week or part of a week and the amount due includes a fraction of a penny, the payment shall be rounded up to the next whole number of pence.".

Amendment of the Social Security (Maternity Allowance) Regulations

4.—(1) The Social Security (Maternity Allowance) Regulations (Northern Ireland) 1987(**11**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (disqualification for the receipt of a maternity allowance), for paragraph (a) substitute—

"(a) during the maternity allowance period she does any work in employment as an employed or self-employed earner, for more than 10 days, whether consecutive or not, falling within that period and the disqualification shall be for such part of the maternity allowance period as may be reasonable in the circumstances, provided that the disqualification shall, in any event, be for the number of days on which she so worked in excess of 10 days;".

(3) In regulation 3(2A)(**12**) (modification of the maternity allowance period) for "26 weeks commencing with the week following that in which she stopped work" substitute "39 weeks commencing no earlier than the day she becomes entitled to maternity allowance and no later than the day following the day on which she is confined".

(**10**) Regulation 28 was amended by regulation 2(6) of S.R. 2002 No. 354
(**11**) S.R. 1987 No. 170; relevant amending Regulations are S.R. 1994 No. 191 and S.R. 2002 No. 354
(**12**) Paragraph (2A) was inserted by regulation 3(2) of S.R. 1994 No. 191 and amended by regulation 5(c) of S.R. 2002 No. 354