STATUTORY RULES OF NORTHERN IRELAND

2005 No. 134

STATUTORY MATERNITY PAY

The Statutory Maternity Pay (General) (Amendment No. 2) Regulations (Northern Ireland) 2005

Made - - - -	*17th March 2005*
Coming into operation	*6th April 2005*

The Department for Social Development, in exercise of the powers conferred by sections 160(9)(a), 167(6) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), and now vested in it(**2**), 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(**3**), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Statutory Maternity Pay (General) (Amendment No. 2) Regulations (Northern Ireland) 2005 and shall come into operation on 6th April 2005.

Amendment of the Statutory Maternity Pay (General) Regulations

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

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of "the 1986 Order" there shall be inserted the following definition –

> ""statutory maternity leave" means ordinary maternity leave and any additional maternity leave under, respectively, Articles 103 and 105 of the Employment Rights (Northern Ireland) Order 1996(**5**).".

(3) In regulation 21 (normal weekly earnings) for paragraph (7)(**6**) there shall be substituted the following paragraph –

(**1**) 1992 c. 7; section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**2**) *See* Article 8(b) of S.R. 1999 No. 481
(**3**) *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)
(**4**) S.R. 1987 No. 30; relevant amending regulations are S.R. 1996 No. 206
(**5**) S.I. 1996/1919 (N.I. 16); Articles 103 and 105 were substituted by Part I of Schedule 4 to the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9)) and further amended by Article 14(2) to (4) of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2))
(**6**) Paragraph (7) was added by regulation 2(b) of S.R. 1996 No. 206

"(7) In any case where –

(a) a woman is awarded a pay increase (or would have been awarded such an increase had she not been absent on statutory maternity leave); and

(b) that pay increase applies to the whole or any part of the period between the beginning of the relevant period and the end of her period of statutory maternity leave,

her normal weekly earnings shall be calculated as if such an increase applied in each week of the relevant period.".

(4) For regulation 21B(**7**) (effect of maternity allowance on statutory maternity pay) there shall substituted the following regulation –

"**Effect of maternity allowance on statutory maternity pay**

21B. Where a woman in any week which falls within the maternity pay period, is –

(a) in receipt of maternity allowance pursuant to the provisions of sections 35 and 35A of the Contributions and Benefits Act(**8**); and

(b) entitled to receive statutory maternity pay in consequence of receiving a pay increase referred to in regulation 21(7),

the employer shall not be liable to make payments of statutory maternity pay in respect of such a week unless, and to the extent by which, the rate of statutory maternity pay(**9**) exceeds the rate of maternity allowance(**10**) received by her in that week.".

Revocation

3. Regulations 2(b) and 3 of the Statutory Maternity Pay (General) (Amendment) Regulations (Northern Ireland) 1996(**11**) are hereby revoked.

Sealed with the Official Seal of the Department for Social Development on 16th March 2005.

John O'Neill
A senior officer of the
Department for Social Development

(**7**) Regulation 21B was inserted by regulation 3 of S.R. 1996 No. 206

(**8**) Section 35 was amended by Article 4 of the Still-Birth (Definition) (Northern Ireland) Order 1992 (S.I. 1992 No. 1310 (N.I. 10)), regulation 2(3) of the Maternity Allowance and Statutory Maternity Pay Regulations (Northern Ireland) 1994 (S.R. 1994 No. 176), Article 63 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), Article 50(1) and (2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and paragraph 2 of Schedule 1 to the Social Security Act (Northern Ireland) 2002 (c. 10 (N.I.)) and section 35A was inserted by Article 50(3) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and amended by section 4 of, and paragraph 3 of Schedule 1 to, the Social Security Act (Northern Ireland) 2002

(**9**) *See* section 162 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as substituted by section 2 of the Social Security Act (Northern Ireland) 2002

(**10**) *See* section 35A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992

(**11**) S.R. 1996 No. 206