STATUTORY RULES OF NORTHERN IRELAND

2002 No. 354

SOCIAL SECURITY STATUTORY MATERNITY PAY; STATUTORY SICK PAY

The Social Security, Statutory Maternity Pay and Statutory Sick Pay (Miscellaneous Amendments) Regulations (Northern Ireland) 2002

Made - - - - 19th November 2002

Coming into operation in accordance with regulation 1

The Department for Social Development, in exercise of the powers conferred by sections 35(3), 35A(4) and (5)(a), (c)(i) and (d), 149(6), 160(9)(ea), 161(1), (3) and (7), 162(1)(b), 167(3)(b) to (d) and 171(1) to (4) of, and paragraphs 1 and 1A of Schedule 11 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and sections 5(1)(m), 124(1) and (2) and 165(1) of the Social Security Administration (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 Treasury, in so far as such concurrence is required(**4**), by this statutory rule, which contains only regulations made by virtue of, or consequential upon, the Social Security Act (Northern Ireland) 2002(**5**), hereby makes the following Regulations:

(**1**) 1992 c. 7; section 35(3) was amended by regulation 2(3) of the Maternity Allowance and Statutory Maternity Pay Regulations (Northern Ireland) 1994 (S.R. 1994 No. 176) and Article 50(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11), section 35A was inserted by Article 50(3) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and subsection (5)(c)(i) is amended by section 4(1)(b) of the Social Security Act (Northern Ireland) 2002 (c. 10 (N.I.)), section 160(9)(ea) is inserted by section 3(d) of the Social Security Act (Northern Ireland) 2002, section 161(1) is amended by section 1 of that Act and subsections (3) and (7) were amended by regulation 3 of the Maternity Allowance and Statutory Maternity Pay Regulations (Northern Ireland) 1994, section 162 is substituted by section 2 of the Social Security Act (Northern Ireland) 2002, section 171(2) was amended by paragraph 28(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and paragraph 1A of Schedule 11 was inserted by paragraph 23 of Schedule 1 to that Order

(**2**) 1992 c. 8; section 124(1) was amended by paragraph 49 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and section 165(1) was amended by paragraph 49 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

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

(**4**) *See* paragraph 1A of Schedule 11 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992

(**5**) 2002 c. 10 (N.I.)

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security, Statutory Maternity Pay and Statutory Sick Pay (Miscellaneous Amendments) Regulations (Northern Ireland) 2002 and shall come into operation –

(a) except for the purposes of regulation 2(3) and (6), on 24th November 2002; and

(b) for the purposes of regulation 2(3) and (6), on 6th April 2003.

(2) These Regulations, (except for regulation 2(3) and (6)), shall take effect only in respect of those women whose expected week of confinement commences on or after 6th April 2003.

(3) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Statutory Maternity Pay (General) Regulations

2.—(1) The Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987(**7**) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 2 (the maternity pay period) –

(a) for paragraph (1)(**8**) there shall be substituted the following paragraph –

"(1) Subject to paragraphs (3) to (6), where 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 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, then the first week in the maternity pay period shall be the week following the week in which she ceased to work, or the week immediately following the week in which she is confined, whichever is the earlier.";

(b) in paragraph (2)(**9**) for "18 consecutive weeks" there shall be substituted "26 consecutive weeks";

(c) in paragraph (3)(**10**) for "shall be the week after the week in which she is confined" there shall be substituted "shall be the week commencing on the day after the day on which she is confined";

(d) for paragraph (4)(**11**) there shall be substituted the following paragraph –

"(4) Subject to paragraph (6), where a woman is absent from work wholly or partly because of pregnancy or confinement on any day which falls on or after the beginning of the 4th week before the expected week of confinement, but not later than the week immediately following the week in which she is confined, the first week of the maternity pay period shall be the week beginning on the day following the day on which she is so absent.";

(e) paragraph (5) shall be omitted;

(f) for paragraph (6)(**12**) there shall be substituted the following paragraph –

"(6) In a case where a woman leaves her employment 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 not later than the week immediately following the

(**6**) 1954 c. 33 (N.I.)
(**7**) S.R. 1987 No. 30
(**8**) Paragraph (1) was amended by regulation 2(2)(a) of S.R. 1994 No. 191 and regulation 3(2)(a) of S.R. 2000 No. 324
(**9**) Paragraph (2) was substituted by regulation 2(2)(b) of S.R. 1994 No. 191
(**10**) Paragraph (3) was amended by regulation 2(2)(c) of S.R. 1994 No. 191
(**11**) Paragraphs (4) and (5) were added by regulation 2(2)(d) of S.R. 1994 No. 191 and paragraph (4) was amended by regulation 3(2)(b) of S.R. 2000 No. 324
(**12**) Paragraph (6) was added by regulation 3(2)(c) of S.R. 2000 No. 324

week in which she is confined, the first week of the maternity pay period shall be the week after the week in which her employment ends."; and

(g) after paragraph (6) there shall be added the following paragraph –

"(7) "week" for the purposes of a maternity pay period which falls within paragraph (3) or (4) means a period of 7 consecutive days.".

(3) For regulation 6(**13**) (lower rate of statutory maternity pay) there shall be substituted the following regulation –

"**Prescribed rate of statutory maternity pay**

6. The rate of statutory maternity pay prescribed under section 162(1)(b) of the Contributions and Benefits Act(**14**) is a weekly rate of £100·00.".

(4) In regulation 23 (notice of absence from work) –

(a) in paragraph (1) –

(i) in sub-paragraph (a) for "that her absence from work with him is wholly because of her confinement" there shall be substituted "of the date on which she was confined"; and

(ii) in sub-paragraph (b) for "21 days" there shall be substituted "28 days";

(b) in paragraph (2)(**15**) –

(i) in sub-paragraph (a) the words "wholly or partly because of pregnancy or confinement" shall be omitted; and

(ii) in sub-paragraph (b) for "21 days" there shall be substituted "28 days"; and

(c) for paragraph (4)(**16**) there shall be substituted the following paragraph –

"(4) Subject to paragraph (5), section 160(4) of the Contributions and Benefits Act(**17**) (statutory maternity pay – entitlement and liability to pay) shall not have effect in the case of a woman who leaves her employment with the person who will be liable to pay her statutory maternity pay after the beginning of the week immediately preceding the 14th week before the expected week of confinement.".

(5) In regulation 25A(**18**) (provision of information relating to claims for certain other benefits) –

(a) in paragraph (1) for "Article 47(4) of the 1986 Order" there shall be substituted "section 160(4)(a) or (9)(ea) of the Contributions and Benefits Act(**19**)";

(b) in paragraph (3) –

(i) the word "either" shall be omitted; and

(ii) the words "or for part of a week within the maternity pay period she was not present in a member State," shall be omitted; and

(c) in paragraph (4)(b) –

(i) in head (i) for "21 days" there shall be substituted "28 days"; and

(ii) in head (ii) the words "or, as the case may be, absence from a member State" shall be omitted.

(**13**) Regulation 6 was amended by Article 10 of the Social Security Benefits Up-rating Order (Northern Ireland) 2002 (S.R. 2002 No. 99)
(**14**) Section 162 is substituted by section 2 of the Social Security Act (Northern Ireland) 2002
(**15**) Paragraph (2) was amended by regulation 2(6)(a) of S.R. 1994 No. 191
(**16**) Paragraph (4) was substituted by regulation 3(3) of S.R. 2000 No. 324
(**17**) Section 160(4) is substituted by section 3(b) of the Social Security Act (Northern Ireland) 2002
(**18**) Regulation 25A was inserted by regulation 6 of S.R. 1990 No. 112 and amended by regulation 18(3) of S.R. 1995 No. 150
(**19**) Section 160(9)(ea) is inserted by section 3(d) of the Social Security Act (Northern Ireland) 2002

(6) In regulation 28 (rounding to avoid fractional amounts) for "at the higher rate specified in Article 49(2) of the 1986 Order" there shall be substituted "at the earnings-related rate referred to in section 162(1) of the Contributions and Benefits Act".

Amendment of the Statutory Maternity Pay (Health and Social Services Employees) Regulations

3. In regulation 2(2) of the Statutory Maternity Pay (Health and Social Services Employees) Regulations (Northern Ireland) 1992(**20**) (treatment of more than one contract of service as one contract) for "21 days" there shall be substituted "28 days".

Amendment of the Statutory Sick Pay (General) Regulations

4. In regulation 3 of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(**21**) (period of entitlement ending or not arising) –

(a) in paragraph (4)(b)(**22**) for "6th week" there shall be substituted "4th week"; and

(b) in paragraph (5)(a) for "6th week" there shall be substituted "4th week".

Amendment of the Social Security (Maternity Allowance) Regulations

5. In regulation 3 of the Social Security (Maternity Allowance) Regulations (Northern Ireland) 1987(**23**) (modification of the maternity allowance period) –

(a) in paragraph (1)(**24**) for "Section 22(2) of the Act" there shall be substituted "Section 35(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992";

(b) paragraph (2) shall be omitted; and

(c) in paragraph (2A)(**25**) for "18 weeks" there shall be substituted "26 weeks".

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

6.—(1) The Social Security (Maternity Allowance) (Earnings) Regulations (Northern Ireland) 2000(**26**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 3(a) (specified payments for self-employed earners) for "the lower earnings limit in force" there shall be substituted "an amount 90 per cent. of which is equal to the weekly rate prescribed under section 162(1)(b) of the Contributions and Benefits Act that is in force".

(3) In regulation 4 (aggregation of specified payments) –

(a) in paragraph (1) the words "other than one to which regulation 5(2) applies" shall be omitted; and

(b) paragraph (2) shall be omitted.

(4) For regulation 5 (the specified period) there shall be substituted the following regulation –

(**20**) S.R. 1992 No. 17
(**21**) S.R. 1982 No. 263
(**22**) Paragraphs (4) and (5) were added by regulation 2 of S.R. 1987 No. 248 and paragraph (4) was substituted by regulation 5(b) of S.R. 1994 No. 191
(**23**) S.R. 1987 No. 170
(**24**) Paragraph (1) was amended by regulation 2(a) of S.R. 1997 No. 156
(**25**) Paragraph (2A) was inserted by regulation 3(2) of S.R. 1994 No. 191
(**26**) S.R. 2000 No. 104