1990 No. 112

STATUTORY MATERNITY PAY

The Statutory Maternity Pay (General) (Amendment) Regulations (Northern Ireland) 1990

Made	*16th March 1990*
Coming into operation—	
for the purposes of regulation 6	*6th May 1990*
for all other purposes	*6th April 1990*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 47(8), 51(1) and (4) of, and paragraphs 8A, 11 and 11A of Schedule 4 to, the Social Security (Northern Ireland) Order 1986(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Statutory Maternity Pay (General) (Amendment) Regulations (Northern Ireland) 1990 and shall come into operation for the purposes of regulation 6 on 6th May 1990 and for all other purposes on 6th April 1990.

(2) In these regulations "the principal regulations" means the Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987(**b**).

Amendment of regulation 11 of the principal regulations

2. In regulation 11 of the principal regulations (continuous employment) after paragraph (3) there shall be inserted the following paragraph—

"(3A) Where a woman who is pregnant—

(*a*) is an employee in an employed earner's employment in which the custom is for the employer—

(i) to offer work for a fixed period of not more than 26 consecutive weeks,

(ii) to offer work for such period on two or more occasions in a year for periods which do not overlap, and

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(**a**) S.I. 1986/1888; Article 47(8) and paragraph 11 of Schedule 4 were amended by, and paragraph 11A of Schedule 4 was inserted by, paragraphs 12 and 15 of Schedule 4 to the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)). Article 51(1) was amended by Schedule 5 to the Social Security (Northern Ireland) Order 1988. Paragraph 8A of Schedule 4 was inserted by paragraph 17 of Schedule 8 to the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)). Article 81(1) provides for section 155(1) to (3A) of the Social Security (Northern Ireland) Act 1975 (c. 15) (extent of powers) to apply to the enabling provisions under which these regulations are made; section 155(3A) was inserted by Article 63(1) of the Social Security (Northern Ireland) Order 1986

(**b**) S.R. 1987 No. 30; as amended by S.R. 1988 No. 128 and S.R. 1990 No. 70

(iii) to offer the work available to those persons who had worked for him during the last or a recent such period; but

(*b*) is absent from work—

(i) wholly or partly because of her pregnancy or confinement, or

(ii) because of incapacity arising from some specific disease or bodily or mental disablement,

then in her case paragraph (1) shall apply as if "and returns to work for her employer after the incapacity for or absence from work," were omitted and paragraph (4) shall not apply.".

Meaning of "week"

3. After regulation 16 of the principal regulations (normal working weeks) there shall be inserted the following regulation—

"*Meaning of "week"*

16A. Where a woman has been in employed earner's employment with the same employer in each of 26 consecutive weeks (but no more than 26 weeks) ending with the week immediately preceding the 14th week before the expected week of confinement then for the purpose of determining whether that employment amounts to a continuous period of at least 26 weeks, the first of those 26 weeks shall be a period commencing on the first day of her employment with the employer and ending at midnight on the first Saturday thereafter or on that day where her first day is a Saturday.".

Meaning of "earnings"

4.—(1) Regulation 20(2) of the principal regulations (meaning of "earnings") shall be amended in accordance with paragraphs (2) to (5).

(2) In sub-paragraph (*b*) after "holiday" there shall be inserted "entitlement".

(3) In sub-paragraph (*d*) after "kind" there shall be inserted "other than a payment to which regulation 19C of the Social Security (Contributions) Regulations (Northern Ireland) 1979(**a**) applies".

(4) Sub-paragraph (*e*) shall be omitted.

(5) After sub-paragraph (*i*) there shall be inserted the following sub-paragraph—

"(*j*) a payment which by virtue of section 643(1) of the Income and Corporation Taxes Act 1988(**b**) (employer's contributions) is not regarded as an emolument of the employment chargeable to tax under Schedule E.".

The maternity pay period and invalidity pension

5. In regulation 21A of the principal regulations (effect of statutory maternity pay on invalidity benefit) for paragraph (1) there shall be substituted the following paragraphs—

(**a**) S.R. 1979 No. 186; regulation 19C was inserted by S.R. 1988 No. 189
(**b**) 1988 c. 1