

1987 No. 80

STATUTORY MATERNITY PAY

The Statutory Maternity Pay (Compensation of Employers) Regulations (Northern Ireland) 1987

Made 27th February 1987

Coming into operation 6th April 1987

The Department of Health and Social Services, in exercise of the powers conferred on it by paragraphs 1 and 5 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 (Compensation of Employers) Regulations (Northern Ireland) 1987 and shall come into operation on 6th April 1987.

(2) In these regulations “contributions payments” means any payments which an employer is required, by or under any statutory provision, to make in discharge of any liability in respect of primary or secondary Class 1 contributions.

(3) For the purposes of regulations 4 and 5 “the Department” shall include a reference to the Commissioners of Inland Revenue acting on its behalf.

Right of employers to a prescribed amount

2. An employer who has made a payment of statutory maternity pay shall be entitled to an amount, determined in accordance with the provisions of regulation 3, which he shall be entitled to deduct or, as the case may be, receive in accordance with the provisions of regulation 4 or 5.

Determination of the amount an employer shall be entitled to under regulation 2

3. In respect of a payment of statutory maternity pay made in the tax year commencing 6th April 1987, an employer shall be entitled under regulation 2 to an amount equal to 7 per cent. of that payment.

Deductions from contributions payments

4. An employer who has made a payment of statutory maternity pay may recover—

(a) S.I. 1986/1888 (N.I. 18)

- (a) the amount so paid, and
 - (b) the amount determined in accordance with regulation 3,
- by making one or more deductions from his contributions payments except where and in so far as—
- (i) the contributions payments relate to earnings paid before the beginning of the income tax month in which the payment of statutory maternity pay was made;
 - (ii) the contributions payments are made by him later than 6 years after the end of the tax year in which the payment of statutory maternity pay was made;
 - (iii) the amount of the payment of statutory maternity pay or the amount determined in accordance with regulation 3 have been paid to him by the Department under regulation 5; or
 - (iv) the employer has made a request in writing under regulation 5 that the amount of the payment of statutory maternity pay or the amount determined in accordance with regulation 3 be paid to him and he has not received notification by the Department that the request is refused.

Payments to employers by the Department

5.—(1) If the total amount which an employer is or would otherwise be entitled to deduct under regulation 4 exceeds the total amount which the employer is liable to pay by way of primary and secondary Class 1 contributions in respect of earnings paid in an income tax month, and the Department is satisfied that that is so, then provided that the employer has in writing requested it to do so, the Department shall pay the employer such amount as the employer was unable to deduct.

(2) If an employer is not liable to pay any primary or secondary Class 1 contributions but would otherwise be entitled to deduct an amount under regulation 4, and the Department is satisfied that that is so, then provided the employer has in writing requested it to do so, the Department shall pay the employer that amount.

Date when certain contributions are to be treated as paid

6. Where an employer has made a deduction from a contributions payment under regulation 4, the date on which it is to be treated as having been paid for the purposes of paragraph 5 of Schedule 4 to the Social Security (Northern Ireland) Order 1986 (amount deducted to be treated as paid and received towards discharging liability in respect of Class 1 contributions) is—

- (a) in a case where the deduction did not extinguish the contributions payment, the date on which the remainder of the contributions payment, or, as the case may be, the first date on which any part of the remainder of the contributions payment, was paid; and
- (b) in a case where the deduction extinguished the contributions payment, the 14th day after the end of the income tax month during which there were paid the earnings in respect of which the contributions payment was payable.

Sealed with the Official Seal of the Department of Health and Social Services on 27th February 1987.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations provide for compensation of employers who have made payments of statutory maternity pay under the Social Security (Northern Ireland) Order 1986 ("the Order"). They correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

Paragraphs 1 and 5 of Schedule 4 to the Order are the enabling provisions under which these regulations are made. They are brought into operation on 6th April 1987 by virtue of Schedule 2 to the Social Security (1986 Order) (Commencement No. 3) Order (Northern Ireland) 1987 (S.R. 1987 No. 21 (C. 3)).

Regulations 2 and 3 provide that an employer who has made a payment of statutory maternity pay shall be entitled to an amount equal to a percentage (7 per cent. in the tax year commencing 6th April 1987) of the statutory maternity pay he has paid.

Regulation 4 provides that, subject to specified exceptions, an employer may recover the amount of the statutory maternity pay he has paid and the additional amount to which he is entitled under regulations 2 and 3 by making one or more deductions from the payments of Class 1 contributions which he is required to make under the Social Security (Northern Ireland) Act 1975 (c. 15) ("the Act").

Regulation 5 specifies circumstances in which the Department or the Commissioners of Inland Revenue acting on its behalf is to pay to an employer an amount which the employer has paid as statutory maternity pay or to which he is entitled under regulations 2 and 3.

When a deduction has been made under regulation 4, the amount deducted is treated under paragraph 5 of Schedule 4 to the Order as having been paid towards discharging the liability for contributions under the Act. Regulation 6 makes provision for determining the date on which it is to be treated as having been paid.