

EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (MATERNITY ALLOWANCE) (MISCELLANEOUS AMENDMENTS) REGULATIONS (NORTHERN IRELAND) 2014

S.R. 2014 No. 140

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under powers conferred by the Child Support (Northern Ireland) Order 1991, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Welfare Reform Act (Northern Ireland) 2007 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 This Statutory Rule amends the Social Security (Maternity Allowance) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 170) and makes miscellaneous amendments to various social security regulations as a consequence of introducing a maternity allowance for a new group of women who habitually participate in their self employed spouse's or civil partner's business but who are neither employed nor self employed.
- 2.2 This Rule is consequential on the coming into operation of section 35B of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 which was introduced by the Social Security (Maternity Allowance) (Participating Wife or Civil Partner of Self-employed Earner) Regulations (Northern Ireland) 2014 (S.R. 2014 No. 102) which came into operation on 1st April 2014. The other Social Security Regulations that are amended by this Rule are:
 - the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 341);
 - the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001 (S.R. 2001 No. 18); and
 - the Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008 No. 280).

3. Policy background

- 3.1 The Social Security (Maternity Allowance) (Participating Wife or Civil Partner of Self-employed Earner) Regulations (Northern Ireland) 2014 introduced a Maternity Allowance for women who habitually participate in their self-employed spouse's or civil partner's business but who are neither employed nor self-employed. Further information can be found in the attached Explanatory Memorandum supporting those regulations at: <http://www.legislation.gov.uk/nisr/2014/102/memorandum/contents>
- 3.3 This statutory rule is consequential on the introduction of the Social Security (Maternity Allowance) (Participating Wife or Civil Partner of Self-employed Earner) Regulations (Northern Ireland) 2014 and makes the following changes to secondary legislation:

Maternity Allowance

- 3.4 Women who receive maternity allowance as a result of being employed or Self-employed in their own right are entitled to return to work for 10 days, known as Keeping in Touch Days ('Kit Days') during their 39 week maternity allowance period without it affecting their allowance. This is to allow a woman to maintain a link with her employer, or her business if she is self-employed.
- 3.5 The rationale for KIT days does not apply in relation to a woman who participates in the business of her self-employed spouse or civil partner. Therefore, she will be subject to disqualification from receiving a maternity allowance, for such part of the maternity allowance period as the Department considers reasonable, being not less than the number of days on which she works during her 14 week maternity allowance period.
- 3.6 In line with the treatment of women who receive maternity allowance as a result of being employed or self-employed in their own right, women will also be disqualified from receiving a maternity allowance under the new provisions if they fail to take due care of their health or attend medical examinations without good cause. The disqualification will be for a period considered by the Department to be reasonable in their particular circumstances.
- 3.7 These regulations also ensure that, in relation to a woman who is not entitled to maternity allowance under the new provisions at the 11th week before the expected week of confinement but subsequently becomes entitled, the 14 week maternity allowance period will begin the day after she stops working.

Other social security provisions

- 3.8 Minor amendments to insert “or 35B” after references to “section 35” in various other social security regulations ensure that the maternity allowance paid to a woman who habitually participates in her spouse’s or civil partner’s self-employed business is treated in the same way as a maternity allowance that is paid to a woman who is employed or self-employed in her own right.

4. Consultation

- 4.1 A formal consultation has not been carried out by the Department on these Regulations. Consultation was not considered necessary for these changes as they are designed to provide equality for women who regularly assist in the business of their self-employed spouse or civil partner and in the main they align existing legislation.
- 4.2 The Legislative changes to implement this policy have been brought about as a result of the European Directive as described in the Explanatory Memorandum)
http://www.legislation.gov.uk/nisr/2014/102/pdfs/nisrem_20140102_en.pdf
- 4.3 Although no formal consultation was carried out an informal consultation with small businesses informed the Department’s handling of the transposition of the Directive and a number of options were considered which resulted in the decisions to implement the minimum duration and lowest rate of Maternity Allowance.

5. Equality Impact

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that the proposals do not have significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any new costs on business, charities or voluntary bodies.

7. Financial Implications

- 7.1 There are no significant costs to the Department to implement these proposals.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—
- (a) is not incompatible with any of the Convention rights,
 - (b) is not incompatible with Community law,
 - (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
 - (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1 Not applicable.

10. Parity or Replicatory Measure

- 10.1 The main corresponding Great Britain Regulations are the Social Security (Maternity Allowance) (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/884).
- 10.2 Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.