



# Social Security Contributions and Benefits (Northern Ireland) Act 1992

## 1992 CHAPTER 7

### PART II

#### CONTRIBUTORY BENEFITS

##### *Maternity*

### **35 State maternity allowance [<sup>F1</sup>for employed or self-employed earner].**

[<sup>F2</sup>(1) A woman shall be entitled to a maternity allowance [<sup>F3</sup>under this section], at the appropriate weekly rate determined under section 35A below, if—

- (a) she has become pregnant and has reached, or been confined before reaching, the commencement of the 11th week before the expected week of confinement; and
- (b) she has been engaged in employment as an employed or self-employed earner for any part of the week in the case of at least 26 of the 66 weeks immediately preceding the expected week of confinement; and
- [<sup>F4</sup>(c) her average weekly earnings (within the meaning of section 35A below) are not less than the maternity allowance threshold for the tax year in which the beginning of the period of 66 weeks mentioned in paragraph (b) above falls;]
- (d) she is not entitled to statutory maternity pay for the same week in respect of the same pregnancy.]

(2) Subject to the following provisions of this section, a maternity allowance [<sup>F3</sup>under this section] shall be payable for the period (“the maternity allowance period”) which, if she were entitled to statutory maternity pay, would be the maternity pay period under section 161 below.

(3) Regulations may provide—

- (a) for disqualifying a woman for receiving a maternity allowance [<sup>F3</sup>under this section] if—

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- [<sup>F5</sup>(i) during the maternity allowance period, except in prescribed cases, she does any work in employment as an employed or self-employed earner;]
- [<sup>F5</sup>(ia) during the maternity allowance period she fails without good cause to observe any prescribed rules of behaviour; or]
- (ii) at any time before she is confined she fails without good cause to attend for, or submit herself to, any medical examination required in accordance with the regulations;
- (b) that this section and [<sup>F6</sup>section 35A below] shall have effect subject to prescribed modifications in relation to cases in which a woman has been confined and—
  - (i) has not made a claim for a maternity allowance [<sup>F3</sup>under this section] in expectation of that confinement (other than a claim which has been disallowed); or
  - (ii) has made a claim for a maternity allowance [<sup>F3</sup>under this section] in expectation of that confinement (other than a claim which has been disallowed), but she was confined more than 11 weeks before the expected week of confinement.
- [<sup>F7</sup>(c) that subsection (2) above shall have effect subject to prescribed modifications in relation to cases in which a woman fails to satisfy the conditions referred to in subsection (1)(b) [<sup>F8</sup>or (c) above] at the commencement of the 11th week before the expected week of confinement, but subsequently satisfies those conditions at any time before she is confined.]
- [<sup>F9</sup>(3A) Regulations may provide for the duration of the maternity allowance period as it applies to a woman to be reduced, subject to prescribed restrictions and conditions.
- (3B) Regulations under subsection (3A) are to secure that the reduced period ends at a time—
  - (a) after a prescribed period beginning with the day on which the woman is confined; and
  - (b) when at least a prescribed part of the maternity allowance period remains unexpired.
- (3C) Regulations under subsection (3A) may, in particular, prescribe restrictions and conditions relating to—
  - (a) the end of the woman's entitlement to maternity leave;
  - (b) the doing of work by the woman;
  - (c) the taking of prescribed steps by the woman or another person as regards leave under Article 107E of the Employment Rights Order in respect of the child;
  - (d) the taking of prescribed steps by a person other than the woman as regards statutory shared parental pay in respect of the child.
- (3D) Regulations may provide for a reduction in the duration of the maternity allowance period as it applies to a woman to be revoked, subject to prescribed restrictions and conditions.]
- [<sup>F10</sup>(3E) A woman who would, but for the reduction in duration of a maternity pay period by virtue of section 161(3A), be entitled to statutory maternity pay for a week is not entitled to a maternity allowance for that week.]
- (4) A woman who has become entitled to a maternity allowance [<sup>F3</sup>under this section] shall cease to be entitled to it if she dies before the beginning of the maternity allowance

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period; and if she dies after the beginning, but before the end, of that period, the allowance shall not be payable for any week subsequent to that in which she dies.

(5) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of a maternity allowance [<sup>F3</sup>under this section][<sup>F11</sup>the amount payable by way of that allowance for any day shall be taken as one seventh of the weekly rate of the allowance.]

(6) In this section “confinement” means—

- (a) labour resulting in the issue of a living child, or
- (b) labour after [<sup>F12</sup>24 weeks] of pregnancy resulting in the issue of a child whether alive or dead,

and “confined” shall be construed accordingly; and where a woman’s labour begun on one day results in the issue of a child on another day she shall be taken to be confined on the day of the issue of the child or, if labour results in the issue of twins or a greater number of children, she shall be taken to be confined on the day of the issue of the last of them.

[<sup>F13</sup>(6A) In this section “the maternity allowance threshold”, in relation to a tax year, means (subject to subsection (6B) below) £30.

(6B) Whenever the Secretary of State makes an order under section 35(6B) of the Great Britain Contributions and Benefits Act (increase of maternity allowance threshold), the Department may make a corresponding order for Northern Ireland.]

(7) The fact that the mother of a child is being paid maternity allowance [<sup>F14</sup>under this section] shall not be taken into consideration by any court in deciding whether to order payment of expenses incidental to the birth of the child.

#### Textual Amendments

- F1** Words in s. 35 heading inserted (1.4.2014 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Maternity Allowance\) \(Participating Wife or Civil Partner of Self-employed Earner\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/102\)](#), regs. 1(1), **2(3)(a)**
- F2** S. 35(1) substituted for s. 35(1)(1A) (12.1.2000 for specified purposes and 2.4.2000 otherwise) by S.I. 1999/3147 (N.I. 11), **art. 50(1)**; S.R. 1999/494, **art. 2(1)(a)**
- F3** Words in s. 35 inserted (1.4.2014 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Maternity Allowance\) \(Participating Wife or Civil Partner of Self-employed Earner\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/102\)](#), regs. 1(1), **2(3)(b)**
- F4** S. 35(1)(c) substituted (6.4.2003) by [Social Security Act \(Northern Ireland\) 2002 \(c. 10\)](#), s. 9(1), **Sch. 1 para. 2(a)**; S.R. 2002/358, art. 2(c), Sch. Pt. II
- F5** S. 35(3)(a)(i)(ia) substituted for s. 35(3)(a)(i) (1.9.2006) by [The Work and Families \(Northern Ireland\) Order 2006 \(S.I. 2006/1947\)](#), art. 1(3), **Sch. 1 para. 5**; S.R. 2006/344, art. 2(c)
- F6** Words in s. 35(3)(b) substituted (12.1.2000 for specified purposes and 2.4.2000 otherwise) by S.I. 1999/3147 (N.I. 11), **art. 50(2)(a)**; S.R. 1999/494, **art. 2(1)(a)**
- F7** S. 35(3)(c) added (in accordance with reg. 1(2)(3) of the amending S.R.) by S.R. 1994/176, **reg. 2(3)**
- F8** Words in s. 35(3)(c) substituted (6.4.2003) by [Social Security Act \(Northern Ireland\) 2002 \(c. 10\)](#), s. 9(1), **Sch. 1 para. 2(b)**; S.R. 2002/358, art. 2(c), Sch. Pt. II
- F9** S. 35(3A)-(3D) inserted (15.3.2015) by [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\)](#), **ss. 6(2), 23(1)**; S.R. 2015/86, art. 3(1)(e)
- F10** S. 35(3E) inserted (15.3.2015) by [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\)](#), **ss. 6(3), 23(1)**; S.R. 2015/86, art. 3(1)(e)

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- F11** Words in s. 35(5) substituted (1.10.2006 in respect of women whose expected week of confinement begins on or after 1.4.2007) by [The Social Security \(Northern Ireland\) Order 1998 \(S.I. 1998/1506\)](#), arts. 1(2), **63**; S.R. 2006/360, art. 2
- F12** Words in s. 35(6) substituted (1.10.1992) by S.I. 1992/1310, **art. 4(a)**.
- F13** S. 35(6A)(6B) inserted (6.4.2003) by [Social Security Act \(Northern Ireland\) 2002 \(c. 10\)](#), s. 9(1), **Sch. 1 para. 2(c)**; S.R. 2002/358, art. 2(c), Sch. Pt. II
- F14** Words in s. 35(7) inserted (1.4.2014 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Maternity Allowance\) \(Participating Wife or Civil Partner of Self-employed Earner\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/102\)](#), regs. 1(1), **2(3)(c)**

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