
EXPLANATORY NOTE

These regulations make provision as to statutory maternity pay (SMP) introduced by Part V of and Schedule 4 to the Social Security Act 1986 (“the 1986 Act”). They are made under powers in the 1986 Act which have not yet been in force for 12 months. Accordingly the regulations are exempt, by section 61(5) of the Act, from reference to the Social Security Advisory Committee and are made without reference to that Committee.

Part I relates to the citation, commencement and interpretation of the regulations.

Part II contains provisions relating to entitlement to SMP. Regulation 2 prescribes when the maternity pay period of 18 weeks begins in cases where the woman does not stop work until after the start of the 11th week before her expected week of confinement. It also sets out the provisions which apply when the woman is confined before the 11th week before her expected week of confinement. Regulations 3 and 4 contain provisions specifying entitlement to SMP where the woman's contract of service is ended before the 14th week before the expected week of confinement.

Regulation 5 provides for 2 or more contracts of service to be treated as a single contract where both employer and employee are the same. Regulation 6 specifies the lower rate of SMP. Regulation 7 specifies the circumstances in which the liability to make payments of SMP is to be that of the Secretary of State and not the employer. Regulations 8 to 10 specify circumstances in which there is to be no liability to make payments of SMP.

Part III provides for weeks which would otherwise break a period of continuous employment to count in determining whether employment was continuous. These include weeks where the woman was absent because of a temporary cessation of work, or because of pregnancy or confinement, even though no contract of service existed between the woman and her former employer (regulation 11); weeks falling between a dismissal and reinstatement (regulation 12) and weeks in which the woman did not work because of a trade dispute at her place of employment (regulation 13). Breaks due to a change in ownership or control of the undertaking or business in which she worked are disregarded in determining whether her employment is continuous (regulation 14). Time spent in the reserve forces is also disregarded (regulation 15).

Regulation 16 contains provisions as to when a contract of service is to be treated as not normally involving or having involved employment for less than 16 hours weekly.

Part IV contains general provisions relating to the meaning of ‘employer’ (regulation 17); to the treatment of 2 or more employers as one (regulation 18); to the payments which are to be regarded as contractual remuneration (regulation 19); to the meaning of ‘earnings’ (regulation 20) and to the calculation of normal weekly earnings (regulation 21).

Part V of the Regulations contains provisions relating to the administration of SMP including the provision of information by women (regulation 22) and the keeping of records by employers (regulation 26).

Part VI relates to the payments of SMP both by employers (regulations 27–29) and by the Secretary of State (regulation 30). Regulation 31 provides for the payment of SMP where the woman is unable to act.

Part VII relates to offences.

Status:

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There are currently no known outstanding effects for the The Statutory Maternity Pay (General) Regulations 1986.