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## STATUTORY INSTRUMENTS

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# 1986 No. 1960

## The Statutory Maternity Pay (General) Regulations 1986

### PART III

#### CONTINUOUS EMPLOYMENT AND NORMAL WORKING HOURS

##### Continuous employment

**11.**—(1) Subject to the following provisions of this regulation, where in any week a woman is, for the whole or part of the week,—

- (a) incapable of work in consequence of sickness or injury, or
- (b) absent from work on account of a temporary cessation of work, or
- (c) absent from work in circumstances such that, by arrangement or custom, she is regarded as continuing in the employment of her employer for all or any purpose, or
- (d) absent from work wholly or partly because of pregnancy or confinement, [<sup>F1</sup>or]
- [<sup>F2</sup>(e) absent from work in consequence of taking paternity leave, adoption leave[<sup>F3</sup>, shared parental leave][<sup>F4</sup>, parental bereavement leave] or parental leave under Part 8 of the Employment Rights Act 1996,]

and returns to work for her employer after the incapacity for or absence from work, that week shall be treated for the purposes of Part V of the 1986 Act as part of a continuous period of employment with that employer, notwithstanding that no contract of service exists with that employer in respect of that week.

(2) Incapacity for work which lasts for more than 26 consecutive weeks shall not count for the purposes of paragraph (1)(a).

(3) Paragraph (1)(d) shall only apply to a woman who—

- (a) has a contract of service with the same employer both before and after her confinement but not during any period of absence from work due to her confinement and the period between those contracts does not exceed 26 weeks, or
- (b) returns to work in accordance with section 45(1) of the 1978 Act or in pursuance of an offer made in circumstances described in section 56A(2) of that Act after a period of absence from work wholly or partly occasioned by pregnancy or confinement.

[<sup>F5</sup>(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 2 or more occasions in a year for periods which do not overlap; and
  - (iii) to offer the work available to those persons who had worked for him during the last or a recent such period, but

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(b) is absent from work—

- (i) wholly or partly because of the pregnancy or her 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 the words “and returns to work for an employer after the incapacity for or absence from work” were omitted and paragraph (4) shall not apply.]

(4) where a woman is employed under a contract of service for part only of the week immediately preceding the 14th week before the expected week of confinement, the whole of that week shall count in computing any period of continuous employment for the purposes of Part V of the 1986 Act.

#### Textual Amendments

- F1** Word in reg. 11(1)(d) added (24.11.2002) by [The Social Security, Statutory Maternity Pay and Statutory Sick Pay \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/2690\)](#), regs. 1(1)(a), **4(a)** (with reg. 1(2))
- F2** Reg. 11(1)(e) added (8.12.2002) by [The Social Security, Statutory Maternity Pay and Statutory Sick Pay \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/2690\)](#), regs. 1(1)(c), **4(b)** (with reg. 1(2))
- F3** Words in reg. 11(1)(e) inserted (31.12.2014) by [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(2), **4(2)**
- F4** Words in reg. 11(1)(e) inserted (6.4.2020) by [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) Regulations 2020 \(S.I. 2020/354\)](#), regs. 1, **4(2)**
- F5** Reg. 11(3A) inserted (6.4.1990) by [The Statutory Maternity Pay \(General\) Amendment Regulations 1990 \(S.I. 1990/622\)](#), regs. 1, **2**

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