
STATUTORY INSTRUMENTS

1986 No. 1960

The Statutory Maternity Pay (General) Regulations 1986

PART IV

GENERAL PROVISIONS

Normal weekly earnings

21.—(1) For the purposes of [^{F1}Part XII of the Contributions and Benefits Act], a woman's normal weekly earnings shall be calculated in accordance with the following provisions of this regulation.

(2) In this regulation—

“the appropriate date” means the first day of the 14th week before the expected week of confinement, or the first day in the week in which the woman is confined, ^{F2}... or in the case of a woman in respect of whom section 46(2) of the 1986 Act is modified in accordance with regulation 4(1), the first day of the week immediately following the last week in which she was employed under a contract of service by the employer who dismissed her;

“normal pay day” means a day on which the terms of a woman's contract of service require her to be paid, or the practice in her employment is for her to be paid, if any payment is due to her; and

“day of payment” means a day on which the woman was paid.

(3) Subject to paragraph (4), the relevant period for the purposes of [^{F3}section 171(4) of the Contributions and Benefits Act] is the period between—

(a) the last normal pay day to fall before the appropriate date; and

(b) the last normal pay day to fall at least 8 weeks earlier than the normal pay day mentioned in sub-paragraph (a),

including the normal pay day mentioned in sub-paragraph (a) but excluding that first mentioned in sub-paragraph (b).

(4) In a case where a woman has no identifiable normal pay day, paragraph (3) shall have effect as if the words “day of payment” were substituted for the words “normal pay day” in each place where they occur.

(5) In a case where a woman has normal pay days at intervals of or approximating to one or more calendar months (including intervals of or approximating to a year) her normal weekly earnings shall be calculated by dividing her earnings in the relevant period by the number of calendar months in that period (or, if it is not a whole number, the nearest whole number), multiplying the result by 12 and dividing by 52.

(6) In a case to which paragraph (5) does not apply and the relevant period is not an exact number of weeks, the woman's normal weekly earnings shall be calculated by dividing her earnings in the relevant period by the number of days in the relevant period and multiplying the result by 7.

[^{F4}(7) In any case where—

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- (a) a woman is awarded a pay increase (or would have been awarded such an increase had she not then been absent on statutory maternity leave); and
- (b) that pay increase applies to the whole or any part of the period between the beginning of the relevant period and the end of her period of statutory maternity leave,

her normal weekly earnings shall be calculated as if such an increase applied in each week of the relevant period.]

[^{F5}(8) Paragraph (9) applies where for all or part of the relevant period—

- (a) a woman is a furloughed employee;
- (b) the woman’s employer has claimed and is in receipt of financial support in respect of the woman’s earnings under the Coronavirus Job Retention Scheme; and
- (c) the woman’s earnings are lower than they would otherwise have been as a result of that woman being a furloughed employee.

(9) Where this paragraph applies, the woman’s normal weekly earnings are to be calculated as if, during the parts of the relevant period when the woman was a furloughed employee, she was paid the amount which she would have derived from her employment had she not been a furloughed employee.

(10) For the purposes of paragraphs (8) and (9)—

“Coronavirus Job Retention Scheme” (“the Scheme”) means any scheme to provide for payments to be made to employers on a claim made in respect of them incurring costs of employment in respect of furloughed employees arising from the health, social and economic emergency in the United Kingdom resulting from coronavirus and coronavirus disease and contained in such Directions as may be issued from time to time pursuant to section 76 of the Coronavirus Act 2020;

“coronavirus” and “coronavirus disease” have the meanings given in section 1 of that Act;

“furloughed employee” has the meaning given for the purposes of the Scheme.]

Textual Amendments

- F1** Words in reg. 21(1) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Social Security Maternity Benefits and Statutory Sick Pay \(Amendment\) Regulations 1994 \(S.I. 1994/1367\)](#), regs. 1(2), **5(2)**
- F2** Words in reg. 21(2) omitted (with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Social Security Maternity Benefits and Statutory Sick Pay \(Amendment\) Regulations 1994 \(S.I. 1994/1367\)](#), regs. 1(2), **5(3)**
- F3** Words in reg. 21(3) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Social Security Maternity Benefits and Statutory Sick Pay \(Amendment\) Regulations 1994 \(S.I. 1994/1367\)](#), regs. 1(2), **5(4)**
- F4** Reg. 21(7) substituted (6.4.2005) by [The Statutory Maternity Pay \(General\) \(Amendment\) Regulations 2005 \(S.I. 2005/729\)](#), regs. 1(1), **3**
- F5** Reg. 21(8)-(10) inserted (with application in accordance with reg. 2(1)(2) of the amending S.I.) by [The Maternity Allowance, Statutory Maternity Pay, Statutory Paternity Pay, Statutory Adoption Pay, Statutory Shared Parental Pay and Statutory Parental Bereavement Pay \(Normal Weekly Earnings etc.\) \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/450\)](#), regs. 1, **3**

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