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STATUTORY INSTRUMENTS

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**1994 No. 1367**

**SOCIAL SECURITY  
TERMS AND CONDITIONS OF EMPLOYMENT**

**The Social Security Maternity Benefits and  
Statutory Sick Pay (Amendment) Regulations 1994**

<i>Made</i>	- - - -	<i>19th May 1994</i>
<i>Laid before Parliament</i>		<i>20th May 1994</i>
<i>Coming into force</i>	- -	<i>11th June 1994</i>

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 35(3)(b)(i) and (c), 119, 153(6), 164(4) and 9(e), 165(1) and (3), 166(3), 171(1) and 175(1) to (4) of, and paragraph 1 of Schedule 11 to, the Social Security Contributions and Benefits Act 1992<sup>(1)</sup>, and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it<sup>(2)</sup> hereby makes the following Regulations:

**Citation, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the Social Security Maternity Benefits and Statutory Sick Pay (Amendment) Regulations 1994.

(2) These Regulations shall come into force on 11th June 1994.

(3) These Regulations shall have effect immediately after the Maternity Allowance and Statutory Maternity Pay Regulations 1994<sup>(3)</sup> have effect.

(4) In these Regulations—

“the Statutory Maternity Pay Regulations” means the Statutory Maternity Pay (General) Regulations 1986<sup>(4)</sup>;

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(1) 1992 c. 4; sections 35(3), 165(3) and 166(3) of the Social Security Contributions and Benefits Act 1992 are amended by the Maternity Allowance and Statutory Maternity Pay Regulations (S.I. 1994/1230). The definition “confinement” in section 171(1) of the Social Security Contributions and Benefits Act 1992 has been amended by section 2(1)(b) of the Still-Birth (Definition) Act 1992 (c. 29).

(2) See the Social Security Administration Act 1992 (c. 5), section 173(1)(b).

(3) S.I. 1994/1230.

(4) S.I. 1986/1960; the relevant amending instruments are S.I. 1988/532 and S.I. 1994/542.

“the Maternity Allowance Regulations” means the Social Security (Maternity Allowance) Regulations 1987(5);

“the Maternity Allowance (Work Abroad) Regulations” means the Social Security (Maternity Allowance) (Work Abroad) Regulations 1987(6);

“the Statutory Sick Pay Regulations” means the Statutory Sick Pay (General) Regulations 1982(7).

### **Amendment of regulation 2 of the Statutory Maternity Pay Regulations**

2.—(1) Regulation 2 of the Statutory Maternity Pay Regulations (the maternity pay period) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)–

(a) for the words “subject to paragraph (3)” there shall be substituted the words “subject to paragraphs (3) to (5)”;

(b) for the words “or the 6th week before the expected week of confinement”, there shall be substituted the words “or the week immediately following the week in which she is confined”.

(3) For paragraph (2) there shall be substituted the following paragraph–

“(2) The maternity pay period shall be a period of 18 consecutive weeks.”.

(4) In paragraph (3)(b) the words “but before the 6th week” shall be omitted.

(5) After paragraph (3) there shall be added the following paragraphs–

“(4) Subject to paragraph (5), where a woman is absent from work wholly or partly because of pregnancy or confinement on any day which falls on or after the beginning of the 6th week before the expected week of confinement, but not later than the week immediately following the week in which she is confined, the first week of her maternity pay period shall be the week which includes that day.

(5) Where–

(a) a woman is employed by an employer who is liable to pay her statutory maternity pay; and

(b) she is absent from work wholly or partly because of pregnancy or confinement on any day which falls on or after the beginning of the 6th week before the expected week of confinement but not later than the week immediately following the week in which she is confined; and

(c) she has worked for that employer or is entitled to statutory sick pay, on any day which falls on or after the start of the week in which the absence mentioned in sub-paragraph (b) above falls,

the first week of her maternity pay period shall be the week next following that day.”.

### **Amendment of regulation 4 of the Statutory Maternity Pay Regulations**

3.—(1) Regulation 4 of the Statutory Maternity Pay Regulations (modification of entitlement provisions) shall be amended in accordance with the following provisions of this regulation.

(2) Paragraph (1) shall be omitted.

(3) In paragraph (2)–

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(5) S.I. 1987/416.

(6) S.I. 1987/417.

(7) S.I. 1982/894; the relevant amending instruments are S.I. 1986/477 and S.I. 1987/868.

- (a) for the words “section 46(2)(a) and (b) of the 1986 Act” there shall be substituted the words “section 164(2)(a) and (b) of the Contributions and Benefits Act”;
  - (b) for the words “under section 4(1)(a) of the 1975 Act” there shall be substituted the words “under section 5(1)(a) of the Contributions and Benefits Act.”.
- (4) For paragraph (3) there shall be substituted the following paragraph—
- “(3) In relation to a woman to whom paragraph (2) applies, section 166 of the Contributions and Benefits Act shall be modified so that subsection (2) has effect as if the reference to the period of 8 weeks immediately preceding the 14th week before the expected week of confinement was a reference to the period of 8 weeks immediately preceding the week in which her confinement occurred.”.

#### **Amendment of regulation 6 of the Statutory Maternity Pay Regulations**

4. In regulation 6 of the Statutory Maternity Pay Regulations (lower rate of statutory maternity pay) for the sum of “£48.80” there shall be substituted the sum of “£52.50”.

#### **Amendment of regulation 21 of the Statutory Maternity Pay Regulations**

5.—(1) Regulation 21 of the Statutory Maternity Pay Regulations (normal weekly earnings) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “Part V of the 1986 Act” there shall be substituted the words “Part XII of the Contributions and Benefits Act.”.

(3) In paragraph (2) in the definition “the appropriate date” the words after “whichever is the earlier,” shall be omitted.

(4) In paragraph (3) for the words “section 50(3) of the 1986 Act” there shall be substituted the words “section 171(4) of the Contributions and Benefits Act.”.

#### **Amendment of regulation 23 of the Statutory Maternity Pay Regulations**

6.—(1) Regulation 23 of the Statutory Maternity Pay Regulations (notice of absence from work) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (2) for the words “section 46(4) of the 1986 Act” there shall be substituted “section 164(4) of the Contributions and Benefits Act”.

(3) For paragraphs (4) and (5) there shall be substituted the following paragraphs—

“(4) Subject to paragraph (5), section 164(4) of the Contributions and Benefits Act shall not apply to a woman who leaves her employment with the person who will be liable to pay her statutory maternity pay after the beginning of the 15th week before the expected week of confinement for a reason wholly unconnected with her pregnancy.

(5) A woman who is exempted from section 164(4) of the Contributions and Benefits Act by paragraph (4) but who is confined before the 11th week before the expected week of confinement shall only be entitled to statutory maternity pay if she gives the person who will be liable to pay it notice specifying the date she was confined.”.

#### **Amendment of regulation 3 of the Maternity Allowance Regulations**

7.—(1) Regulation 3 of the Maternity Allowance Regulations (modification of the maternity allowance period) shall be amended in accordance with the following provisions of this regulation.

(2) After paragraph (2) there shall be inserted the following paragraph—

“(2A) In relation to a woman who—

- (a) is not entitled to maternity allowance at the 11th week before the expected week of confinement; and
- (b) subsequently becomes entitled to maternity allowance before being confined; and
- (c) has stopped work

the maternity allowance period shall be a period of 18 weeks commencing with the week following that in which she stopped work.”.

- (3) In paragraph (4)(c) for head (ii) there shall be substituted the following head—

“(ii) where she is absent from work wholly or partly due to pregnancy or confinement, at the end of the 18th week following the week in which she was absent from work,”.

### **Amendment of regulation 2 of the Maternity Allowance (Work Abroad) Regulations**

8. In regulation 2(4) of the Maternity Allowance (Work Abroad) Regulations (special provision for certain persons who have been employed abroad) for the words “52 weeks preceding the 14th week before” there shall be substituted the words “66 weeks immediately preceding”.

### **Amendment of regulation 3 of the Statutory Sick Pay Regulations**

9.—(1) Regulation 3 of the Statutory Sick Pay Regulations (periods of entitlement ending or not arising) shall be amended in accordance with the following provisions of this regulation.

- (2) In paragraph (3)—

- (a) for the words “section 3(2) of the 1982 Act” there shall be substituted “section 153(2) of the Contributions and Benefits Act”; and
- (b) for the words “section 3(5) of that Act” there shall be substituted the words “section 153(6) of the Contributions and Benefits Act”.

- (3) For paragraph (4) there shall be substituted the following paragraph—

“(4) Where a period of entitlement is current as between an employee and her employer and the employee—

- (a) is pregnant or has been confined; and
- (b) is incapable of work wholly or partly because of pregnancy or confinement on any day which falls on or after the beginning of the 6th week before the expected week of confinement; and
- (c) is not by virtue of that pregnancy or confinement entitled to statutory maternity pay under Part XII of the Contributions and Benefits Act or to maternity allowance under section 35 of that Act;

the period of entitlement shall end on that day or, if earlier, on the day she was confined.”.

- (4) For paragraph (5) there shall be substituted the following paragraph—

“(5) Where an employee—

- (a) is pregnant or has been confined; and
- (b) is incapable of work wholly or partly because of pregnancy or confinement on any day which falls on or after the beginning of the 6th week before the expected week of confinement; and
- (c) is not by virtue of that pregnancy or confinement entitled to statutory maternity pay under Part XII of the Contributions and Benefits Act or to maternity allowance under section 35 of that Act;

a period of entitlement as between her and her employer shall not arise in relation to a period of incapacity for work where the first day in that period falls within 18 weeks of the beginning of the week containing the day referred to at (b) above or, if earlier, of the week in which she was confined.”.

(5) In paragraph (6) for the words “section 50 of the Social Security Act 1986” there shall be substituted the words “section 171 of the Contributions and Benefits Act”.

Signed by authority of the Secretary of State for Social Security.

19th May 1994

*Astor*  
Parliamentary Under-Secretary of State,  
Department of Social Security

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Statutory Maternity Pay (General) Regulations 1986 (“the Statutory Maternity Pay Regulations”), the Social Security (Maternity Allowance) Regulations 1987, (“the Maternity Allowance Regulations”), the Social Security (Maternity Allowance) (Work Abroad) Regulations 1987 (“the Maternity Allowance (Work Abroad) Regulations”) and the Statutory Sick Pay (General) Regulations 1982 (“the Statutory Sick Pay Regulations”).

These Regulations exercise powers under the Social Security Contributions and Benefits Act 1992 (as amended by the Maternity Allowance and Statutory Sick Pay Regulations 1994 (S.I.1994/1230)) to implement the requirements of Council Directive [92/85/EEC](#) in relation to allowances to be made to women on maternity leave.

They amend the Statutory Maternity Pay Regulations as follows—

Regulation 2 provides that the maternity pay period begins from the week following the week in which a woman stops work whether or not this falls after the 6th week before the expected week of confinement. It further prescribes the beginning of the maternity pay period where a woman is absent from work wholly or partly because of pregnancy or confinement after the 6th week before the expected week of confinement.

Regulation 3 provides that the entitlement provisions are no longer modified where a woman is dismissed or not offered a new contract of service before the qualifying week for statutory maternity pay.

Regulation 4 prescribes an increase from £48.80 to £52.50 in the lower rate of statutory maternity pay.

Regulation 5 amends the definition of normal weekly earnings.

Regulation 6 amends regulation 23 of the Statutory Maternity Pay Regulations by omitting references to women dismissed because of pregnancy.

Regulation 7 amends the Maternity Allowance Regulations by omitting references to the maternity allowance period ending not later than the end of the 11th week following the expected week of confinement and inserts a new definition of the maternity allowance period, where a woman was not entitled to maternity allowance at the 11th week before the expected week of confinement but subsequently becomes entitled.

Regulation 8 amends the Maternity Allowance (Work Abroad) Regulations by substituting a reference to a period of employment of 66 weeks (instead of 52 weeks) for certain women employed abroad.

Regulation 9 amends the Statutory Sick Pay Regulations by providing, where a woman is not entitled to maternity benefits and is incapable of work wholly or partly because of pregnancy after the 6th week before confinement, that her entitlement to statutory sick pay will end on that date, and it further provides that where a woman is not entitled to maternity benefits a period of entitlement to statutory sick pay shall not arise in such circumstances.

An assessment of the compliance costs for employers has been made and a copy has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Room 06/17, Adelphi, 1–11 John Adam Street, London, WC2N 6HT.

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