

2002 No. 2690

**SOCIAL SECURITY
TERMS AND CONDITIONS OF EMPLOYMENT**

The Social Security, Statutory Maternity Pay and Statutory Sick Pay (Miscellaneous Amendments) Regulations 2002

Made - - - - - 30th October 2002

Laid before Parliament 1st November 2002

Coming into force in accordance with regulation 1(1)

The Secretary of State for Work and Pensions, in exercise of the powers conferred on him by sections 35(3), 35A(4) and (5)(a) and (d), 153(6), 163(1) and (3), 164(9)(c) and (ea), 165(1), (3) and (7), 166(1)(b), 171(1), (3)(b) to (d) and (5), 171ZP(2) and (3), 171ZS(1) and 175(1) to (4) of, and paragraphs 1 and 1A of Schedule 11 and paragraph 2 of Schedule 13 to, the Social Security Contributions and Benefits Act 1992(a) and sections 5(1)(1), 132(1) and (2), 189(1) and 191 of the Social Security Administration Act 1992(b) and of all other powers enabling him in that behalf, with the concurrence of the Treasury, insofar as such concurrence is required(c), and after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it(d), hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security, Statutory Maternity Pay and Statutory Sick Pay (Miscellaneous Amendments) Regulations 2002 and shall come into force—

- (a) except for the purposes of regulations 3, 4(b), 5(b), 10(2), 14(b) and 16, on 24th November 2002;
- (b) for the purposes of regulation 3, on 6th April 2003;
- (c) for the purposes of regulations 4(b), 5(b), 10(2), 14(b) and 16 on the date on which Chapter 1 of Part 1 of the Employment Act 2002 comes into force.

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- (a) 1992 c. 4; section 35(3)(c) was added and further amended by regulation 2(3) of S.I. 1994/1230 and section 53(2) of the Welfare Reform and Pensions Act 1999 (c. 30) respectively; section 35A was inserted by section 53(3) of the Welfare Reform and Pensions Act 1999; section 164(9)(ea) was inserted by section 20 of the Employment Act 2002 (c. 22); sections 165(1), (3) and (7) were amended by section 18 of the Employment Act 2002 and regulation 3 of S.I. 1994/1230 respectively; section 166 was substituted by section 19 of the Employment Act 2002; sections 171ZP(2) and (3) and 171ZS(1) were inserted by section 4 of the Employment Act 2002; sections 175(1) and (4) were amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Schedule 3, paragraph 29; Schedule 11, paragraph 1A was inserted by Schedule 1, paragraph 20 to the Social Security Contributions (Transfer of Functions etc.) Act 1999; Schedule 13, paragraph 2 was substituted by the Jobseekers Act 1995 (c. 18), Schedule 2, paragraph 37; sections 163(1), 171(1) and 171ZS(1) are cited for the meaning given to the words “prescribe” and “regulations”.
 - (b) 1992 c. 5; section 132(1) was amended by the Social Security (Incapacity for Work) Act 1994 (c. 18), Schedule 1, paragraph 50 and section 88 of the Welfare Reform and Pensions Act 1999; section 189(1) was amended by the Social Security Act 1998 (c. 14), Schedule 7, paragraph 109 and by the Social Security Contributions (Transfer of Functions, etc.) Act 1999, Schedule 3, paragraph 57(2); section 191 is cited for the meaning given to the words “prescribe” and “regulations”.
 - (c) See the Social Security Contributions and Benefits Act 1992, Schedule 11, paragraph 1A.
 - (d) See the Social Security Administration Act 1992, section 173(1)(b).

(2) These Regulations, (except for regulations 3,5,6,10,14 and 16), shall take effect only in respect of those women whose expected week of confinement commences on or after 6th April 2003.

(3) In these Regulations—

“the Social Security (Incapacity Benefit) Regulations” means the Social Security (Incapacity Benefit) Regulations 1994(a);

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

“the Social Security (Maternity Allowance) (Earnings) Regulations” means the Social Security (Maternity Allowance)(Earnings) Regulations 2000(c);

“the Statutory Maternity Pay (General) Regulations” means the Statutory Maternity Pay (General) Regulations 1986(d);

“the Statutory Maternity Pay (National Health Service Employees) Regulations” means the Statutory Maternity Pay (National Health Service Employees) Regulations 1991(e);

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

Amendment of regulation 2 of the Statutory Maternity Pay (General) Regulations

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

(2) For paragraph (1) there shall be substituted the following paragraph—

“(1) Subject to paragraphs (3) to (6), where a woman gives notice to her employer of the date from which she expects his liability to pay her statutory maternity pay to begin and in conformity with that notice ceases to work for him in a week which is later than the 12th week before the expected week of confinement, then the first week in the maternity pay period shall be the week following the week in which she ceased to work, or the week immediately following the week in which she is confined, whichever is the earlier.”.

(3) In paragraph (2) for the words “18 consecutive weeks” there shall be substituted the words “26 consecutive weeks”.

(4) In paragraph (3) for the words “shall be the week after the week in which she is confined” there shall be substituted the words “shall be the week commencing on the day after the day on which she is confined”.

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

“(4) Subject to paragraph (6) 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 4th 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 the maternity pay period shall be the week beginning on the day following the day on which she is so absent.”.

(6) Paragraph (5) shall be omitted.

(7) For paragraph (6) there shall be substituted the following paragraph—

“(6) In a case where a woman leaves her employment at any time falling after the beginning of the 11th week before the expected week of confinement and before the start of the maternity pay period but not later than the week immediately following the week in which she is confined, the first week of the maternity pay period shall be the week after the week in which her employment ends.”.

(a) S.I. 1994/2946.

(b) S.I. 1987/416; relevant amending instruments are S.I. 1994/1367 and 1997/793.

(c) S.I. 2000/688.

(d) S.I. 1986/1960; relevant amending instruments are S.I. 1988/532, 1990/622, 1994/1367, 1995/829, 2000/2883 and 2002/668.

(e) S.I. 1991/590.

(f) S.I. 1982/894; relevant amending instruments are S.I. 1987/868 and 1994/1367.

(8) After paragraph (6) there shall be added the following paragraph—

“(7) “week” for the purposes of a maternity pay period which falls within paragraphs (3) or (4) above means a period of 7 consecutive days.”.

Substitution of regulation 6 of the Statutory Maternity Pay (General) Regulations

3. For regulation 6 of the Statutory Maternity Pay (General) Regulations (lower rate of statutory maternity pay) there shall be substituted the following regulation—

“Prescribed rate of statutory maternity pay

6. The rate of statutory maternity pay prescribed under section 166(1)(b) of the Contributions and Benefits Act(a) is a weekly rate of £100.00.”.

Amendment of regulation 11(1) of the Statutory Maternity Pay (General) Regulations

4. In regulation 11(1) of the Statutory Maternity Pay (General) Regulations (continuous employment)—

- (a) in sub-paragraph (d) after the words “pregnancy or confinement,” there shall be added the word “or”;
- (b) after sub-paragraph (d) there shall be added the following sub-paragraph—
 - “(e) absent from work in consequence of taking paternity leave, adoption leave or parental leave under Part 8 of the Employment Rights Act 1996.”.

Amendment of regulation 20(4) of the Statutory Maternity Pay (General) Regulations

5. In regulation 20(4) of the Statutory Maternity Pay (General) Regulations (meaning of “earnings”)—

- (a) 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”;
- (b) after sub-paragraph (d) there shall be added the following sub-paragraphs—
 - “(e) any sum payable by way of statutory maternity pay, including sums payable in accordance with regulations made under section 164(9)(b) of the Contributions and Benefits Act(b);
 - (f) any sum payable by way of statutory paternity pay, including sums payable in accordance with regulations made under section 171ZD(3) of the Contributions and Benefits Act(c);
 - (g) any sum payable by way of statutory adoption pay, including sums payable in accordance with regulations made under section 171ZM(3) of the Contributions and Benefits Act(d).”.

Revocation of regulation 21A of the Statutory Maternity Pay (General) Regulations

6. Regulation 21A of the Statutory Maternity Pay (General) Regulations (effect of statutory maternity pay on incapacity benefit)(e) is hereby revoked.

Amendment of regulation 23 of the Statutory Maternity Pay (General) Regulations

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

(2) In paragraph (1)—

- (a) in sub-paragraph (a) for the words “that her absence from work with him is wholly because of her confinement” there shall be substituted the words “of the date on which she was confined”;

(a) Section 166 was substituted by section 19 of the Employment Act 2002 (c. 22).

(b) Section 164(9)(b) was amended by paragraph 12(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(c) Section 171ZD was inserted by section 2 of the Employment Act 2002.

(d) Section 171ZM was inserted by section 4 of the Employment Act 2002.

(e) Regulation 21A was inserted by regulation 3 of S.I. 1988/532; relevant amending instruments are S.I. 1990/622 and 1995/829.

(b) in sub-paragraph (b) for the words “21 days” there shall be substituted the words “28 days”.

(3) In paragraph (2)—

(a) in sub-paragraph (a) the words “wholly or partly because of pregnancy or confinement” shall be omitted;

(b) in sub-paragraph (b) for the words “21 days” there shall be substituted the words “28 days”.

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

“(4) Subject to paragraph (5), section 164(4) of the Contributions and Benefits Act (statutory maternity pay-entitlement and liability to pay) shall not have effect in the case of a woman who leaves her employment with the person who will be liable to pay her statutory maternity pay after the beginning of the week immediately preceding the 14th week before the expected week of confinement.”.

Amendment of regulation 25A of the Statutory Maternity Pay (General) Regulations

8.—(1) Regulation 25A of the Statutory Maternity Pay (General) Regulations (provision of information relating to claims for certain other benefits)(a) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “section 46(4) of the 1986 Act” there shall be substituted the words “section 164(4)(a) or (9)(ea) of the Contributions and Benefits Act(b)”.

(3) In paragraph (3)—

(a) the word “either” shall be omitted;

(b) the words “or for part of a week within the maternity pay period she was not present in a member State,” shall be omitted.

(4) In the paragraph (4)(b)—

(a) in head (i) for the words “21 days” there shall be substituted the words “28 days”;

(b) in head (ii) the words “or, as the case may be, absence from a member State” shall be omitted.

Amendment of regulation 28 of the Statutory Maternity Pay (General) Regulations

9. In regulation 28 of the Statutory Maternity Pay (General) Regulations (rounding to avoid fractional amounts) for the words “at the higher rate specified in section 48(2) of the 1986 Act” there shall be substituted the words “at the earnings-related rate referred to in section 166(1) of the Contributions and Benefits Act(c)”.

Amendment of the Social Security (Incapacity Benefit) Regulations

10.—(1) In the Social Security (Incapacity Benefit) Regulations, after regulation 7 (days of statutory sick pay to be included in days of entitlement to incapacity benefit) there shall be inserted the following regulations—

“Effect of statutory maternity pay on incapacity benefit

7A.—(1) For the purpose of determining a woman’s entitlement to short-term incapacity benefit at the higher rate or long-term incapacity benefit under section 30A of the Contributions and Benefits Act(d), a day which falls within the maternity pay period shall, notwithstanding paragraph 1 of Schedule 13 to that Act, be treated as a day of incapacity for work for the purpose of determining whether it forms part of a period of incapacity for work where—

(a) on that day she was incapable of work; and

(a) Regulation 25A was inserted by regulation 7 of S.I. 1990/622.

(b) Section 164(4)(a) was substituted and section 164(9)(ea) was inserted by section 20 of the Employment Act 2002.

(c) Section 166(1) of the Social Security Contributions and Benefits Act 1992 was substituted by section 19 of the Employment Act 2002.

(d) Section 30A was inserted by section 1(1) of the Social Security (Incapacity for Work) Act 1994 and was amended by sections 64 and 88 of the Welfare and Reform and Pensions Act 1999.

- (b) that day is not treated under section 30C(3) of the Contributions and Benefits Act^(a) as a day which is not a day of incapacity for work; and
- (c) the day immediately preceding the first day in the maternity pay period falls within either a period of incapacity for work or a period of entitlement to statutory sick pay for the purposes of Part 11 of the Contributions and Benefits Act; and
- (d) the woman either satisfied the contribution conditions specified for short-term incapacity benefit on the first day of incapacity for work to fall within that period of incapacity for work or would have satisfied those conditions had a claim for short-term incapacity benefit been made on the first or any subsequent day of incapacity for work falling within that period of entitlement.

(2) Any day which, by virtue of paragraph (1), forms part of a period of incapacity for work shall be further treated, for the purpose of determining entitlement to short-term incapacity benefit at the higher rate or long-term incapacity benefit under section 30A of the Contributions and Benefits Act, as being a day on which the woman has been entitled to short-term incapacity benefit.

(3) For the purposes of this regulation “period of incapacity for work” has the same meaning as in section 30C(1) of the Contributions and Benefits Act.

(4) Where by virtue of paragraph (1) a woman is entitled to short-term incapacity benefit at the higher rate or long-term incapacity benefit for any week (including part of a week) the total amount of such benefit (including any increase for a dependant) payable to her for that week shall be reduced by an amount equivalent to any statutory maternity pay to which she is entitled in accordance with Part 12 of the Contributions and Benefits Act for the same week and only the balance, if any, of the short-term incapacity benefit at the higher rate or long-term incapacity benefit shall be payable to her.”.

(2) After that regulation there shall be inserted the following regulation—

“Effect of statutory adoption pay on incapacity benefit

7B.—(1) For the purpose of determining a person’s entitlement to short-term incapacity benefit at the higher rate or long-term incapacity benefit under section 30A of the Contributions and Benefits Act, a day which falls within the adoption pay period shall, notwithstanding section 171ZP(1) of the Contributions and Benefits Act^(b), be treated as a day of incapacity for work for the purpose of determining whether it forms part of a period of incapacity for work where—

- (a) on that day he was incapable of work; and
- (b) that day is not treated under section 30C(3) of the Contributions and Benefits Act as a day which is not a day of incapacity for work; and
- (c) the day immediately preceding the first day in the adoption pay period falls within either a period of incapacity for work or a period of entitlement to statutory sick pay for the purposes of Part 11 of the Contributions and Benefits Act; and
- (d) the person either satisfied the contribution conditions specified for short-term incapacity benefit on the first day of incapacity for work to fall within that period of incapacity for work or would have satisfied those conditions had a claim for short-term incapacity benefit been made on the first or any subsequent day of incapacity for work falling within that period of entitlement.

(2) Any day which, by virtue of paragraph (1), forms part of a period of incapacity for work shall be further treated, for the purpose of determining entitlement to short-term incapacity benefit at the higher rate or long-term incapacity benefit under section 30A of the Contributions and Benefits Act, as being a day on which the person has been entitled to short-term incapacity benefit.

(3) For the purposes of this regulation “period of incapacity for work” has the same meaning as in section 30C(1) of the Contributions and Benefits Act.

(a) Section 30C(3) was inserted by section 3(1) of the Social Security (Incapacity for Work) Act 1994.
 (b) Section 171ZP(1) was inserted by section 4 of the Employment Act 2002.

(4) Where by virtue of paragraph (1) a person is entitled to short-term incapacity benefit at the higher rate or long-term incapacity benefit for any week (including part of a week) the total amount of such benefit (including any increase for a dependant) payable to him for that week shall be reduced by an amount equivalent to any statutory adoption pay to which he is entitled in accordance with Part 12ZB of the Contributions and Benefits Act(a) for the same week and only the balance, if any, of the short-term incapacity benefit at the higher rate or long-term incapacity benefit shall be payable to him.”.

Amendment of regulation 3 of the Statutory Maternity Pay (National Health Service Employees) Regulations

11. In regulation 3 of the Statutory Maternity Pay (National Health Service Employees) Regulations (notification of election) for the words “21 days ” there shall be substituted the words “28 days”.

Amendment of regulation 4 of the Statutory Maternity Pay (National Health Service Employees) Regulations

12. In regulation 4 of the Statutory Maternity Pay (National Health Service Employees) Regulations (provision of information) for the words “21 days” there shall be substituted the words “28 days”.

Amendment of regulation 3 of the Statutory Sick Pay (General) Regulations

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

(2) In paragraph (4)(b) for the words “6th week” there shall be substituted the words “4th week”.

(3) In paragraph (5)(b) for the words “6th week” there shall be substituted the words “4th week”.

Amendment of regulation 17(3) of the Statutory Sick Pay (General) Regulations

14. In regulation 17(3) of the Statutory Sick Pay (General) Regulations (meaning of “earnings”)—

(a) for the words “section 26(2)” there shall be substituted the words “section 163(2) of the Contributions and Benefits Act”;

(b) after sub-paragraph (h) there shall be added the following sub-paragraphs—

“(i) any sum payable by way of statutory paternity pay, including any sums payable in accordance with regulations made under section 171ZD(3) of the Contributions and Benefits Act(b);

(j) any sum payable by way of statutory adoption pay, including any sums payable in accordance with regulations made under section 171ZM(3) of the Contributions and Benefits Act(c).”.

Amendment of regulation 3 of the Social Security (Maternity Allowance) Regulations

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

(2) In paragraph (1) for the words “Section 22(2) of the Act” there shall be substituted the words “Section 35(2) of the Social Security Contributions and Benefits Act 1992”.

(a) Part 12ZB was inserted by section 4 of the Employment Act 2002.

(b) Section 171ZD was inserted by section 2 of the Employment Act 2002.

(c) Section 171ZM was inserted by section 4 of the Employment Act 2002.

(3) Paragraph (2) shall be omitted.

(4) In paragraph (2A) for the words “18 weeks” there shall be substituted the words “26 weeks”.

Amendment of regulation 2(1) of the Social Security (Maternity Allowance) (Earnings) Regulations

16. In regulation 2(1) of the Social Security (Maternity Allowance) (Earnings) Regulations (specified payments for employed earners), after sub-paragraph (e), there shall be added the following sub-paragraphs—

“(f) any sum payable by way of statutory paternity pay, including any sums payable in accordance with regulations made under section 171ZD(3) of the Contributions and Benefits Act;

(g) any sum payable by way of statutory adoption pay, including any sums payable in accordance with regulations made under section 171ZM(3) of the Contributions and Benefits Act.”.

Amendment of regulation 3(a) of the Social Security (Maternity Allowance) (Earnings) Regulations

17. In regulation 3(a) of the Social Security (Maternity Allowance) (Earnings) Regulations (specified payments for self-employed earners) for the words “the lower earnings limit in force” there shall be substituted the words “an amount 90 per cent. of which is equal to the weekly rate prescribed under section 166(1)(b) of the Contributions and Benefits Act that is in force”.

Amendment of regulation 4 of the Social Security (Maternity Allowance) (Earnings) Regulations

18.—(1) Regulation 4 of the Social Security (Maternity Allowance) (Earnings) Regulations (aggregation of specified payments) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) the words “other than one to which regulation 5(2) applies” shall be omitted.

(3) Paragraph (2) shall be omitted.

Amendment of regulation 5 of the Social Security (Maternity Allowance) (Earnings) Regulations

19. For regulation 5 of the Social Security (Maternity Allowance) (Earnings) Regulations (the specified period) there shall be substituted the following regulation—

“The specified period

5. For the purpose of section 35A(4) and (5) of the Contributions and Benefits Act the specified period shall be the test period.”.

Amendment of regulation 6 of the Social Security (Maternity Allowance) (Earnings) Regulations

20.—(1) Regulation 6 of the Social Security (Maternity Allowance) (Earnings) Regulations (determination of average weekly amount of specified payments) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph (1) there shall be substituted the following paragraph—

“(1) For the purpose of section 35A(4) of the Contributions and Benefits Act a woman’s average weekly amount of specified payments shall, subject to paragraph (2) be determined by dividing by 13 the payments made, or treated in accordance with these Regulations as made, to her or for her benefit, in the 13 weeks (whether consecutive or not) falling within the specified period in which such payments are greatest.”.

(3) After paragraph (2) there shall be added the following paragraph—

“(3) Where a woman is normally paid other than weekly, the payments made or treated as made to her or for her benefit for the purposes of paragraph (1) shall be calculated by dividing the payments made to her in any week by the nearest whole number of weeks in the period in respect of which she is paid.”.

Signed by authority of the Secretary of State for Work and Pensions.

29th October 2002

P. Hollis
Parliamentary Under-Secretary of State,
Department for Work and Pensions

The Treasury hereby concur.

30th October 2002

Nick Ainger
Philip Woolas
Two of the Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Incapacity Benefit) Regulations 1994 (“the Social Security (Incapacity Benefit) Regulations”), the Statutory Maternity Pay (General) Regulations 1986 (“the Statutory Maternity Pay (General) Regulations”), the Statutory Maternity Pay (National Health Service Employees) Regulations 1991 (“the Statutory Maternity Pay (National Health Service Employees) Regulations”), the Statutory Sick Pay (General) Regulations 1982 (“the Statutory Sick Pay (General) Regulations”), the Social Security (Maternity Allowance) Regulations 1987 (“the Social Security (Maternity Allowance) Regulations”) and the Social Security (Maternity Allowance) (Earnings) Regulations 2000 (“the Social Security (Maternity Allowance) (Earnings) Regulations”), in consequence of Part 1 of the Employment Act 2002.

The Statutory Maternity Pay (General) Regulations are amended as follows—

Regulation 2(2) provides for a woman's maternity pay period (“MPP”) to commence where she gives notice to her employer that she expects his liability to pay her statutory maternity pay to begin and she ceases work in conformity with that notice.

Regulation 2(3) extends the MPP to 26 consecutive weeks.

Regulation 2(4) provides for a woman's MPP to commence where she is confined before the 11th week before the expected week of confinement (“EWC”).

Regulation 2(5) provides that where a woman is absent from work wholly or partly because of pregnancy or confinement, on or after the 4th week before her EWC that her MPP will commence on the day after the first day on which she is so absent.

Regulation 2(8) provides a new meaning of “week” for the purposes of a woman's MPP in respect of a woman whose MPP commences because of her confinement before the 11th week before the expected week of confinement or her absence from work wholly or partly because of pregnancy or confinement on or after the 4th week before the EWC.

Regulation 3 prescribes a rate of statutory maternity pay under section 166(1)(b) of the Social Security Contributions and Benefits Act 1992 (“the Contributions and Benefits Act”).

Regulation 4 adds references to statutory paternity, statutory adoption and statutory parental leave to the circumstances in which a woman may be treated as employed and makes other minor drafting changes.

Regulation 5 amends the meaning of “earnings” for the purposes of section 164(9)(b) of the Social Security Contributions and Benefits Act 1992 by adding references to certain payments of maternity, adoption and paternity pay to the sums which may form part of a woman's normal weekly earnings.

Regulation 6 revokes regulation 21A.

Regulation 7(2) amends regulation 23 by omitting the reference to a woman's absence from work being wholly because of her confinement from the notice she must give to her employer.

Regulation 7(3) amends the period within which a notice under regulation 23 is to be given from 21 days from the date of confinement to 28 days from that date.

Regulation 7(4) substitutes a revised paragraph (4) in regulation 22(3) which provides that if a woman leaves her employment after the beginning of the week before the 14th week before her EWC she will be entitled statutory maternity pay without giving notice to her employer.

Regulation 8 amends regulation 25A by making minor drafting changes to the requirements for employers to provide information about payments of statutory maternity pay and extends the period within which information must be supplied from 21 to 28 days.

Regulation 9 makes a minor drafting change to regulation 28.

Regulation 10 inserts regulations 7A and 7B in the Social Security (Incapacity Benefit) Regulations which deal with the effect of statutory maternity pay and statutory adoption pay respectively on incapacity benefit.

The Statutory Maternity Pay (National Health Service Employees) Regulations are amended as follows—

Regulations 11 and 12 substitute 28 days for 21 days as the period of notice a woman must give her employer.

The Statutory Sick Pay (General) Regulations are amended as follows—

Regulation 13 substitutes a reference to 4 weeks before the EWC in the case of women who are incapable of work wholly or partly because of pregnancy or confinement as the date on which a period of entitlement to statutory sick pay shall end or not arise.

Regulation 14 amends regulation 17 to include references to certain sums payable by way of statutory adoption and statutory paternity pay in the expression “earnings” for the purposes of section 163(2) of the Social Security Contributions and Benefits Act 1992.

The Social Security (Maternity Allowance) Regulations are amended as follows—

Regulation 15 amends regulation 3 to delete regulation 3(2) which previously modified the Maternity Allowance Period (“MAP”) where a woman was confined more than 11 weeks before the EWC and to increase to 26 weeks the MAP for women not entitled before 11 weeks before the EWC who subsequently become entitled before being confined.

The Social Security (Maternity Allowance) (Earnings) Regulations are amended as follows—

Regulation 16 adds references to certain sums payable by way of statutory adoption pay and statutory paternity pay to the payments specified for an employed earner for the purposes of section 35A(4)(a) of the Social Security Contributions and Benefits Act 1992.

Regulation 17 amends regulation 3(a) to substitute a reference to an amount 90% of which equals the weekly rate prescribed under section 166(1)(b) of the Social Security Contributions and Benefits Act 1992.

Regulation 18 amends the provisions of regulation 4 to remove references to average payments.

Regulation 19 amends regulation 5 to specify the test period as the specified period for the purpose of establishing a woman’s average weekly earnings.

Regulation 20 amends regulation 6 to alter the averaging procedure for payments made or treated as made in the specified period.

An assessment of the costs to business of the proposals for these Regulations was made under the Employment Act 2002. Copies of this assessment are available from the House of Commons and House of Lords Libraries. Copies can be obtained by post from The Department for Trade and Industry, Employment Relations Directorate, 1 Victoria Street, London SW1H 0ET.

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Sick Pay (Miscellaneous Amendments) Regulations 2002**

£2.50

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1520 11/2002 121520 19585

ISBN 0-11-042935-4



9 780110 429359