1987 No. 163

STATUTORY MATERNITY PAY

The Maternity Pay and Maternity Allowance (Transitional) Regulations (Northern Ireland) 1987

Made	*1st April 1987*
Coming into operation—	
Regulations 1 and 4 . .	*5th April 1987*
Regulations 2 and 3 . .	*6th April 1987*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 84(1) of the Social Security (Northern Ireland) Order 1986(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Maternity Pay and Maternity Allowance (Transitional) Regulations (Northern Ireland) 1987 and shall come into operation in the case of regulations 1 and 4 on 5th April 1987 and in the case of regulations 2 and 3 on 6th April 1987.

(2) In these regulations—

"the Act" means the Social Security (Northern Ireland) Act 1975(**b**);

"the No. 1 Order" means the Industrial Relations (Northern Ireland) Order 1976(**c**);

"the No. 2 Order" means the Industrial Relations (No. 2) (Northern Ireland) Order 1976(**d**);

"the 1986 Order" means the Social Security (Northern Ireland) Order 1986;

"employee" has the same meaning as in the No. 1 Order;

"confinement" has the same meaning as in Article 51(1) of the 1986 Order;

"maternity pay" has the meaning given by Article 15(1) of the No. 2 Order, as continued in force from 6th April 1987 by regulation 2(1);

"Maternity Pay Fund" means the Fund referred to in Article 19 of the No. 2 Order, as continued in force from 6th April 1987 by regulation 2(3).

(**a**) S.I. 1986/1888 (N.I. 18)
(**b**) 1975 c. 15
(**c**) S.I. 1976/1043 (N.I. 16)
(**d**) S.I. 1976/2147 (N.I. 28)

Savings in respect of maternity pay and maternity allowance

2.—(1) In the case of a woman whose expected date of confinement—

(*a*) is before 21st June 1987, or

(*b*) is after 20th June 1987 but who is in fact confined before 6th April 1987,

Part VI of, and Schedule 4 to, the 1986 Order shall not apply to her, but, in relation to that confinement—

(i) the provisions of the No. 2 Order relating to maternity pay shall continue in force as if Article 50(3) of, and paragraph 15 of Schedule 4 to, the 1986 Order had not been enacted and notwithstanding the repeal of those provisions of the No. 2 Order by Article 83(2) of, and Schedule 10 to, the 1986 Order;

(ii) sections 22 and 23 of, and paragraph 3 of Schedule 3 to, the Act shall continue in force as if Article 50(2) of, and Part II of Schedule 4 to, the 1986 Order had not been enacted;

(iii) the provisions amended by Article 83(1) of, and paragraphs 46 and 50 of Schedule 9 to, the 1986 Order shall continue in force as if those paragraphs had not been enacted; and

(iv) the words "or a maternity allowance" in paragraph 8(3) of Schedule 3 to the Act(**a**) shall continue in force.

(2) In the case of a woman to whom paragraph (1)(*b*) applies, the week in which she is confined shall be treated for the purposes of the provisions of the No. 2 Order relating to maternity pay as the expected week of confinement.

(3) Notwithstanding their repeal by Article 83(2) of, and Schedule 10 to, the 1986 Order and without prejudice to the generality of paragraph (1), the provisions of—

(*a*) the Act;

(*b*) the No. 2 Order; and

(*c*) Article 14 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(**b**),

in so far as they relate to the Maternity Pay Fund shall continue in force until such time as that Fund ceases to exist in accordance with Article 50(3) of, and paragraph 17 of Schedule 4 to, the 1986 Order.

(4) Notwithstanding the repeal of any statutory provision relating to maternity pay or the Maternity Pay Fund by the 1986 Order and without prejudice to the generality of paragraphs (1) to (3), industrial tribunals may continue to exercise jurisdiction conferred upon them by the No. 1 and No. 2 Orders with respect to matters arising out of or in connection with any of the said statutory provisions, including any such statutory provision continued in force by these regulations.

(5) Where in accordance with this regulation any provision of the No. 2 Order relating to maternity pay or the Maternity Pay Fund is continued in force after 5th April 1987, paragraphs 48 and 49 of Schedule 9 to the 1986

(**a**) Paragraph 8(3) was substituted by paragraph 10 of Schedule 3 to the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5))

(**b**) S.I. 1977/610 (N.I. 11)

Order, and Article 83(1) in so far as it relates to them, shall, for the purposes for which and for so long as that provision of the No. 2 Order is continued in force, be treated as not having been enacted.

(6) This regulation in so far as it relates to maternity pay and the Maternity Pay Fund shall have effect in relation to Crown employees as it has effect in relation to other employees and for this purpose Crown employment has the same meaning as in Article 62 of the No. 2 Order.

Meaning of "week"

3. Notwithstanding Article 51(1) of the 1986 Order, the 6 days commencing from and including 6th April 1987 shall be treated as a week for the purposes of calculating—

(*a*) the maternity pay period under Article 48 of the 1986 Order, and

(*b*) the maternity allowance period under section 22(2) of the Act(**a**).

Women not entitled to maternity pay

4. A woman for whom 5th April 1987 is the commencement of the 11th week before the expected week of confinement shall not be entitled to maternity pay except where she is in fact confined before 6th April 1987 and satisfies the conditions of entitlement to maternity pay specified in the No. 2 Order.

Sealed with the Official Seal of the Department of Health and Social Services on 1st April 1987.

(L.S.) *A. N. Burns*
Assistant Secretary

(a) Section 22 was substituted, with effect from 6th April 1987, by paragraph 13 of Schedule 4 to the Social Security (Northern Ireland) Order 1986

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

The regulations, which come into operation on 5th and 6th April 1987, contain consequential and transitional provisions and savings made in connection with the coming into operation of provisions in Part VI of, and Schedule 4 to, the Social Security (Northern Ireland) Order 1986 (''the 1986 Order'') relating to statutory maternity pay and maternity allowance.

Regulation 2 provides that where a woman's expected date of confinement is before 21st June 1987 or after 20th June 1987 if she is confined before 6th April 1987, Part VI of, and Schedule 4 to, the 1986 Order shall not apply to her. Instead provisions in the Industrial Relations (No. 2) (Northern Ireland) Order 1976 relating to maternity pay and in sections 22 and 23 of the Social Security (Northern Ireland) Act 1975 relating to maternity allowance shall continue to apply.

Regulation 3 provides for the 6 days commencing 6th April 1987 to be treated as a week for the purpose of determining entitlement to statutory maternity pay and maternity allowance.

Regulation 4 provides that where Sunday, 5th April 1987 is the beginning of the 11th week before the expected week of confinement, a woman is not entitled to maternity pay.