STATUTORY INSTRUMENTS

2014 No. 884

SOCIAL SECURITY

The Social Security (Maternity Allowance) (Miscellaneous Amendments) Regulations 2014

Made - - - -	*1st April 2014*
Laid before Parliament	*2nd April 2014*
Coming into force - -	*18th May 2014*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 42(1) of, and paragraph 4(1)(b) of Schedule 1 to, the Child Support Act 1991(**a**), sections 35(3), 35B(11) and 175(1), (3), (4) and (5) of the Social Security Contributions and Benefits Act 1992(**b**), sections 1(2C) and 6(4) of, and paragraph 3 of Schedule 1 to, the Jobseekers Act 1995(**c**), paragraph 1(a) of Schedule 2 to the Welfare Reform Act 2007(**d**) and sections 12, 96 and 97 of, and paragraphs 2 and 4(1)(b) of Schedule 1 to, the Welfare Reform Act 2012(**e**).

This instrument contains only regulations made by virtue of, or consequential upon, section 35B of the Social Security Contributions and Benefits Act 1992 and is made before the end of the period of 6 months beginning with the coming into force of that section(**f**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Maternity Allowance) (Miscellaneous Amendments) Regulations 2014 and come into force on 18th May 2014.

The Social Security (Maternity Allowance) Regulations 1987

2.—(1) The Social Security (Maternity Allowance) Regulations 1987(**g**) are amended as follows.

(2) In regulation 1(2) (citation, interpretation and commencement), at the end add—

""the 1992 Act" means the Social Security Contributions and Benefits Act 1992.".

(3) For regulation 2 (disqualification for the receipt of a maternity allowance), substitute—

(**a**) 1991 c. 48. Schedule 1 was substituted by section 1(3) of the Child Support, Pensions and Social Security Act 2000 (c. 19).
(**b**) 1992 c. 4. Section 35(3)(a) was amended by section 11(1) of, and paragraph 6 of Schedule 1 to, the Work and Families Act 2006 (c. 18) and section 35B was inserted by S.I. 2014/[ ]. See section 122(1) for the definition of "prescribe".
(**c**) 1995 c. 18. Section 1(2C) was inserted by section 59 of, and Schedule 7 to, the Welfare Reform and Pensions Act 1999 (c. 30) and repealed for certain purposes by section 147 of, and Part I of Schedule 14 to, the Welfare Reform Act 2012 (c. 5). Section 6 was substituted by section 49(1) and (3) of the Welfare Reform Act 2012.
(**d**) 2007 c. 5.
(**e**) 2012 c. 5.
(**f**) See section 173(5)(b) of the Social Security Administration Act 1992 (c. 5).
(**g**) S.I. 1987/416; amended by S.I. 1994/1367, 1997/793, 2002/2690 and 2006/2379.

"**2.**—(1) A woman shall be disqualified for receiving a maternity allowance under section 35 of the 1992 Act if during the maternity allowance period she does any work in employment as an employed or self-employed earner, for more than 10 days, whether consecutive or not, falling within that period.

(2) The disqualification referred to in paragraph (1) shall be for such part of the maternity allowance period as may, in the opinion of the Secretary of State, be reasonable in the circumstances, provided that the disqualification shall, in any event, be for at least the number of days on which she so worked in excess of 10 days.

(3) A woman shall be disqualified for receiving a maternity allowance under section 35B of the 1992 Act if during the maternity allowance period—

(a) she works with S (as defined in subsection (1)(b) of that section); or

(b) she does any work in employment as an employed or self-employed earner.

(4) The disqualification referred to in paragraph (3) shall be for such part of the maternity allowance period as may, in the opinion of the Secretary of State, be reasonable in the circumstances and in any event shall be for at least the number of days she so worked.

(5) A woman shall be disqualified for receiving a maternity allowance under section 35 or 35B of the 1992 Act if during the maternity allowance period she fails without good cause to take due care of her health or to answer reasonable enquiries (not being enquiries relating to medical examination, treatment or advice) by the Secretary of State or his officers directed to ascertaining whether she is doing so.

(6) The disqualification referred to in paragraph (5) shall be for such part of the maternity allowance period as may, in the opinion of the Secretary of State, be reasonable in the circumstances.

(7) A woman shall be disqualified for receiving maternity allowance under section 35 or 35B of the 1992 Act if at any time before she is confined she fails without good cause to attend for or to submit herself to any medical examination for which she was given at least 3 days notice in writing by or on behalf of the Secretary of State.

(8) The disqualification referred to in paragraph (7) shall be for such part of the maternity allowance period (being a part beginning not earlier than the day on which the failure occurs) as may, in the opinion of the Secretary of State, be reasonable in the circumstances, except that in the event of her being confined after such failure the woman shall not by reason of such failure be so disqualified for the day on which the confinement occurs or any day thereafter.".

(4) In regulation 3 (modification of the maternity allowance period)—

(a) in paragraph (1), for "the following provisions of this regulation", substitute "paragraph (2A)";

(b) at the end, add—

"(2B) The provisions of section 35B of the 1992 Act which relate to the maternity allowance period shall, in relation to a woman who–

(a) is not entitled to maternity allowance at the 11th week before the expected week of confinement;

(b) subsequently becomes entitled to maternity allowance before being confined; and

(c) has ceased to work with S,

be modified in accordance with paragraph (2C).

(2C) The maternity allowance period shall be a period of 14 weeks commencing—

(a) on the day after she ceases work, or, if later, the day she becomes entitled to maternity allowance; and

(b) no later than the day following the day on which she is confined.".

The Child Support (Maintenance Assessments and Special Cases) Regulations 1992, the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 and the Child Support Maintenance Calculation Regulations 2012

3.—(1) In paragraph (a)(iv) of Schedule 4 (payments and awards specified for the purposes of regulation 26(1)(b)(i)) to the Child Support (Maintenance Assessments and Special Cases) Regulations 1992))(**a**), after "section 35" insert "or 35B".

(2) In regulation 4(1)(a)(vii) (flat rate) of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000(**b**), after "section 35" insert "or 35B".

(3) In regulation 44(1)(a)(vii) (flat rate) of the Child Support Maintenance Calculation Regulations 2012(**c**), after "section 35" insert "or 35B".

The Jobseeker's Allowance Regulations 1996

4.—(1) The Jobseeker's Allowance Regulations 1996(**d**) are amended as follows.

(2) In regulation 3E(2)(h) (entitlement of a member of a joint-claim couple to a jobseeker's allowance without a claim being made jointly by the couple)(**e**), after "section 35" insert "or 35B".

(3) For regulation 15(1)(c) (circumstances in which a person is not to be regarded as available)(**f**), substitute—

> "(c) if she is in receipt of maternity allowance under section 35 or 35B of the Benefits Act or maternity pay in accordance with sections 164-171 of that Act .".

(4) In regulation 48(2)(c) (linking periods), after "section 35" insert "or 35B".

The Employment and Support Allowance Regulations 2008

5.—(1) The Employment and Support Allowance Regulations 2008(**g**) are amended as follows.

(2) In regulation 2(1) (interpretation), omit the definition of "maternity allowance period".

(3) In regulation 20(1)(e) (certain claimants to be treated as having limited capability for work)—

(a) in paragraph (i), omit "section 35(2) of"; and

(b) in paragraph (ii), after "section 35(1)" insert "or 35B(1)".

The Universal Credit Regulations 2013, the Jobseeker's Allowance Regulations 2013 and the Employment and Support Allowance Regulations 2013

6.—(1) In regulation 2 (interpretation) of the Universal Credit Regulations 2013(**h**), in the definition of "maternity allowance", after "section 35" insert "or 35B".

(2) In regulation 39(2)(d) (linking periods) of the Jobseeker's Allowance Regulations 2013(**i**), after "section 35" insert "or 35B".

(3) In regulation 16(1)(e) (certain claimants to be treated as having limited capability for work) of the Employment and Support Allowance Regulations 2013(**j**)—

(a) in paragraph (i), omit "section 35(2) of"; and

(b) in paragraph (ii), after "section 35(1)" insert "or 35B(1)".

(**a**) S.I. 1992/1815. Partially revoked by S.I. 2001/155 and further revoked by S.I. 2012/2785, subject to saving provisions.
(**b**) S.I. 2001/155. Revoked by S.I. 2012/2785, subject to saving provisions.
(**c**) S.I. 2012/2677.
(**d**) S.I. 1996/207.
(**e**) Inserted by S.I. 2000/1978.
(**f**) Amended by S.I. 2008/1826.
(**g**) S.I. 2008/794; to which there are amendments not relevant to these Regulations.
(**h**) S.I. 2013/376 to which there are amendments not relevant to these Regulations.
(**i**) S.I. 2013/378.
(**j**) S.I. 2013/379.

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

Steve Webb
Minister of State
1st April 2014 Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2(5) of the Social Security (Maternity Allowance) (Participating Wife or Civil Partner of Self-employed Earner) Regulations 2014 (S.I. 2014/[ ]) inserted new section 35B (state maternity allowance for participating wife or civil partner of self-employed earner) into the Social Security Contributions and Benefits Act 1992 (c. 4) ("the 1992 Act"). Section 35B provides an entitlement to maternity allowance for women who work with a spouse or civil partner who is engaged in self-employment. This implements Article 8 of Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity (OJ No. L 180, 15.7.2010, p. 1) in respect of the women referred to in Article 2(b) of the Directive. Section 35 (state maternity allowance) of the 1992 Act provides for the payment of maternity allowance to women who are employed or self-employed earners.

Regulation 2(3) of these Regulations amends the Social Security (Maternity Allowance) Regulations 1987 by substituting a new regulation 2 (disqualification for the receipt of a maternity allowance) in order to provide for disqualification from maternity allowance under section 35B.

Regulation 2(4) modifies the maternity allowance period for the purposes of maternity allowance under section 35B.

Regulations 3 to 6 of these Regulations make minor amendments to take account of the introduction of maternity allowance under section 35B.

A full impact assessment has not been published for this instrument as it has no impact on the private sector or civil society organisations.

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