

**2006 No. 2379**

**SOCIAL SECURITY**

**TERMS AND CONDITIONS OF  
EMPLOYMENT**

**The Statutory Maternity Pay, Social Security  
(Maternity Allowance) and Social Security  
(Overlapping Benefits) (Amendment) Regulations  
2006**

*Made - - - - 4th September 2006*  
*Laid before Parliament 8th September 2006*  
*Coming into force in accordance with regulation 1(2)*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred upon him by sections 35(3)(a)(i) and (c), 165(1), (3), (4) and (7) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(a) and sections 5(1)(1)(b), 73(1)(a) and 189(1), (3) and (4) of the Social Security Administration Act 1992(c).

This instrument contains only regulations made by virtue of, or consequential upon, the coming into force of the Work and Families Act 2006(d) or, in the case of regulation 2, by virtue of, or consequential upon the coming into force of section 67 of the Social Security Act 1998(e) and is made before the end of the period of 6 months beginning with the coming into force of those enactments(f).

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- (a) 1992 (c. 4); section 35(3)(a)(i) was substituted by the Work and Families Act 2006 (c. 18), Schedule 1, paragraph 6; section 35(3)(c) was added by S.I.1994/1230, regulation 2(3) and amended by the Employment Act 2002 (c. 22), Schedule 7, paragraph 4(3); section 165(1) was amended by the Work and Families Act 2006 section 1; section 165(3) was substituted by the Work and Families Act 2006, Schedule 1, paragraph 7(2); section 165(4) was amended by the Work and Families Act 2006, Schedule 1, paragraph 7(3); section 165(7) was amended by S.I. 1994/1230, regulation 3(3); section 175(1) was amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Schedule 3, paragraph 29.
- (b) Section 5(1)(1) applies as if statutory maternity pay was a benefit by virtue of section 5(5) of the Social Security Administration Act 1992.
- (c) 1992 c. 5; section 73(1) was amended by the Jobseekers Act 1995 (c. 18), Schedule 2, paragraph 49(2); section 189(1) was amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999, Schedule 3, paragraph 57(2); section 189(1) and (4) was amended by the Social Security Act 1998 (c. 14), Schedule 7, paragraph 109.
- (d) 2006 c. 18.
- (e) 1998 c. 14; section 67 is brought into force by S.I. 2376 (C. 82) with effect from 1st October 2006 for women whose expected week of confinement falls on or after 1st April 2007.
- (f) See section 173(5) of the Social Security Administration Act 1992.

**Citation, application, commencement and interpretation**

1.—(1) These Regulations may be cited as the Statutory Maternity Pay, Social Security (Maternity Allowance) and Social Security (Overlapping Benefits) (Amendment) Regulations 2006.

(2) These Regulations shall apply to women whose expected week of confinement falls on or after 1st April 2007 and shall come into force on 1st October 2006.

(3) In these Regulations—

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

“the Overlapping Benefits Regulations” means the Social Security (Overlapping Benefits) Regulations 1979(b);

“the Statutory Maternity Pay Regulations” means the Statutory Maternity Pay (General) Regulations 1986(c).

[Regulation 2 amends regulation 14 of S.I. 1979/597]

[Regulation 3 amends regulations 2, 9 and 28 of S.I. 1986/1960]

[Regulation 4 amends regulations 2 and 3 of S.I. 1987/416]

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

4th September 2006

*Philip A Hunt*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

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(a) S.I. 1987/416; relevant amending instruments are S.I. 1994/1367 and S.I. 2002/2690.

(b) S.I. 1979/597; relevant amending instruments are S.I. 1995/829 and S.I. 1996/1345.

(c) S.I. 1986/1960; relevant amending instruments are S.I. 1994/1367 and S.I. 2002/2690.

## EXPLANATORY NOTE

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

These Regulations amend the Social Security (Overlapping Benefits) Regulations 1979 (S.I.1979/597) (“the Overlapping Benefits Regulations”), the Statutory Maternity Pay (General) Regulations 1986 (S.I.1986/1960) (“the Statutory Maternity Pay Regulations”) and the Social Security (Maternity Allowance) Regulations 1987 (S.I.1987/416) (“the Maternity Allowance Regulations”).

Regulation 2 amends the Overlapping Benefits Regulations by substituting a new regulation 14(1) to provide for adjustments of all benefits at a rate of one-seventh of the appropriate weekly rate for each day of the week.

Regulation 3(2) substitutes a new regulation 2 of the Statutory Maternity Pay Regulations, the effect of which is as follows—

New regulation 2(1) provides that a woman’s maternity pay period will begin in accordance with a notice to her employer stating the day she expects his liability to pay her Statutory Maternity Pay (“SMP”) to begin, if that day is 11 weeks or less before her expected week of confinement (“EWC”) and not later than the day after she gives birth.

New regulation 2(2) establishes that the maternity pay period is 39 consecutive weeks.

New regulation 2(3) provides that a woman’s maternity pay period will begin the day after she gives birth if that day is before the 11th week before her EWC or, if it is after the 12th week before her EWC, and she gives birth before the day specified in a notice to her employer stating the day she expects his liability to pay her SMP to begin.

New regulation 2(4) provides that a woman’s maternity pay period will begin the day after her absence from work where she is absent because of pregnancy or confinement on a day four weeks or less before her EWC and before her actual confinement (if earlier).

New regulation 2(5) provides that a woman’s maternity pay period will begin the day after she leaves her employment where she leaves 11 weeks or less before her EWC, before the start of the maternity pay period and before her actual confinement (if earlier).

Regulation 3(3) inserts a new regulation 9A in the Statutory Maternity Pay Regulations to provide that SMP shall be paid where a woman works for her employer for not more than 10 days within her maternity pay period.

Regulation 3(4) substitutes a new regulation 28 of the Statutory Maternity Pay Regulations to allow payments of SMP for a week or part of a week to be rounded up to the next penny.

Regulation 4(2) amends the Maternity Allowance Regulations by substituting a new regulation 2(1)(a) to provide that a woman will be subject to disqualification from maternity allowance if she works as an employed or self-employed earner for more than 10 days in the maternity allowance period.

Regulation 4(3) amends regulation 3(2A) of the Maternity Allowance Regulations to extend the maternity allowance period to 39 weeks and to allow the maternity allowance period to commence no earlier than the day a woman becomes entitled to maternity allowance and no later than the day after which she is confined in specified circumstances.

An assessment of the cost to business, charities and the voluntary sector of the provisions in these Regulations is included in the regulatory impact assessment that accompanied the Work and Families Act 2006. A copy of that assessment has been placed in the library of both Houses of Parliament. Copies may be obtained from the Department for Work and Pensions, Workplace Health Division, 1-11 John Adam Street, London WC2 6HT or from the Department of Trade and Industry website: [www.dti.gov.uk/employment/workandfamilies](http://www.dti.gov.uk/employment/workandfamilies)