

1986 No. 83

STATUTORY SICK PAY**The Statutory Sick Pay (General) (Amendment) Regulations
(Northern Ireland) 1986***Made* 28th March 1986*Coming into operation* 6th April 1986

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 4 (3A), 5(4A) and (5), 7(5), 19(4), 20 and 22 of the Social Security (Northern Ireland) Order 1982(a) and Article 1(8) of the Social Security (Northern Ireland) Order 1985(b) 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 Statutory Sick Pay (General) (Amendment) Regulations (Northern Ireland) 1986 and shall come into operation on 6th April 1986.

(2) In these regulations “the principal regulations” means the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(c).

Linking periods of incapacity for work

2.—(1) After regulation 2 of the principal regulations there shall be inserted the following regulation—

“Linking periods of incapacity for work

2A. In Article 4(3), 8 weeks shall be substituted for two weeks.”.

(2) Paragraph (1) shall be disregarded for the purpose of determining whether two periods of incapacity for work shall be treated as a single period of incapacity for work if one of those periods ended before 6th April 1986.

Period of entitlement ending

3. In regulation 3 of the principal regulations, after paragraph (2) there shall be inserted the following paragraph—

“(3) A period of entitlement as between an employee and his employer shall end after 3 years if it has not otherwise ended in accordance with Article 5(2) or with regulations (other than this paragraph) made under Article 5(5).”.

Maximum entitlement to statutory sick pay in a period of entitlement

4. After regulation 3 of the principal regulations there shall be inserted the following regulation—

“Maximum entitlement to statutory sick pay in a period of entitlement

3A.—(1) For the purpose of determining whether an employee’s maximum entitlement to statutory sick pay has been reached in a period of entitlement as

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- (a) S.I. 1982/1084 (N.I. 16); Articles 4(3A) and 5(4A) were inserted by, and Article 7(5) was amended by, Article 18 of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)) and Article 22 was amended by paragraph 30 of Schedule 5 to that Order
 (b) S.I. 1985/1209 (N.I. 16)
 (c) S.R. 1982 No. 263; the relevant amending regulations are S.R. 1984 No. 91

between him and an employer of his, days falling within a previous period of entitlement as between the employee and any person who is or has in the past been an employer of his are, subject to paragraph (3), to be counted in the circumstances specified in paragraph (2).

(2) The circumstances specified for the purpose of paragraph (1) are—

(a) the period of entitlement as between the employee and his employer arose not more than 8 weeks after the last day in respect of which a person who is or has in the past been an employer of his was liable to make to him a payment of statutory sick pay; and either

(b) the employee has provided his employer with a statement issued in accordance with regulation 15A by a previous employer of his—

(i) on or before the seventh day after the first qualifying day in the period of entitlement, or

(ii) within such longer period as the employer may require, so however that where an employee shows good cause for delay in providing the statement, he may provide it later than the time specified in heads (i) and (ii) but not later than the 91st day after the first qualifying day in the period of entitlement; or

(c) the employer has himself issued such a statement to the employee.

(3) Where an employee provides his employer with more than one statement or the employer himself issued more than one statement such as is referred to in paragraph (2), the employer shall have regard to one only of those statements and if the number of weeks specified in the statements is not the same he shall have regard to the statement which specifies the greatest number of weeks.

(4) For the purposes of paragraph (2)(b) a statement enclosed in an envelope which is properly addressed and sent by prepaid post shall be deemed to have been provided on the day on which it was posted.

(5) The employer shall return the statement to the employee where—

(a) a period of entitlement does not arise as between the employee and his employer, or

(b) the employee leaves his employment with the employer within 8 weeks of its commencement, and the employer is not himself required to provide the employee with a statement in accordance with regulation 15A,

and in such cases regulation 13(2) shall not apply to him.”.

Calculation of entitlement limit

5.—(1) Regulation 6 of the principal regulations shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) the words “or tax year”, “, or, as the case may be, (4) and (5)” and “or (4)(a)(ii) or (d)(ii)” shall be omitted.

(3) In paragraph (3) for “8” there shall be substituted “28”.

(4) Paragraphs (4) and (5) are hereby revoked.

Records to be maintained by employers

6. Regulation 13 of the principal regulations shall be renumbered paragraph (1) of that regulation and at the end of that regulation there shall be inserted the following paragraphs—

“(2) Subject to the following provisions of this regulation, and to regulation 3A(5), where an employee has a period of incapacity for work in relation to his contract of service with his employer, then that employer shall retain any statement which—

- (a) was provided by the employee, and
- (b) was issued to that employee in accordance with regulation 15A by a person who was his employer.

(3) An employer who issues a statement to an employee in accordance with regulation 15A shall retain a complete copy of that statement.

(4) Where the whole of the information contained on the written statement referred to in paragraph (2) or (3) is also recorded in a form in which it can be processed by equipment operating automatically in response to instructions given for that purpose, the employer may retain that record instead of the written statement.

(5) The statement or, as the case may be, information retained by the employer in accordance with paragraphs (2) to (4) shall be retained by him for 3 years after the end of the tax year to which the information relates.”

Provision of information by employers to employees

7.—(1) Regulation 15 of the principal regulations shall be amended in accordance with the following provisions of this regulation.

(2) For sub-paragraphs (a) and (b) of paragraph (3) there shall be substituted the following sub-paragraphs—

“(a) the information mentioned in paragraph (1) is a statement informing the employee of—

- (i) the reason why the period of entitlement ended;
- (ii) the date of the first day in the period of entitlement or where the employer has taken into account days falling within a previous period of entitlement as between the employee and a person who is or was an employer of his, the date of the first day in that previous period of entitlement;
- (iii) the date of the last day in respect of which the employer is or was liable to make a payment of statutory sick pay to him;
- (iv) the number of qualifying days falling within the last week (beginning with Sunday) in the period of entitlement in which the employer is or was liable to make to him a payment of statutory sick pay; and either
- (v) where the period of entitlement ends otherwise than by virtue of Article 5(2)(b), the number of weeks (a week being 7 days beginning with Sunday) and days in respect of which the employer was liable to make a payment of statutory sick pay to him in that period of entitlement; or
- (vi) where the period of entitlement ends otherwise than by virtue of Article 5(2)(b) and where the employee provided the employer with a statement issued to him in accordance with regulation 15A by a person who is or was an employer of his, the number of weeks (a week being 7 days beginning with Sunday) and days in respect of which he and the previous employer were together liable to make a payment of statutory sick pay to him; and

(b) the statement shall be furnished not more than 7 days after the day on which the period of entitlement ended, or if earlier, on the day on which it is already required to be furnished under paragraph (4).”

(3) For sub-paragraphs (a) and (b) of paragraph (4) there shall be substituted the following sub-paragraphs—

“(a) the information mentioned in paragraph (1) is a statement informing the employee of—

- (i) the reason why the period of entitlement is expected to end;

- (ii) the date of the first day in the period of entitlement or where the employer has taken into account days of incapacity for work in a previous period of entitlement as between the employee and a person who is or was an employer of his, the date of the first day in that previous period of entitlement;
 - (iii) the date of the last day in respect of which the employer is or was expected to be liable to make a payment of statutory sick pay to him;
 - (iv) the number of qualifying days falling within the last week (beginning with Sunday) in the period of entitlement in which the employer is or was expected to be liable to make to him a payment of statutory sick pay; and either
 - (v) where the period of entitlement is expected to end otherwise than by virtue of Article 5(2)(b), the number of weeks (a week being 7 days beginning with Sunday) and days in respect of which the employer will have been liable to make a payment of statutory sick pay to him in that period of entitlement; or
 - (vi) where the period of entitlement is expected to end otherwise than by virtue of Article 5(2)(b) and where the employee provided the employer with a statement issued to him in accordance with regulation 15A by a person who is or was an employer of his, the number of weeks (a week being 7 days beginning with Sunday) and days in respect of which he and the previous employer were together liable to make a payment of statutory sick pay to him; and
- (b) the statement shall be furnished—
- (i) in a case where the period of entitlement is expected to end in accordance with Article 5(2)(b), on or before the 42nd day before the period of entitlement is expected to end, or
 - (ii) in any other case, on or before the seventh day before the period of entitlement is expected to end,
- or, if later, the seventh day after the first day on which the employer could have known that the circumstances mentioned in Article 20(3)(c) existed.”.

Statements relating to the payment of statutory sick pay

8.—(1) After regulation 15 of the principal regulations there shall be inserted the following regulation—

“Statements relating to the payment of statutory sick pay

15A.—(1) Subject to the provisions of this regulation, where—

- (a) an employee is about to leave his employment with his employer, or has been employed by him in the past,
- (b) the period of entitlement as between the employee and that employer will come or has come to an end within the period of 8 weeks ending with the day on which the employee’s contract of service with the employer concerned expires or is brought to an end, and
- (c) the employer is or was liable to make to the employee a payment of statutory sick pay in respect of a day or days falling within that period of 8 weeks,

the employer shall provide the employee with a statement in writing containing the information specified in paragraph (2) within 7 days of the employment ending.

(2) The information mentioned in paragraph (1) is—

- (a) the date of the first day of the period of entitlement;

- (b) the number of weeks (a week being 7 days beginning with Sunday) and days in respect of which the employer was liable to make a payment of statutory sick pay to the employee in that period of entitlement;
- (c) the date of the last day in respect of which the employer was liable to make to the employee a payment of statutory sick pay;
- (d) the date the statement was made by the employer; and
- (e) the full name, address and, if there is one, telephone number of the employer making the statement.

(3) For the purposes of paragraph (2)(a) and (b), the period of entitlement includes any previous period of entitlement relevant for the purposes of regulation 3A.

(4) For the purposes of this regulation, where the total number of days in the period of entitlement in respect of which the employer is or was liable to make the employee a payment in respect of statutory sick pay amounts in aggregate to less than a complete week or number of weeks, then the number of weeks shall be determined by disregarding the remainder where it is 3 days or less and if it is not by rounding them up to a week.

(5) Where a question arises under Part II as to or in connection with entitlement to statutory sick pay, a written statement or, as the case may be, a revised written statement containing the information specified in paragraph (2) shall be provided by the employer to the employee within 7 days of the question being determined.

(6) A question is determined for the purpose of paragraph (5) when the time for appealing from a decision of an adjudication officer, a social security appeal tribunal(a) or a Commissioner, as the case may be, has expired or leave to appeal has been refused.

(7) Where an employer does not have a record of an employee's place of residence and the employee does not attend his place of employment, the employer shall retain all the information contained on the statement for 3 years after the end of the tax year to which the statement relates; so however that the employer shall issue a statement to the employee if within the period in which the information is so retained he provides the employer with the postal address of his place of residence or attends in person at his former place of employment.

(8) An employer may, at the request of a person who is or was employed by him, provide a second copy of the statement if he is satisfied that the person making the request has a need for it."

(2) Paragraph (1) shall be disregarded in so far as it requires the provision of information in relation to—

- (a) any period of entitlement which ended before 6th April 1986, and
- (b) any days of incapacity for work—
 - (i) which fall within a period of incapacity for work, and
 - (ii) are followed by a day or days on which the employee is capable of work under his contract of service, and
 - (iii) one or more of the days on which the employee is capable of work falls before 6th April 1986.

Penalties

9. In regulation 22 of the principal regulations for "or 15" there shall be substituted "15 or 15A".

(a) See Article 3 of the Social Security Adjudications (Northern Ireland) Order 1983 (S.I. 1983/1524 (N.I. 17))

Sealed with the Official Seal of the Department of Health and Social Services on
28th March 1986.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations contain provisions relating to statutory sick pay ("SSP") and amend the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982 ("the principal regulations"). They correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain — the Statutory Sick Pay (General) Amendment Regulations 1986 and the Statutory Sick Pay (General) Amendment (Transitional) Regulations 1986 — 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.

Articles 4(3A) and 5(4A) of the Social Security (Northern Ireland) Order 1982 are two of the enabling provisions under which these regulations are made. They are inserted by Article 18(4) and (5) respectively of the Social Security (Northern Ireland) Order 1985 and brought into force on 6th April 1986 by Article 1(7) of that Order.

Regulation 2(1) increases from two to 8 weeks the maximum period by which two periods of incapacity for work may be separated and yet link to form a single period of incapacity for work. Regulation 2(2) provides that regulation 2(1) is to be disregarded where one of the periods of incapacity for work ended before 6th April 1986.

Regulation 3 provides for the ending at 3 years of a period of entitlement which would otherwise run for more than 3 years.

Regulation 4 provides that days of entitlement to SSP with a previous employer may count towards determining whether an employee has reached his maximum entitlement to SSP in a period of entitlement as between him and an employer of his.

Regulation 5 makes changes to regulation 6 of the principal regulations which are consequential upon Article 18 of the Social Security (Northern Ireland) Order 1985.

Regulation 6 requires an employer to retain records of any days of entitlement to SSP which an employee of his may have had while working for him or for a previous employer.

Regulation 7 makes provision as to the information which employers are required to provide to their employees, and the time within which it is to be provided.

Regulation 8(1) requires an employer to provide an employee who is leaving or has left his employment and to whom he is or was liable to make a payment of SSP for any day falling within the last 8 weeks of that employment with a statement showing details of his entitlement to SSP in the last period of entitlement. Regulation 8(2) provides that regulation 8(1) is to be disregarded in respect of any period of entitlement which ended before 6th April 1986 or any days of incapacity (within a period of incapacity) which are followed by days on which the employee is capable of work and one at least of which falls before 6th April 1986.

Regulation 9 provides a penalty for failure to comply with the requirement, set out in regulation 8(1), to provide a statement.

1986 Nos. 84, 85

These Orders have been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. Summaries are given in the List of Statutory Rules of a Local Character under the heading ROADS.

1986 No. 86

Road Races (North West 200) Order (Northern Ireland) 1986

This Order, being of a temporary character, is not printed at length in this volume.

1986 No. 87

Road Races (Lisahally Kart Race) Order (Northern Ireland) 1986

This Order, being of a temporary character, is not printed at length in this volume.