

1991 No. 138

STATUTORY SICK PAY

**The Statutory Sick Pay (Compensation of
Employers) (Consequential) Regulations
(Northern Ireland) 1991**

Made 29th March 1991

Coming into operation 6th April 1991

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 11(1), (3) and (6) of the Social Security (Northern Ireland) Order 1982(a), Article 24(3A) of the Social Security (Northern Ireland) Order 1989(b) and Article 5(3) of the Statutory Sick Pay (Northern Ireland) Order 1991(c) 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 (Compensation of Employers) (Consequential) Regulations (Northern Ireland) 1991 and shall come into operation on 6th April 1991.

(2) In these regulations—

“the Order” means the Statutory Sick Pay (Northern Ireland) Order 1991;

“the Compensation of Employers Regulations” means the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations (Northern Ireland) 1983(d);

“the Recoupment Regulations” means the Social Security (Recoupment) Regulations (Northern Ireland) 1990(e);

“small employer” has the same meaning as in the Statutory Sick Pay (Small Employers’ Relief) Regulations (Northern Ireland) 1991(f).

Amendment of the Compensation of Employers Regulations

2.—(1) The Compensation of Employers Regulations shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) after the definition of “contributions payments” there shall be added the following definition—

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- (a) S.I. 1982/1084 (N.I. 16); Article 11(1) and (3) was amended by Article 3(1) and (3) respectively of the Statutory Sick Pay (Northern Ireland) Order 1991 (S.I. 1991/765 (N.I. 9))
- (b) S.I. 1989/1342 (N.I. 13); Article 24(3A) was inserted by Article 3(5) of the Statutory Sick Pay (Northern Ireland) Order 1991
- (c) S.I. 1991/765 (N.I. 9)
- (d) S.R. 1983 No. 54; as amended by S.R. 1985 No. 257
- (e) S.R. 1990 No. 85; to which there are amendments not relevant to these regulations
- (f) S.R. 1991 No. 137

“ ‘income tax month’ means the period beginning on the 6th day of any calendar month and ending on the 5th day of the following calendar month.”

(3) In regulation 2 (deductions from contributions payments)—

(a) for the words from the beginning to “amount so paid” there shall be substituted “(1) An employer who has made one or more payments of statutory sick pay in an income tax month may recover an amount equal to the sum of the aggregate of such of those payments as qualify for small employers’ relief, and an amount equal to 80 per cent. of the aggregate of such of those payments as do not so qualify.”;

(b) after paragraph (1) there shall be added the following paragraph—

“(2) Where any calculation of the amount specified in paragraph (1) includes a fraction of a penny, that amount shall be rounded up to the next whole number of pence.”

(4) For regulation 3 (payments to employers by or on behalf of the Department) there shall be substituted the following regulation—

“3. Where a sum has been paid by way of statutory sick pay by an employer, and

(a) the employer has requested in writing the Department to repay him an amount; and

(b) the Department is satisfied that either—

(i) the total amount which the employer is or would otherwise be entitled to deduct under regulation 2 exceeds the total amount which the employer is liable to pay by way of primary and secondary Class 1 contributions in respect of earnings paid in an income tax month, or

(ii) the employer is not liable to pay any primary or secondary Class 1 contributions but would otherwise be entitled to deduct an amount under regulation 2,

the Department shall pay to the employer, in a case to which paragraph (b)(i) applies, an amount equal to the amount of the excess, and in a case to which paragraph (b)(ii) applies, an amount equal to the amount he would otherwise be entitled to deduct under regulation 2.”

(5) In regulation 4 (date when certain contributions are to be treated as paid) “or under regulation 4 of the Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations (Northern Ireland) 1985” shall be omitted.

Amendment of the Recoupment Regulations

3.—(1) Regulation 2 of the Recoupment Regulations (relevant benefits) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1)(l) after “statutory sick pay” there shall be added “, subject to paragraph (2A)”.

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

“(2A) The amount of statutory sick pay for the purposes of Article 24 of the 1989 Order(a) is, in so far as it relates to any liability an employer may have to make a payment of statutory sick pay to an employee in respect of a day of incapacity for work falling on or after 6th April 1991, 80 per cent. of the payment of statutory sick pay which the employer is liable to make.”.

Transitional provisions

4.—(1) The Compensation of Employers Regulations shall continue to have effect for the purpose of entitling an employer to recover the amount of any payment of statutory sick pay paid (whether before or after 6th April 1991) in respect of any day of incapacity for work before 6th April 1991 as if regulation 2 had not come into operation.

(2) The Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations (Northern Ireland) 1985(b) shall continue to have effect for the purposes of entitling an employer to recover the amount prescribed in regulation 3 of those regulations (determination of amount) in respect of any payment of statutory sick pay referred to in paragraph (1) as if Article 3(2) of the Order had not been made and those regulations had not been revoked.

Revocations

5. The Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations (Northern Ireland) 1985 and the Statutory Sick Pay (Additional Compensation of Employers) (Amendment) Regulations (Northern Ireland) 1988(c) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services on 29th March 1991.

(L.S.)

A. N. Burns

Assistant Secretary

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- (a) Article 24 was amended by paragraph 1(1) to (3) of Schedule 1 to the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)) and Article 3(5) of the Statutory Sick Pay (Northern Ireland) Order 1991 (S.I. 1991/765 (N.I. 9))
- (b) S.R. 1985 No. 257; the relevant amending regulations are S.R. 1987 No. 79, S.R. 1988 No. 96 and S.R. 1990 No. 42
- (c) S.R. 1988 No. 96

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations come into operation on 6th April 1991 and are consequential upon the coming into operation of the Statutory Sick Pay (Northern Ireland) Order 1991 ("the 1991 Order") which amends the Social Security (Northern Ireland) Order 1982 ("the 1982 Order") so as to provide that the amount of statutory sick pay recoverable by employers is reduced from 100 per cent. to 80 per cent. except where small employers' relief applies.

Regulation 2 amends the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations (Northern Ireland) 1983 so as to entitle an employer to recover this reduced amount, except where such relief applies; and that if there is any fraction of a penny in the amount so calculated, that amount shall be rounded up to the next whole number of pence.

Regulation 3 amends regulation 2 of the Social Security (Recoupment) Regulations (Northern Ireland) 1990 so as to provide that the amount of statutory sick pay recoverable from compensation payments by the Department under the provisions of the Social Security (Northern Ireland) Order 1989 ("the 1989 Order") is limited to 80 per cent. of the payment the employer is liable to make.

Regulation 4 enables an employer to recover or to be repaid, as the case may be, any payment of statutory sick pay (together with the additional compensation) paid in respect of any day of incapacity for work before 6th April 1991.

The regulations correspond to provision contained in regulations made by the Secretary of State for Social Security 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.

Article 11(1) and (3) of the 1982 Order and Article 24(3A) of the 1989 Order are some of the enabling provisions under which these regulations are made. They are amended or inserted by Article 3 of the 1991 Order and brought into operation on 6th April 1991 by virtue of Article 2 of the Statutory Sick Pay (1991 Order) (Commencement) Order (Northern Ireland) 1991 (S.R. 1991 No. 129(C. 7)). Article 5(3) of the 1991 Order is another enabling provision under which the regulations are made and was brought into operation on 27th March 1991 by virtue of Article 1(3) of that Order.