
STATUTORY RULES OF NORTHERN IRELAND

1995 No. 69

**SOCIAL SECURITY
STATUTORY SICK PAY**

**The Statutory Sick Pay Percentage
Threshold Order (Northern Ireland) 1995**

Made - - - - *7th March 1995*
Coming into force - - *6th April 1995*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 155A(1) and (2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1) and of all other powers enabling it in that behalf, hereby makes the following order:

Citation, commencement and interpretation

1.—(1) This order may be cited as the Statutory Sick Pay Percentage Threshold Order (Northern Ireland) 1995 and shall come into operation on 6th April 1995.

(2) In this order—

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992(2);

“the Contribution and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the General Regulations” means the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(3);

“adjudicating officer” means an officer appointed in accordance with section 36(1) of the Administration Act;

“Commissioner” means the Chief or any other Social Security Commissioner appointed in accordance with section 50(1) of the Administration Act and includes a Tribunal of 2 or 3 such Commissioners constituted in accordance with section 55 of that Act;

“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;

(1) 1992 c. 7; section 155A is inserted by Article 5(1) of the Statutory Sick Pay (Northern Ireland) Order 1994 (S.I.1994/766 (N.I. 5)).
(2) 1992 c. 8.
(3) S.R. 1982 No. 263; relevant amending regulations are S.R. 1984 No. 91.

“social security appeal tribunal” means a tribunal constituted under section 39 of the Administration Act.

(3) A reference in this order to a payment of statutory sick pay shall not include any such payment made in respect of a day of incapacity for work before the coming into operation of this order.

(4) The Interpretation Act (Northern Ireland) 1954(4) shall apply to this order as it applies to a Measure of the Assembly.

Right of employer to recover statutory sick pay

2.—(1) Subject to paragraph (2), an employer is entitled to recover in accordance with articles 3 and 4 the amount, if any, by which the payments of statutory sick pay made by him in any income tax month exceed 13 per cent. of the amount of his liability for contributions payments in respect of that income tax month.

(2) For the purposes of calculating the amount an employer is entitled to recover under paragraph (1), there shall be excluded any payments of statutory sick pay which was not made—

- (a) in the income tax month in which he received notice, in accordance with regulation 7 of the General Regulations (time and manner of notification of incapacity for work), of the day or days of incapacity for work to which the payment related;
- (b) in the case where it would have been impracticable to make the payment in that income tax month in view of the employer’s methods of accounting for and paying remuneration, in the following income tax month; or
- (c) in a case where a decision has been made by an adjudication officer, social security appeal tribunal or Commissioner that the employee was entitled to that payment, within the time limits set out in regulation 9 of the General Regulations (time limits for paying statutory sick pay).

Recovery by deduction from contributions payments

3.—(1) An employer may recover an amount determined in accordance with article 2 in respect of any income tax month by making one or more deductions from his contributions payments for that or any following income tax month within 6 years from the end of the tax year in which he became entitled to recover that amount, except where and insofar as—

- (a) that amount has been repaid to him by or on behalf of the Department under article 4; or
- (b) he has made a request in writing under article 4 that that amount be repaid to him, and he has not received notification by or on behalf of the Department that the request is refused.

(2) Any deduction from contributions payments made in accordance with paragraph (1) shall be disregarded for the purposes of determining whether any employer has discharged any liability of his in respect of Class 1 contributions.

Recovery from the Department

4.—(1) If the amount which an employer is or would otherwise be entitled to deduct under article 3 exceeds the amount of his contributions payments in respect of earnings paid in an income tax month, and the Department is satisfied that that is so, then provided that the employer has requested the Department in writing to do so, there shall be repaid to the employer by or on behalf of the Department such amount as the employer was unable to deduct.

(2) If an employer is not liable for any contributions payments in an income tax month but would otherwise be entitled to deduct an amount under article 3, and the Department is satisfied that that is

so, then provided the employer has in writing requested the Department to do so, that amount shall be repaid to the employer by or on behalf of the Department.

Repeals and revocations

5. Subject to the savings made by regulations under section 155A(4) of the Contributions and benefits Act—

- (a) section 154 and 155 of the Contributions and Benefits Act are hereby repealed;
- (b) the following regulations are hereby revoked—
 - (i) the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations (Northern Ireland) 1983(5);
 - (ii) the Statutory Sick Pay (Small Employers' Relief) Regulations (Northern Ireland) 1991(6).

Consequential amendments and revocations

6.—(1) In the Contributions and Benefits Act—

- (a) in section 172 (assembly, etc. control of regulations and orders)—
 - (i) in subsection (2)(a) for “, 141 or 154(2) or (3)” there shall be substituted “or 141”;
 - (ii) in subsection (2)(c)(7) “, 155(1)” shall be omitted;
 - (iii) in subsection (3)(b) “(other than section 154(2) or (3))” shall be omitted;
 - (iv) in subsection (3)(c) “or 154(2) or (3)” shall be omitted;
- (b) in paragraph 6(5) of Schedule 1 (power to combine collection of contributions with tax) for “section 154” there shall be substituted “section 155A”.

(2) In the Administration Act—

- (a) in section 15(1)(g) (adjudication by the Department)—
 - (i) after “regulations” in the first place where it appears there shall be inserted “or an order”;
 - (ii) in sub-paragraph (ii) for “regulations under section 154” there shall be substituted “an order under section 155A”;
 - (iii) in sub-paragraph (iii) at the end there shall be added “or order”;
 - (iv) in sub-paragraph (v) for “regulations under section 154(3)” there shall be substituted “an order under section 155A”;
- (b) section 131 (power to alter limit for small employer’s relief) shall cease to have effect;
- (c) in paragraph 8 of schedule 5 (regulations not requiring prior submission to Social Security Advisory Committee) “154” shall be omitted.

(3) In Schedule 1 to the Social Security (Contributions) Regulations (Northern Ireland) 1979(8) (application of Income Tax (Employments) Regulations 1973(9) to earning-related and Class 1A contributions) in regulation 2(1) (interpretation) for the definition of “Compensation of Employers Regulations” there shall be substituted the following definition—

(5) S.R. 1983 No. 54.

(6) S.R. 1991 No. 137.

(7) Section 172(2)(c) is amended by Article 5(2) of the Statutory Sick Pay (Northern Ireland) Order 1994.

(8) S.R. 1979 No. 186; relevant amending regulations are S.R. 1981 No. 30, S.R. 1987 No. 143 and S.R. 1992 No. No. 41.

(9) S.I. 1973/334; this and its subsequent amending instruments were consolidated as S.I. 1993/744

““Compensation of Employers Regulations” means the Statutory Maternity Pay (Compensation of Employers) and Miscellaneous Amendment Regulations (Northern Ireland) 1994⁽¹⁰⁾ and the Statutory Sick Pay Percentage Threshold Order (Northern Ireland) 1995;”

(4) In the Schedule to the Social Security (Miscellaneous provisions) (Amendment No. 3) Regulations (Northern Ireland) 1992⁽¹¹⁾ the reference to the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations (Northern Ireland) 1983 shall be omitted.

(5) In the Social Security (Contributions) (Amendment No. 2) Regulations (Northern Ireland) 1987⁽¹²⁾, in regulation 12(2) the definition of “Compensation of Employers Regulations” shall be omitted.

(6) The following regulations are hereby revoked—

- (a) the Statutory Sick Pay (Compensation of Employers) (Consequential) Regulations (Northern Ireland) 1991⁽¹³⁾;
- (b) the Statutory Sick Pay (Small Employers' Relief) (Amendment) Regulations (Northern Ireland) 1992⁽¹⁴⁾;
- (c) the Statutory Sick Pay (Small Employers' Relief) (Amendment) Regulations (Northern Ireland) 1994⁽¹⁵⁾;
- (d) regulation 2 of the Statutory Sick Pay (Northern Ireland) Order 1994 (Consequential) Regulations (Northern Ireland) 1994⁽¹⁶⁾.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland
on

7th March 1995.

W. G. Purdy
Assistant Secretary

⁽¹⁰⁾ S.R. 1994 No. 271, amended by S.R. 1995 No. 69.

⁽¹¹⁾ S.R. 1992 No. 453.

⁽¹²⁾ S.R. 1987 No. 143.

⁽¹³⁾ S.R. 1991 No. 138.

⁽¹⁴⁾ S.R. 1992 No. 139.

⁽¹⁵⁾ S.R. 1994 No. 76.

⁽¹⁶⁾ S.R. 1994 No. 103.

EXPLANATORY NOTE

(This note is not part of the Order)

This order makes provision for employers to recover payments of statutory sick pay in excess of 13 per cent. of their liability for Class 1 contributions payments in any income tax month.

Article 2 sets out how the amount an employer may recover is to be determined.

Article 3 provides for the amount determined under article 2 to be recovered by deduction from Class 1 contributions payments.

Article 4 provides for repayment by or on behalf of the Department of Health and Social Services to the employer where the amount he is entitled to deduct exceeds his contributions payments.

Article 5 repeals and revokes the statutory provisions which provide for recovery of statutory sick pay by small employers.

Article 6 makes amendments consequential on the repeals and revocations in article 5.