



Social Security and Housing Benefits Act 1982

1982 CHAPTER 24

PART I

STATUTORY SICK PAY

The qualifying conditions

2 Period of incapacity for work

- (1) The first condition is that the day in question forms part of a period of incapacity for work.
- (2) In this Part " period of incapacity for work " means any period of four or more consecutive days, each of which is a day of incapacity for work in relation to the contract of service in question.
- (3) Any two periods of incapacity for work which are separated by a period of not more than two weeks shall be treated as a single period of incapacity for work.
- (4) No day of the week shall be disregarded in calculating any period of consecutive days for the purposes of this section.
- (5) A day may be a day of incapacity for work in relation to a contract of service, and so form part of a period of incapacity for work, notwithstanding that—
 - (a) it falls before the making of the contract or after the contract expires or is brought to an end ; or
 - (b) it is not a day on which the employee concerned would be required by that contract to be available for work.

3 Period of entitlement

- (1) The second condition is that the day in question falls within a period which is, as between the employee and his employer, a period of entitlement.
- (2) For the purposes of this Part a period of entitlement as between an employee and his employer, is a period beginning with the commencement of a period of incapacity for work and ending with whichever of the following first occurs—
 - (a) the termination of that period of incapacity for work;
 - (b) the day on which the employee reaches, as against the employer concerned, his maximum entitlement to statutory sick pay (determined in accordance with section 5 of this Act);
 - (c) the day on which the employee's contract of service with the employer concerned expires or is brought to an end;
 - (d) in the case of an employee who is, or has been, pregnant, the day immediately preceding the beginning of the disqualifying period.
- (3) Schedule 1 to this Act has effect for the purpose of specifying circumstances in which a period of entitlement does not arise in relation to a particular period of incapacity for work.
- (4) A period of entitlement as between an employee and an employer of his may also be, or form part of, a period of entitlement as between him and another employer of his.
- (5) Regulations may provide, in relation to prescribed cases, for a period of entitlement to end otherwise than in accordance with subsection (2) above.
- (6) In a case where the employee's contract of service first takes effect on a day which falls within a period of incapacity for work, the period of entitlement begins with that day.
- (7) Regulations shall make provision as to an employer's liability under this Part to pay statutory sick pay to an employee in any case where the employer's contract of service with that employee has been brought to an end by the employer solely, or mainly, for the purpose of avoiding liability for statutory sick pay.
- (8) Subsection (2)(d) above does not apply in relation to an employee who has been pregnant if her pregnancy terminated, before the beginning of the disqualifying period, otherwise than by confinement.
- (9) In this section—
 - "confinement" has the same meaning as in section 23 of the principal Act;
 - "disqualifying period" means the period of eighteen weeks beginning with the eleventh week before the expected week of confinement; and
 - "expected week of confinement" has the same meaning as in section 22 of the principal Act.

4 Qualifying days

- (1) The third condition is that the day in question is a qualifying day.
- (2) The days which are, for the purposes of this Part, to be qualifying days as between an employee and an employer of his (that is to say those days of the week on which he is required by his contract of service with that employer to be available for work or which are chosen to reflect the terms of that contract) shall be such day, or days,

as may be agreed between the employee and his employer or, failing such agreement, determined in accordance with regulations.

- (3) In any case where qualifying days are determined by agreement between an employee and his employer there shall, in each week (beginning with Sunday), be at least one qualifying day.
- (4) A day which is a qualifying day as between an employee and an employer of his may also be a qualifying day as between him and another employer of his.