



Social Security and Housing Benefits Act 1982

1982 CHAPTER 24

PART I

STATUTORY SICK PAY

1 Employer's liability

- (1) Where an employee has a day of incapacity for work in relation to his contract of service with an employer, that employer shall, if the conditions set out in sections 2 to 4 of this Act are satisfied, be liable to make to him, in accordance with the following provisions of this Part, a payment (to be known as "statutory sick pay") in respect of that day.
- (2) Any agreement shall be void to the extent that it purports—
 - (a) to exclude, limit or otherwise modify any provision of this Part; or
 - (b) to require an employee to contribute (whether directly or indirectly) towards any costs incurred by his employer under this Part.
- (3) For the purposes of this Part a day shall not be treated as a day of incapacity for work in relation to any contract of service unless on that day the employee concerned is, or is deemed in accordance with regulations to be, incapable by reason of some specific disease or bodily or mental disablement of doing work which he can reasonably be expected to do under that contract.
- (4) In any case where an employee has more than one contract of service with the same employer the provisions of this Part shall, except in such cases as may be prescribed and subject to the following provisions of this Part, have effect as if the employer were a different employer in relation to each contract of service.

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.

Limitations on entitlement, etc.

5 Limitations on entitlement

- (1) Statutory sick pay shall not be payable for the first three qualifying days in any period of entitlement.
- (2) An employee shall not be entitled, as against any one employer, to an aggregate amount of statutory sick pay in respect of any one period of entitlement, or tax year, which exceeds his maximum entitlement.
- (3) The maximum entitlement as against any one employer is reached on the day on which the amount to which the employee has become entitled by way of statutory sick pay during the period of entitlement in question or, as the case may be, the aggregate amount to which he has become so entitled during the tax year in question first reaches or passes the entitlement limit.
- (4) The entitlement limit is an amount equal to eight times the appropriate weekly rate set out in section 7 of this Act.

- (5) Regulations may make provision for calculating the entitlement limit in any case where an employee's entitlement to statutory sick pay is calculated by reference to different weekly rates in the same tax year or period of entitlement.

6 Notification of incapacity for work

- (1) Regulations shall prescribe the manner in which, and the time within which, notice of any day of incapacity for work is to be given by or on behalf of an employee to his employer.
- (2) An employer who would, apart from this section, be liable to pay an amount of statutory sick pay to an employee in respect of a qualifying day (the " day in question ") shall be entitled to withhold payment of that amount if—
- (a) the day in question is one in respect of which he has not been duly notified in accordance with regulations under subsection (1) above ; or
 - (b) he has not been so notified in respect of any of the first three qualifying days in a period of entitlement (a " waiting day ") and the day in question is the first qualifying day in that period of entitlement in respect of which the employer is not entitled to withhold payment—
 - (i) by virtue of paragraph (a) above; or
 - (ii) in respect of an earlier waiting day by virtue of this paragraph.
- (3) Where an employer withholds any amount of statutory sick pay under this section—
- (a) the period of entitlement in question shall not be affected; and
 - (b) for the purposes of calculating his maximum entitlement in accordance with section 5 of this Act, the employee shall not be taken to have become entitled to the amount so withheld.

Rate of payment, etc.

7 Rate of payment

- (1) Statutory sick pay shall be payable by an employer at the weekly rate of—
- (a) £37, in a case where the employee's normal weekly earnings under his contract of service with that employer are not less than £60 ;
 - (b) £31, in a case where those earnings are less than £60 but not less than £45 ; or
 - (c) £25, in any other case.
- (2) The amount of statutory sick pay payable by any one employer in respect of any day shall be the weekly rate applicable on that day divided by the number of days which are, in the week (beginning with Sunday) in which that day falls, qualifying days as between that employer and the employee concerned.
- (3) The Secretary of State shall in the tax year 1982-1983, and in each subsequent tax year, review the sums specified in subsection (1)(a), (b) and (c) above for the purpose of determining whether they have retained their value in relation to the general level of prices obtaining in Great Britain.
- (4) For the purposes of any such review the Secretary of State shall estimate the general level of prices in such manner as he thinks fit.

- (5) Following any such review the Secretary of State may, in the tax year in which the review is carried out, prepare and lay before Parliament the draft of an order increasing one or more of the sums by such amount as he considers appropriate.
- (6) If a draft order laid before Parliament in pursuance of this section is approved by resolution of each House, the Secretary of State shall make an order in the form of the draft.
- (7) If on a review under this section the Secretary of State concludes that the general level of prices in Great Britain has risen during the period under review, but decides—
- (a) not to prepare and lay before Parliament the draft of an order increasing one or more of the sums ; or
 - (b) to prepare, and so lay, the draft of an order which provides for no increase in any one or more of the sums, or for an increase in any of them which differs from the appropriate amount;
- he shall, unless in his opinion the amount by which that general level has risen, or, as the case may be, the amount by which an increase differs from the appropriate amount, is inconsiderable, lay before Parliament a report explaining his reasons for so deciding.
- (8) If on a review under this section the Secretary of State concludes that the general level of prices in Great Britain has not risen during the period under review but decides to prepare and lay before Parliament the draft of an order increasing one or more of the sums, he shall lay before Parliament a report explaining his reasons for so deciding.
- (9) In subsection (7) above " appropriate amount " means the amount which would, in the opinion of the Secretary of State, reflect the amount by which the general level of prices in Great Britain has risen during the period under review.
- (10) A draft order prepared under subsection (5) above shall be framed so as to bring the increases in the sums to which it relates into force on the first day of the tax year beginning after the tax year in which the order is laid before Parliament in draft; and shall make such transitional provision as the Secretary of State considers expedient in respect of periods of entitlement running at that date.

8 Regulations as to method of payment, etc.

- (1) Regulations may prescribe the manner in which statutory sick pay may, and may not, be paid.
- (2) Regulations may prescribe, in relation to any case where—
- (a) a decision has been made by an insurance officer, local tribunal or Commissioner in proceedings under this Part that an employee is entitled to an amount of statutory sick pay ; and
 - (b) the time for bringing an appeal against the decision has expired and either—
 - (i) no such appeal has been brought; or
 - (ii) such an appeal has been brought and has been finally disposed of;the time within which that amount of statutory sick pay is to be paid.
- (3) Regulations may make provision—
- (a) enabling a person to be appointed to exercise, on behalf of an employee who may be or become unable for the time being to act, any right or power which the employee may be entitled to exercise under this Part;

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- (b) authorising a person so appointed to receive and deal with, on behalf of the employee, any sum payable by way of statutory sick pay ;
 - (c) in connection with an employee's death—
 - (i) enabling proceedings on a question as to, or arising under this Part in connection with, entitlement to statutory sick pay to be begun or continued in his name;
 - (ii) authorising payment or distribution of statutory sick pay to or amongst persons claiming as his personal representatives, legatees, next of kin, or creditors (or, in any case where a deceased employed earner was illegitimate, to or amongst others); and
 - (iii) dispensing with strict proof of the title of persons so claiming ; and
 - (d) adjusting amounts payable by way of statutory sick pay so as to avoid fractional amounts or facilitate computation.
- (4) In subsection (3)(c)(ii) above " next of kin " means the persons who would take beneficially (or who, in Scotland, would be entitled to the moveable estate of the deceased) on an intestacy.

9 Recovery by employers of amounts paid by way of statutory sick pay

- (1) Regulations shall make provision—
- (a) entitling, except in prescribed circumstances, any employer who has made a payment of statutory sick pay to recover the amount so paid by making one or more deductions from his contributions payments ; and
 - (b) for the payment, in prescribed circumstances, by or on behalf of the Secretary of State of sums to employers who are unable so to recover the whole, or any part, of any payments of statutory sick pay which they have made.
- (2) In subsection (1)(a) above, "contributions payments", in relation to an employer, means any payments (other than payments arising under the National Insurance Surcharge Act 1976) which the employer is required, by or under any enactment, to make in discharge of any liability in respect of primary or secondary Class 1 contributions.
- (3) Regulations under this section may, in particular.—
- (a) require employers who have made payments of statutory sick pay to furnish to the Secretary of State such documents and information, at such times, as may be prescribed ; and
 - (b) provide for any deduction made in accordance with the regulations to be disregarded for prescribed purposes.
- (4) The power to make regulations conferred by paragraph 5 of Schedule 1 to the principal Act (power to combine collection of contributions with collection of income tax) shall include power to make such provision as the Secretary of State considers expedient in consequence of any provision made by or under this section.
- (5) Provision made in regulations under paragraph 5 of Schedule 1, by virtue of subsection (4) above, may in particular require the inclusion—
- (a) in returns, certificates and other documents ; or
 - (b) in any other form of record ;

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which the regulations require to be kept or produced or to which those regulations otherwise apply, of such particulars relating to statutory sick pay as may be prescribed by those regulations.

- (6) Where, in accordance with any provision of regulations made under this section, an amount has been deducted from an employer's contributions payments, the amount so deducted shall (except in such cases as may be prescribed) be treated for the purposes of any provision made by or under any enactment in relation to primary or secondary Class 1 contributions as having been—
- (a) paid (on such date as may be determined in accordance with the regulations); and
 - (b) received by the Secretary of State ;
- towards discharging the liability mentioned in subsection (2) above.
- (7) Any sums paid under regulations made by virtue of subsection (1)(b) above shall be paid out of the National Insurance Fund.
- (8) Any employer who, in purporting to comply with any requirement imposed by regulations under this section—
- (a) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular ; or
 - (b) recklessly produces or furnishes any document or in formation which is false in a material particular ;
- shall be guilty of an offence.
- (9) A person guilty of an offence under subsection (8) above shall be liable, on summary conviction—
- (a) in the case of an offence under paragraph (a), to a fine not exceeding £1,000 or to imprisonment for a term of not more than three months or to both; or
 - (b) in the case of an offence under paragraph (b), to a fine not exceeding £500.
- (10) Subsections (8) and (9) above shall apply, in place of the provision made by section 98(2) of the Taxes Management Act 1970 (penalties for providing false information etc.) as applied by paragraph 5(2) of Schedule 1 to the principal Act, in relation to such requirements of the regulations made under paragraph 5 of Schedule 1 by virtue of subsection (4) above as may be specified in those regulations.

Relationship with benefits and other payments, etc.

10 Relationship with benefits and other payments, etc.

Schedule 2 to this Act has effect with respect to the relationship between statutory sick pay and certain benefits and payments and for the purpose of modifying other enactments.

*Determination of questions***11 Determination of questions by Secretary of State**

- (1) Any question arising under any provision of this Part, or of regulations under this Part, as to—
- (a) whether a person is, or was, an employee or employer of another;
 - (b) whether an employer is entitled to make any deduction from his contributions payments, in accordance with regulations under section 9 of this Act;
 - (c) whether a payment falls to be made to an employer in accordance with those regulations ;
 - (d) the amount that falls to be so deducted or paid ; or
 - (e) whether two or more employers or two or more contracts of service are, by virtue of regulations made under section 26(5) of this Act, to be treated as one;
- shall be determined by the Secretary of State on a reference to him under this section made in accordance with regulations.
- (2) Regulations under subsection (1) above may, in particular—
- (a) provide for questions to be referred to the Secretary of State under this section only by prescribed persons or classes of person ; and
 - (b) make provision as to the manner in which, and time within which, references are to be made.
- (3) The Secretary of State may, if he thinks fit, before determining any question under this section, appoint a person to hold an inquiry into, and to report on, the question or any matter arising in connection with it.
- (4) A question of law arising in connection with the determination by the Secretary of State of any question under this section may, if he thinks fit, be referred for decision to the appropriate court, that is to say the High Court or, in Scotland, the Court of Session.
- (5) Any person aggrieved by the decision of the Secretary of State on any such question of law which is not so referred may appeal from that decision to the appropriate court.
- (6) If the Secretary of State determines to refer any question of law to the appropriate court, he shall give notice in writing of his intention to do so to any person appearing to him to be concerned with that question.
- (7) On any such reference or appeal—
- (a) the Secretary of State shall be entitled to appear and be heard;
 - (b) the court may order him to pay the costs (in Scotland, the expenses) of any other person, whether or not the decision is in that other person's favour and whether or not the Secretary of State has appeared on the reference or appeal;
 - (c) the decision of the court shall be final.
- (8) Rules of court may include provision for regulating references and appeals under this section and for limiting the time within which such appeals may be brought.

12 Determination by insurance officer or local tribunal

- (1) Any question arising under any provision of this Part, or of regulations under this Part, as to, or in connection with, entitlement to statutory sick pay shall, unless it is for determination—

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- (a) by the Secretary of State under section 11 of this Act; or
 - (b) by a local tribunal on a reference under subsection (2) or (4) below;be determined by an insurance officer on a reference to him under this subsection.
- (2) Regulations may prescribe cases in which any such question is to be determined by a local tribunal on a reference to the tribunal under this subsection.
- (3) An insurance officer to whom a question is referred under subsection (1) above shall, so far as is practicable, dispose of it within fourteen days of the making of the reference.
- (4) An insurance officer may, instead of determining a question referred to him under subsection (1) above, refer it to a local tribunal.
- (5) Any reference under this section shall be made in accordance with regulations.
- (6) Regulations under subsection (5) above may, in particular—
 - (a) provide for questions to be referred under this section only by the Secretary of State or prescribed persons or classes of person ; and
 - (b) make provision as to the manner in which, and time within which, references are to be made.
- (7) Where an insurance officer refers a question to a local tribunal under subsection (4) above, notice of the reference shall be given in writing by the Secretary of State to those appearing to him to be concerned with the question.
- (8) Where an insurance officer determines a question referred to him under subsection (1) above, notice—
 - (a) of the insurance officer's decision and of the reasons for it; and
 - (b) of the right of appeal given by section 13(1) of this Act;shall be given in writing by the Secretary of State to those appearing to him to be concerned with the question.

13 Appeals

- (1) Where an insurance officer has determined a question referred to him under section 12(1) of this Act any person aggrieved by his decision may appeal to a local tribunal; but where—
 - (a) there has arisen a question for determination by the Secretary of State under section 11 of this Act;
 - (b) that question has been determined ; and
 - (c) the insurance officer certifies that the decision on that question is the sole ground of his decision ;no appeal lies under this section without leave of the chairman of the local tribunal.
- (2) Where a local tribunal has taken any decision in respect of a question referred to it under section 12(2) or (4) of this Act or on an appeal brought under subsection (1) above, an insurance officer or any person aggrieved by the decision may, subject to section 15 of the Social Security Act 1980 (leave required for appeal from local tribunal to Commissioner), appeal to a Commissioner.
- (3) An appeal to a local tribunal under subsection (1) above shall be brought by giving notice of appeal at a local office before the expiry of the period of 28 days beginning

with the date on which notice of the insurance officer's decision was given to the appellant in accordance with section 12(8) of this Act or within such further time as the chairman of the local tribunal may for good cause allow.

- (4) An appeal to a Commissioner under subsection (2) above shall be brought by giving notice of appeal at a local office before the expiry of the period of three months beginning—
- (a) in a case where leave to appeal is required, with the date on which leave was given for the appeal; or
 - (b) in any other case, with the date on which notice of the tribunal's decision was given to the appellant;
- or within such further time as a Commissioner may for special reasons allow.
- (5) A notice of appeal under subsection (3) or (4) above shall be in writing and shall contain a statement of the grounds upon which the appeal is made; and regulations may provide for copies of the notice to be sent by the Secretary of State to prescribed persons.

14 Review of decisions

- (1) Regulations may make provision for requiring or enabling, in prescribed circumstances—
- (a) the Secretary of State to review any determination of his under this Part; and
 - (b) an insurance officer or (on a reference from an insurance officer) a local tribunal to review any other determination under this Part, whether made by an insurance officer or by a local tribunal or Commissioner ;
- and as to the consequences of any such review.
- (2) Regulations under this section may in particular provide for any decision on a review carried out in accordance with the regulations to be subject to appeal in such circumstances and in such manner as may be prescribed.

15 Determination: supplemental

- (1) If, in determining any question under this Part, it appears to an insurance officer that a question arises for determination by the Secretary of State under section 11 of this Act the insurance officer shall refer that question to the Secretary of State for determination.
- (2) An insurance officer may, in any case, postpone the reference, or determination, of any question until any other question has been determined (whether by him or by a local tribunal or Commissioner).
- (3) Subsections (1) and (2) above apply to a local tribunal and a Commissioner as they apply to an insurance officer except that a tribunal or Commissioner shall, instead of referring a question to the Secretary of State in accordance with subsection (1), direct it to be so referred by an insurance officer.
- (4) Where a question for determination under this Part (other than one for determination by the Secretary of State under section 11) first arises in the course of an appeal to a local tribunal or Commissioner, the tribunal or Commissioner may proceed to determine the question notwithstanding that it has not been considered by an insurance officer.

- (5) Regulations may make provision as to the procedure to be followed in connection with the determination of questions under this Part; and any such regulations may, in particular, make any provision of a kind mentioned in Schedule 3 to this Act.

16 Enforcement of decisions

- (1) This section applies to any case where—
- (a) a decision of an insurance officer, local tribunal or Commissioner in proceedings under this Part is that an employee is entitled to an amount of statutory sick pay; and
 - (b) the requirements of regulations made under section 8(2) of this Act (time within which statutory sick pay to be paid) have not been satisfied in respect of the whole or any part of that amount.
- (2) In a case to which this section applies—
- (a) any amount payable in pursuance of the decision shall, if the county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court;
 - (b) the decision (or a copy of the decision certified by the person who, or chairman of the tribunal which, made it) may be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (3) Regulations may, in relation to cases to which this section applies, make provision for payments to be made by the Secretary of State to employees in prescribed circumstances in connection with court fees (including sheriff officers' and messengers-at-arms' fees for doing diligence) incurred, or likely to be incurred, by those employees in seeking to enforce decisions by virtue of subsection (2) above.
- (4) The regulations may, in particular, make provision for the recovery of payments made under the regulations from persons to whom such payments are made; and any sum so recoverable may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits ("benefits" having the meaning given by the regulations).
- (5) Any payment made by the Secretary of State under the regulations shall be paid out of the National Insurance Fund, and any sums recovered by him under the regulations shall be paid into that Fund.

17 Provision of information: general

- (1) Where the Secretary of State considers that it is reasonable for information held by him to be disclosed to an employer, for the purpose of enabling that employer to determine the duration of a period of entitlement in respect of an employee, or whether such a period exists, he may disclose the information to that employer.
- (2) Any employee who claims to be entitled to statutory sick pay from his employer shall, if so required by his employer, provide such information as may reasonably be required for the purpose of determining the duration of the period of entitlement in question or whether a period of entitlement exists as between them.
- (3) Where an employee asks an employer of his to provide him with a written statement, in respect of a period before the request is made, of one or more of the following—

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- (a) the days within that period which the employer regards as days in respect of which he is liable to pay statutory sick pay to that employee ;
- (b) the reasons why the employer does not so regard the other days in that period ;
- (c) the employer's opinion as to the amount of statutory sick pay to which the employee is entitled in respect of each of those days ;

the employer shall, to the extent to which the request was reasonable, comply with it within a reasonable time.

- (4) Regulations may require employers to maintain such records in connection with statutory sick pay as may be prescribed and may provide for—
 - (a) any person claiming to be entitled to statutory sick pay; or
 - (b) any other person who is a party to proceedings arising under this Part;
 to furnish to the Secretary of State, within a prescribed period, any information required for the determination of any question arising in connection therewith.

18 Claims for sickness and other benefits: provision of information by employers

- (1) Regulations may make provision requiring an employer, in a case falling within subsection (3) below, to furnish information in connection with the making, by a person who is, or has been, an employee of that employer, of a claim for—
 - (a) sickness benefit;
 - (b) a maternity allowance ;
 - (c) an invalidity pension ;
 - (d) industrial injuries benefit; or
 - (e) a non-contributory invalidity pension.
- (2) Regulations under this section shall prescribe—
 - (a) the kind of information to be furnished in accordance with the regulations;
 - (b) the person to whom information of the prescribed kind is to be furnished ; and
 - (c) the manner in which, and period within which, it is to be furnished.
- (3) The cases are—
 - (a) where, by virtue of paragraph 2 of Schedule I to this Act or of regulations made under paragraph 1 of that Schedule, a period of entitlement does not arise in relation to a period of incapacity for work ;
 - (b) where a period of entitlement has come to an end but the period of incapacity for work which was running immediately before the period of entitlement came to an end continues ; and
 - (c) where a period of entitlement has not come to an end but, on the assumption that—
 - (i) the period of incapacity for work in question continues to run for a prescribed period; and
 - (ii) there is no material change in circumstances,
 the period of entitlement will have ended on or before the end of the prescribed period.

Inspections and offences

19 Inspections

- (1) Every appointment of an inspector under section 144 of the principal Act shall be an appointment for the purposes of this Part as well as for the purposes of the principal Act, the Family Income Supplements Act 1970, and the Supplementary Benefits Act 1976.
- (2) Accordingly, the principal Act shall have effect as if—
 - (a) in sections 144(2) to (5) and 145 references to that Act included references to this Part; and
 - (b) in section 145—
 - (i) in subsection (1)(b) the reference to benefit included a reference to statutory sick pay ;
 - (ii) in subsection (2) (b) the reference to any person who is or has been employing another included a reference to any person who is or has been an employer (within the meaning of this Part); and
 - (iii) in subsection (2)(e) the reference to any person who is or has been liable to pay contributions included a reference to any person who is or has been an employee (within the meaning of this Part).
- (3) The following provisions of sections 144 and 145 (which among other things relate to injuries and diseases and to contributions and premiums) shall not apply for the purposes of this Part—
 - (a) in section 144, subsection (2)(b)(ii) and (d) and so much of subsection (2)(c) as relates to contributions and premiums ;
 - (b) in section 145, subsection (1)(a).

20 Offences and penalties

Regulations may provide for contravention of, or failure to comply with, any provision contained in regulations made under section 8(2), 9(3)(a), 17(4) or 18 of this Act to be an offence under this Part and for the recovery, on summary conviction of any such offence, of penalties not exceeding—

- (a) for any one offence, £200 ; or
- (b) for an offence of continuing any such contravention or failure after conviction, £20 for each day on which it is so continued.

21 General provisions as to prosecutions

- (1) Proceedings in England and Wales for an offence under this Part shall not be instituted except—
 - (a) by or with the consent of the Secretary of State; or
 - (b) by an inspector or other officer authorised for that purpose by special or general directions of the Secretary of State.
- (2) An inspector or other officer so authorised may, although not of counsel or a solicitor, prosecute or conduct before a magistrates' court any proceedings for such an offence.
- (3) Notwithstanding any enactment prescribing the period within which summary proceedings may be commenced, proceedings for an offence under this Part may in

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England and Wales be commenced at any time within whichever of the following periods expires the later—

- (a) the period of three months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to his knowledge;
 - (b) the period of 12 months after the commission of the offence.
- (4) In Scotland, proceedings for an offence under this Part may be commenced at any time within whichever of the following periods expires the later—
- (a) the period of three months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a report to the Lord Advocate with a view to consideration of the question of prosecution, comes to the knowledge of the Secretary of State;
 - (b) the period of 12 months after the commission of the offence.

Section 331(3) of the Criminal Procedure (Scotland) Act 1975 (time limits) shall apply for the purposes of this subsection as it applies for the purposes of that section.

- (5) For the purposes of subsections (3) and (4) above, a certificate purporting to be signed by or on behalf of the Secretary of State as to the date on which the evidence in question came to his knowledge is conclusive evidence of the date on which it did so.
- (6) In proceedings for an offence under this Part, the wife or husband of the accused—
- (a) is competent to give evidence, whether for or against the accused;
 - (b) is not compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him by the accused during the marriage.
- (7) Where an offence under this Part which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.

Where the affairs of a body corporate are managed by its members, this subsection applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

- (8) For the purposes of section 1 of the Criminal Evidence Act 1965 (admissibility of statements contained in certain business records) as it applies in relation to proceedings for any offence under this Part "business" shall include the activities of the Secretary of State.

Miscellaneous

22 Modification of provisions of Part I

- (1) The Secretary of State may make regulations modifying provisions of this Part, in such manner as he thinks proper, in their application to any person who is, has been or is to be—
- (a) employed on board any ship, vessel, hovercraft or aircraft ;
 - (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or

- (c) in prescribed employment in connection with continental shelf operations.
- (2) Regulations under subsection (1) above may in particular provide—
 - (a) for any provision of this Part to apply to any such person, notwithstanding that it would not otherwise apply ;
 - (b) for any provision of this Part not to apply to any such person, notwithstanding that it would otherwise apply ;
 - (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Great Britain;
 - (d) for the taking of evidence, for the purposes of the determination of any question arising under this Part, in a country or territory outside Great Britain, by a British consular official or such other person as may be prescribed.
- (3) " Continental shelf operations " means the exploitation of resources mentioned in section 1(1) of the Continental Shelf Act 1964 or the exploration of the seabed and subsoil in any area designated under section 1(7) of that Act.

23 Statutory sick pay to count as remuneration for principal Act

For the purposes of section 3 of the principal Act (meaning of " earnings "), any sums paid to, or for the benefit of, a person in satisfaction (whether in whole or in part) of any entitlement of his to statutory sick pay shall be treated as remuneration derived from an employed earner's employment.

24 Payments of statutory sick pay wrongly made

- (1) Regulations may make provision for the payment to an employer, by the Secretary of State and in prescribed circumstances, of an amount calculated in accordance with the regulations in any case where—
 - (a) a payment purporting to be a payment of statutory sick pay (the " payment wrongly made ") has been made by that employer to a person (the " recipient "); and
 - (b) that employer was not liable to make that payment under this Part.
- (2) Regulations may make provision, in relation to such a case, for the recovery by the Secretary of State from the recipient, in prescribed circumstances, of an amount calculated in accordance with the regulations.
- (3) Regulations under this section may make such incidental and supplemental provision in relation to any payment made, or amount recovered, by the Secretary of State under the regulations as he considers expedient and may, in particular, provide—
 - (a) for any such payment to be treated as discharging, or in prescribed circumstances as partially discharging, any liability of the recipient to repay to the employer the payment wrongly made ;
 - (b) for any such payment to be treated, in prescribed circumstances, as a payment to the recipient of a prescribed benefit (" benefit " having the meaning given by the regulations).
- (4) In this section " employer " includes a person believing himself to be an employer of the recipient in question.

- (5) Any payment made by the Secretary of State in accordance with regulations under this section shall be paid out of the National Insurance Fund and any amount recovered by him in accordance with the regulations shall be paid by him into that Fund.

25 Disclosure of information by Inland Revenue

- (1) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to the Inland Revenue shall prevent information obtained in connection with the assessment or collection of income tax under Schedule E from being disclosed to the Secretary of State, or the Department of Health and Social Services for Northern Ireland, or to an officer of either of them authorised to receive such information, in connection with the operation of this Part or of any corresponding enactment of Northern Ireland legislation.
- (2) Subsection (1) above extends only to disclosure by or under the authority of the Inland Revenue; and information which is the subject of disclosure to any person by virtue of that subsection shall not be further disclosed to any other person, except where the further disclosure is made—
- (a) to a person to whom disclosure could by virtue of this section have been made by or under the authority of the Inland Revenue; or
 - (b) for the purposes of any proceedings (civil or criminal) in connection with the operation of this Part or of any corresponding enactment of Northern Ireland legislation.

26 Interpretation of Part I and supplementary provisions

- (1) In this Part—

" Commissioner " means a Social Security Commissioner and includes a tribunal of Commissioners constituted under section 116 of the principal Act;

" contract of service " (except in paragraph (a) of the definition below of " employee ") includes any arrangement providing for the terms of appointment of an employee ;

" employed earner's employment " has the same meaning as in die principal Act;

" employee " means a person who is—

- (a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with emoluments chargeable to income tax under Schedule E; and
- (b) over the age of 16 ;

but subject to regulations, which may provide for cases where any such person is not to be treated as an employee for the purposes of this Part and for cases where any person who would not otherwise be an employee for those purposes is to be treated as an employee for those purposes;

" employer ", in relation to an employee and a contract of service of his, means the secondary contributor (within the meaning of section 4 of the principal Act) in relation to any earnings paid, or to be paid, to or for the benefit of that employee under that contract;

" insurance officer " means an officer appointed under section 97(1) of the principal Act;

Status: This is the original version (as it was originally enacted).

" local office " means any office appointed by the Secretary of State as a local office for the purposes of this Part;

" local tribunal " means a tribunal established under section 97(2) of the principal Act;

" maternity allowance " means an allowance payable under section 22 of the principal Act;

" pensionable age " means, in the case of a man, 65 or, in the case of a woman, 60; " period of entitlement " has the meaning given by section 3 of this Act;

" period of incapacity for work " has the meaning given by section 2 of this Act;

" period of interruption of employment " has the same meaning as it has in the principal Act by virtue of section 17(1)(d);

" prescribed " means prescribed by regulations ;

" primary Class 1 contributions " and " secondary Class 1 contributions " have the same meaning as in the principal Act;

" qualifying day " has the meaning given by section 4 of this Act;

" week " means any period of seven days.

- (2) For the purposes of this Part an employee's normal weekly earnings shall, subject to subsection (4) below, be taken to be his average weekly earnings in the relevant period under his contract of service with the employer in question.
- (3) For the purposes of subsection (2) above, the expressions " earnings " and " relevant period " shall have the meaning given to them by regulations.
- (4) In such cases as may be prescribed an employee's normal weekly earnings shall be calculated in accordance with regulations.
- (5) Without prejudice to any other power to make regulations under this Part, regulations may specify cases in which, for the purposes of this Part or of such provisions of this Part as may be prescribed—
 - (a) two or more employers are to be treated as one ;
 - (b) two or more contracts of service in respect of which the same person is an employee are to be treated as one.
- (6) Regulations may provide for periods of work which begin on one day and finish on the following day to be treated, for purposes of this Part, as falling solely within one or other of those days.
- (7) In this Part any reference to Great Britain includes a reference to the territorial waters of the United Kingdom adjacent to Great Britain.

27 Crown employment

- (1) Subject to subsection (2) below, the provisions of this Part apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.
- (2) The provisions of this Part do not apply in relation to persons serving as members of Her Majesty's forces, in their capacity as such.