



# National Insurance Contributions and Statutory Payments Act 2004

## 2004 CHAPTER 3

### *Statutory sick pay and statutory maternity pay*

#### **9 Compliance regime for statutory sick pay and statutory maternity pay: Great Britain**

- (1) The Social Security Administration Act 1992 (c. 5) is amended as follows.
- (2) In section 130 (duties of employers: statutory sick pay and claims for other benefits), after subsection (4) insert—
  - “(5) Regulations made with the concurrence of the Inland Revenue may require employers to produce wages sheets and other documents and records to officers of the Inland Revenue, within a prescribed period, for the purpose of enabling them to satisfy themselves that statutory sick pay has been paid, and is being paid, in accordance with regulations under section 5 above, to employees or former employees who are entitled to it.”
- (3) In section 132 (duties of employers: statutory maternity pay and claims for other benefits), after subsection (3) insert—
  - “(4) Regulations made with the concurrence of the Inland Revenue may require employers to produce wages sheets and other documents and records to officers of the Inland Revenue, within a prescribed period, for the purpose of enabling them to satisfy themselves that statutory maternity pay has been paid, and is being paid, in accordance with regulations under section 5 above, to employees or former employees who are entitled to it.”
- (4) In section 113 (breach of regulations), in subsection (1A)(b) omit “, statutory sick pay or statutory maternity pay”.
- (5) After that section insert—

**“113A Statutory sick pay and statutory maternity pay: breach of regulations**

- (1) Where a person fails to produce any document or record, or provide any information, in accordance with—
  - (a) regulations under section 5(1)(i) and (5), so far as relating to statutory sick pay or statutory maternity pay,
  - (b) regulations under section 130 or 132, or
  - (c) regulations under section 153(5)(b) of the Contributions and Benefits Act,that person is liable to the penalties mentioned in subsection (2).
- (2) The penalties are—
  - (a) a penalty not exceeding £300, and
  - (b) if the failure continues after a penalty is imposed under paragraph (a), a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under that paragraph was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).
- (3) Where a person fails to maintain a record in accordance with regulations under section 130 or 132, he is liable to a penalty not exceeding £3,000.
- (4) No penalty may be imposed under subsection (1) at any time after the failure concerned has been remedied.
- (5) But subsection (4) does not apply to the imposition of a penalty under subsection (2)(a) in respect of a failure to produce any document or record in accordance with regulations under section 130(5) or 132(4).
- (6) Where, in the case of any employee, an employer refuses or repeatedly fails to make payments of statutory sick pay or statutory maternity pay in accordance with any regulations under section 5, the employer is liable to a penalty not exceeding £3,000.
- (7) Section 118(2) of the Taxes Management Act 1970 (extra time for compliance etc) applies for the purposes of subsections (1), (3) and (6) as it applies for the purposes of that Act.
- (8) Schedule 1 to the Employment Act 2002 (penalties relating to statutory paternity pay and statutory adoption pay: procedures and appeals) applies in relation to penalties imposed under this section (with the modifications set out in subsection (9)).
- (9) That Schedule applies as if—
  - (a) references to a penalty under section 11 or 12 of that Act were to a penalty under this section,
  - (b) in paragraph 1(2), the reference to section 11(2)(a) of that Act were to subsection (2)(a) of this section, and
  - (c) the provisions of the Taxes Management Act 1970 having effect in relation to an appeal mentioned in paragraph 3(2) of that Schedule did not include section 50(9) of that Act.

### **113B Statutory sick pay and statutory maternity pay: fraud and negligence**

- (1) Where a person fraudulently or negligently—
  - (a) makes any incorrect statement or declaration in connection with establishing entitlement to statutory sick pay or statutory maternity pay, or
  - (b) produces any incorrect document or record or provides any incorrect information of a kind mentioned in—
    - (i) regulations under section 5(1)(i) and (5), so far as relating to statutory sick pay or statutory maternity pay,
    - (ii) regulations under section 130 or 132, or
    - (iii) regulations under section 153(5)(b) of the Contributions and Benefits Act,he is liable to a penalty not exceeding £3,000.
- (2) Where an employer fraudulently or negligently makes an incorrect payment of statutory sick pay or statutory maternity pay, he is liable to a penalty not exceeding £3,000.
- (3) Where an employer fraudulently or negligently receives an overpayment in pursuance of regulations under section 167 of the Contributions and Benefits Act (statutory maternity pay: advance payments to employers), he is liable to a penalty not exceeding £3,000.
- (4) Schedule 1 to the Employment Act 2002 (penalties relating to statutory paternity pay and statutory adoption pay: procedures and appeals) applies in relation to penalties imposed under this section (with the modifications set out in subsection (5)).
- (5) That Schedule applies as if—
  - (a) references to a penalty under section 11 or 12 of that Act were to a penalty under this section, and
  - (b) the provisions of the Taxes Management Act 1970 having effect in relation to an appeal mentioned in paragraph 3(2) of that Schedule did not include section 50(9) of that Act.”

## **10 Compliance regime for statutory sick pay and statutory maternity pay: Northern Ireland**

- (1) The Social Security Administration (Northern Ireland) Act 1992 (c. 8) is amended as follows.
- (2) In section 122 (duties of employers: statutory sick pay and claims for other benefits), after subsection (4) insert—
  - “(5) Regulations made with the concurrence of the Inland Revenue may require employers to produce wages sheets and other documents and records to officers of the Inland Revenue, within a prescribed period, for the purpose of enabling them to satisfy themselves that statutory sick pay has been paid, and is being paid, in accordance with regulations under section 5 above, to employees or former employees who are entitled to it.”

- (3) In section 124 (duties of employers: statutory maternity pay and claims for other benefits), after subsection (3) insert—

“(4) Regulations made with the concurrence of the Inland Revenue may require employers to produce wages sheets and other documents and records to officers of the Inland Revenue, within a prescribed period, for the purpose of enabling them to satisfy themselves that statutory maternity pay has been paid, and is being paid, in accordance with regulations under section 5 above, to employees or former employees who are entitled to it.”

- (4) In section 107 (breach of regulations), in subsection (1A)(b) omit “, statutory sick pay or statutory maternity pay”.

- (5) After that section insert—

**“107A Statutory sick pay and statutory maternity pay: breach of regulations**

- (1) Where a person fails to produce any document or record, or provide any information, in accordance with—

- (a) regulations under section 5(1)(j) and (4), so far as relating to statutory sick pay or statutory maternity pay,
- (b) regulations under section 122 or 124, or
- (c) regulations under section 149(5)(b) of the Contributions and Benefits Act,

that person is liable to the penalties mentioned in subsection (2).

- (2) The penalties are—

- (a) a penalty not exceeding £300, and
- (b) if the failure continues after a penalty is imposed under paragraph (a), a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under that paragraph was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).

- (3) Where a person fails to maintain a record in accordance with regulations under section 122 or 124, he is liable to a penalty not exceeding £3,000.

- (4) No penalty may be imposed under subsection (1) at any time after the failure concerned has been remedied.

- (5) But subsection (4) does not apply to the imposition of a penalty under subsection (2)(a) in respect of a failure to produce any document or record in accordance with regulations under section 122(5) or 124(4).

- (6) Where, in the case of any employee, an employer refuses or repeatedly fails to make payments of statutory sick pay or statutory maternity pay in accordance with any regulations under section 5, the employer is liable to a penalty not exceeding £3,000.

- (7) Section 118(2) of the Taxes Management Act 1970 (extra time for compliance etc) applies for the purposes of subsections (1), (3) and (6) as it applies for the purposes of that Act.

- (8) Schedule 1 to the Employment (Northern Ireland) Order 2002 (penalties relating to statutory paternity pay and statutory adoption pay: procedures and appeals) applies in relation to penalties imposed under this section (with the modifications set out in subsection (9)).
- (9) That Schedule applies as if—
- (a) references to a penalty under Article 12 or 13 of that Order were to a penalty under this section,
  - (b) in paragraph 1(2), the reference to Article 12(2)(a) of that Order were to subsection (2)(a) of this section, and
  - (c) the provisions of the Taxes Management Act 1970 having effect in relation to an appeal mentioned in paragraph 3(2) of that Schedule did not include section 50(9) of that Act.

### **107B Statutory sick pay and statutory maternity pay: fraud and negligence**

- (1) Where a person fraudulently or negligently—
- (a) makes any incorrect statement or declaration in connection with establishing entitlement to statutory sick pay or statutory maternity pay, or
  - (b) produces any incorrect document or record or provides any incorrect information of a kind mentioned in—
    - (i) regulations under section 5(1)(j) and (4), so far as relating to statutory sick pay or statutory maternity pay,
    - (ii) regulations under section 122 or 124, or
    - (iii) regulations under section 149(5)(b) of the Contributions and Benefits Act,
- he is liable to a penalty not exceeding £3,000.
- (2) Where an employer fraudulently or negligently makes an incorrect payment of statutory sick pay or statutory maternity pay, he is liable to a penalty not exceeding £3,000.
- (3) Where an employer fraudulently or negligently receives an overpayment in pursuance of regulations under section 163 of the Contributions and Benefits Act (statutory maternity pay: advance payments to employers), he is liable to a penalty not exceeding £3,000.
- (4) Schedule 1 to the Employment (Northern Ireland) Order 2002 (penalties relating to statutory paternity pay and statutory adoption pay: procedures and appeals) applies in relation to penalties imposed under this section (with the modifications set out in subsection (5)).
- (5) That Schedule applies as if—
- (a) references to a penalty under Article 12 or 13 of that Order were to a penalty under this section, and
  - (b) the provisions of the Taxes Management Act 1970 having effect in relation to an appeal mentioned in paragraph 3(2) of that Schedule did not include section 50(9) of that Act.”