
STATUTORY INSTRUMENTS

1991 No. 428

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Sick Pay (Small Employers' Relief) Regulations 1991

Made - - - - *4th March 1991*

Coming into force - - *6th April 1991*

Whereas a draft of this instrument was laid before Parliament in accordance with the provisions of section 9(1F) of the Social Security and Housing Benefits Act 1982(1) and approved by a resolution of each House;

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred by sections 9(1B) and (1D), 26(1) and (5) and 47 of the Social Security and Housing Benefits Act 1982(2) and section 2(4) of the Statutory Sick Pay Act 1991(3), and of all other powers enabling him in that behalf, by this instrument, which contains only regulations made consequential upon section 2 of the Act of 1991, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Statutory Sick Pay (Small Employers' Relief) Regulations 1991 and shall come into force on 6th April 1991.

(2) In these Regulations—

“the Act” means the Social Security and Housing Benefits Act 1982;

“the day in question” means a day in respect of which an employer is liable to make a payment of statutory sick pay to an employee of his;

“the qualifying tax year” means the tax year preceding the tax year in which falls the day in question;

“the specified day” means, in relation to a particular employee, the first day of incapacity for work in a period of incapacity for work on which the entitlement threshold is exceeded;

“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) 1982 c. 24; subsection (1F) was inserted by the Statutory Sick Pay Act 1991 (c. 3), section 2(1).
(2) Subsections (1B) and (1D) were inserted by the Statutory Sick Pay Act 1991, section 2(1); section 26(1) is cited for the meaning it ascribes to the word “prescribed” and section 47 for the meaning it ascribes to the word “regulations”.
(3) 1991 c. 3.

Employer's Contributions Payments

2.—(1) Subject to the following provisions of this regulation, an employer is a small employer where the amount of his contributions payments for the qualifying tax year did not exceed £15,000.

(2) For the purposes of this regulation, the amount of an employer's contributions payments shall be determined without regard to any deductions that may be made from them under section 9 of the Act or under any other enactment or any instrument.

(3) Where in the qualifying tax year an employer has contributions payments in one or more but less than 12 of the income tax months, the amount of his contributions payments for that tax year shall be estimated by adding together all of those payments, dividing the total amount by the number of those months in which he has those payments and multiplying the resulting figure by 12.

(4) Where in the qualifying tax year an employer has no contributions payments, but does have such payments in one or more income tax months which fall both—

- (a) in the tax year in which the specified day falls, and
- (b) before the specified day or, where there is more than one such day in that tax year, before the first of those days,

then the amount of his contributions payments for the qualifying tax year shall be estimated in accordance with paragraph (3) above but as if the amount of the contributions payments falling in those months had fallen instead in the corresponding tax months in the qualifying tax year.

(5) Paragraph (6) below applies where an employer has made two or more elections under regulation 2A of the Income Tax (Employments) Regulations 1973⁽⁴⁾ to be treated as a different employer in respect of each of the groups of employees specified in the election.

(6) The different employers covered by each of the elections of the employer first mentioned in paragraph (5) above shall be treated for the purposes of section 9(1B) to (1E) of the Act as one employer.

Number of weeks

- 3. The prescribed number of weeks for the purposes of section 9(1B)(b) of the Act is 6.

Signed by authority of the Secretary of State for Social Security.

4th March 1991

Henley
Parliamentary Under-Secretary of State,
Department of Social Security

(4) [S.I. 1973/334](#); regulation 2A was inserted by [S.I. 1990/79](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument contains only Regulations made consequential upon section 2 of the Statutory Sick Pay Act 1991 (c. 3). As it is made before the end of the period of 6 months beginning with the coming into force of that enactment (14th February 1991) it is exempted by section 61(5) of the Social Security Act 1986 (c. 50) (as amended by the Social Security Act 1989 (c. 24), Schedule 8, paragraph 12(3)) from reference to the Social Security Advisory Committee and has not been so referred.

The Statutory Sick Pay Act 1991 (“the 1991 Act”) provides for the amount of statutory sick pay reimbursed to employers to be reduced from 100 per cent to 80 per cent. Certain relief is introduced by section 2 of the 1991 Act for small employers. Regulation 2 of these Regulations assigns a meaning to the term “small employer”. An employer is a small employer where the amount of his contributions payments did not exceed £15,000 in the qualifying tax year.

Regulation 3 prescribes 6 as the number of weeks an employee needs to have been entitled to statutory sick pay in any one period of incapacity for work before the small employer qualifies for relief on payments of statutory sick pay to that employee.