
STATUTORY INSTRUMENTS

1991 No. 694

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Sick Pay Act 1991
(Consequential) Regulations 1991

<i>Made</i>	- - - -	<i>15th March 1991</i>
<i>Laid before Parliament</i>		<i>15th March 1991</i>
<i>Coming into force</i>	- -	<i>6th April 1991</i>

The Secretary of State for Social Security, in exercise of the powers conferred by sections 9(1), (3) and (6), 26(1) and 47 of the Social Security and Housing Benefits Act 1982⁽¹⁾, section 22(3A) of the Social Security Act 1989⁽²⁾ and section 3(3) 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 consequent upon the Statutory Sick Pay Act 1991, hereby makes the following Regulations:

Citation, commencement and interpretation

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

(2) In these Regulations—

“the Act” means the Statutory Sick Pay Act 1991;

“the Compensation of Employers Regulations” means the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations 1983⁽⁴⁾;

“the Recoupment Regulations” means the Social Security (Recoupment) Regulations 1990⁽⁵⁾;

“small employer” has the meaning given to it by the Statutory Sick Pay (Small Employers' Relief) Regulations 1991⁽⁶⁾.

(1) 1982 c. 24; section 9(1) and (3) was amended by the Statutory Sick Pay Act 1991 (c. 3), section 1(1) and (3). Section 26(1) is cited because of the meaning it ascribes to “prescribed” and section 47 for the meaning it ascribes to “regulations”.

(2) 1989 c. 24; section 22(3A) was inserted by the Statutory Sick Pay Act 1991, section 1(5).

(3) 1991 c. 3.

(4) S.I. 1983/376.

(5) S.I. 1990/322.

(6) S.I. 1991/428.

Amendment of the Compensation of Employers Regulations

2.—(1) The Compensation of Employers Regulations shall be amended in accordance with the following paragraphs.

(2) In regulation 1(2) (interpretation) after the definition of “Contributions payments” there shall be inserted the words—

““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;”

(3) In regulation 2 (deductions from contributions payments)—

(a) for the words from the beginning to “his contributions payments” there shall be substituted the words—

“(1) An employer who has made one or more payments of statutory sick pay in an income tax month may recover an amount equal to the sum of the aggregate of such of those payments as qualify for small employers' relief, and an amount equal to 80 per cent. of the aggregate of such of those payments as do not so qualify, by making one or more deductions from his contributions payments”;

(b) after paragraph (1) there shall be added the following paragraph—

“(2) Where any calculation of the amount specified in paragraph (1) above includes a fraction of a penny that amount shall be rounded up to the next whole number of pence.”

(4) For regulation 3 (payments to employers by or on behalf of the Secretary of State) there shall be substituted the following regulation—

“3. Where a sum has been paid by way of statutory sick pay by an employer, and

(a) the employer has requested in writing the Secretary of State to repay him an amount, and

(b) the Secretary of State is satisfied that either—

(i) the total amount which the employer is or would otherwise be entitled to deduct under regulation 2 exceeds the total amount which the employer is liable to pay by way of primary and secondary Class 1 contributions in respect of earnings paid in an income tax month (disregarding any liability arising under the National Insurance Surcharge Act 1976(7), or

(ii) the employer is not liable to pay any primary or secondary Class 1 contributions but would otherwise be entitled to deduct an amount under regulation 2,

the Secretary of State shall pay to the employer an amount in a case to which paragraph (b)(i) applies, equal to the amount of the excess, and in a case to which paragraph (b)(ii) applies, an amount equal to the amount he would otherwise be entitled to deduct under regulation 2.”

(5) In regulation 4 (date when certain contributions are to be treated as paid) the words “or under regulation 4 of the Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations 1985(8),” shall be omitted.

Amendment of the Recoupment Regulations

3.—(1) Regulation 2 of the Recoupment Regulations (relevant benefits) shall be amended in accordance with the following paragraphs.

(7) 1976 c. 85.

(8) The words omitted were inserted by S.I. 1985/1411.

(2) In paragraph (1)(I) after the words “statutory sick pay,” there shall be inserted the words “subject to paragraph (3) below,”

(3) After paragraph (2) there shall be added the following paragraph—

“(3) The amount of statutory sick pay for the purposes of section 22 of the 1989 Act (recovery of sums equivalent to benefit from compensation payments) is, in so far as it relates to any liability an employer may have to make a payment of statutory sick pay to an employee of his in respect of a day of incapacity for work falling on or after 6th April 1991, 80 per cent. of the payment of statutory sick pay which the employer is liable to make.”

Transitional provisions

4.—(1) The Compensation of Employers Regulations shall continue to have effect for the purpose of entitling an employer to recover an amount of any payment of statutory sick pay paid (whether before or after 6th April 1991) in respect of any day of incapacity for work before 6th April 1991 as if regulation 2 of these Regulations had not come into force.

(2) The Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations 1985(9) shall continue to have effect for the purposes of entitling an employer to recover the amount prescribed in Regulation 3 of those Regulations (determination of amount) in respect of any payment of statutory sick pay referred to in paragraph (1) above as if section 1(2) of the Act had not been enacted and those Regulations had not been revoked.

Revocations

5. The Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations 1985 and the Statutory Sick Pay (Additional Compensation of Employers) Amendment Regulations 1988(10) are hereby revoked.

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

15th March 1991

Nicholas Scott
Minister of State,
Department of Social Security

(9) S.I. 1985/1411.

(10) S.I. 1988/431.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument contains only Regulations made consequential upon the Statutory Sick Pay Act 1991 (“the 1991 Act”). 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 Schedule 8, paragraph 12(3)) from reference to the Social Security Advisory Committee and has not been so referred.

The 1991 Act amends the Social Security and Housing Benefits Act 1982 so that the amount of statutory sick pay recoverable by employers is reduced from 10 per cent. to 80 per cent. except where small employers' relief applies.

Regulation 2 amends the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations 1983 to entitle an employer to recover this reduced amount except where such relief applies and makes provision for rounding up fractions of a penny.

Regulation 3 amends regulation 2 of the Social Security (Recoupment) Regulations 1990 so that the sum of statutory sick pay recoverable from compensation payments by the Secretary of State under the provisions of the Social Security Act 1989 is limited to 80 per cent. of the payment the employer is liable to make.

Regulation 4 enables an employer to recover or to be repaid (as the case may be) any payments of statutory sick pay (together with the additional compensation) paid in respect of any day of incapacity for work before 6th April 1991.