

**2020 No. 374**

**SOCIAL SECURITY**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020**

*Made - - - - at 11.50 a.m. on 27th March 2020*

*Laid before Parliament at 6.00 p.m. on 27th March 2020*

*Coming into operation - 28th March 2020*

The Secretary of State, in exercise of the powers conferred by sections 151(4) and (4A) and 175(1) and (3) to (5A) of the Social Security Contributions and Benefits Act 1992(a) and section 40(1) to (4) of the Coronavirus Act 2020(b), makes the following Regulations.

In accordance with section 173(1)(a) of the Social Security Administration Act 1992(c), it appears to the Secretary of State that by reason of the urgency of this matter it is inexpedient to refer the proposals in respect of regulations 3 to 5 of these Regulations to the Social Security Advisory Committee.

**Citation and commencement**

1. These Regulations may be cited as the Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020 and come into force on 28th March 2020.

**Suspension of waiting days**

2.—(1) Section 155(1) (limitations on entitlement) of the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”) does not apply in relation to an employee where—

- (a) that employee’s period of incapacity for work is related to coronavirus; and
- (b) the first day of incapacity for work in that period arose on or after 13th March 2020.

(2) Paragraph (1) applies in relation to a day of incapacity for work that falls on or after 13th March 2020.

(3) In this regulation—

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(a) 1992 c. 4. Sections 151(4A) and 175(5A) were inserted by section 41 of the Coronavirus Act 2020. Section 151(4) was amended by section 11(1) of and paragraph 34 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994. Section 175(1) and (4) was amended by section 2 of and paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 c. 2. Section 175(5) was amended by section 11(1) of and paragraph 34 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 c. 18.

(b) 2020 c. 7.

(c) 1992 c. 5.

- (a) “period of incapacity for work” has the meaning given by section 152 of the 1992 Act; and
- (b) a period of incapacity for work is related to coronavirus if the employee is—
  - (i) incapable by reason of infection or contamination with coronavirus, or
  - (ii) deemed, in accordance with regulation 2(1)(c) of the Statutory Sick Pay (General) Regulations 1982(a), to be incapable by reason of coronavirus,of doing work which the employee can reasonably be expected to do under the employee’s contract of service.

(4) The reference to regulation 2(1)(c) in paragraph (3)(b) above is a reference to the regulation which was in force on the first day of incapacity for work in question.

### **Amendment of the Statutory Sick Pay (General) Regulations 1982**

3.—(1) The Statutory Sick Pay (General) Regulations 1982 are amended as follows.

(2) In regulation 2(1)(c)(i) (persons deemed incapable of work) for the words starting with “guidance published by” to the end of the paragraph (i) substitute “the Schedule”.

(3) In regulation 2(4) omit the definition of “Public Health England”.

(4) After regulation 21A insert the Schedule set out in the Schedule to these Regulations.

### **Amendment of the Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2020**

4. Omit regulation 3 (expiry) of the Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2020(b).

### **Amendment of the Statutory Sick Pay (General) (Coronavirus Amendment) (No. 2) Regulations 2020**

5. Omit regulation 3 (expiry) of the Statutory Sick Pay (General) (Coronavirus Amendment) (No. 2) Regulations 2020(c).

At 11.50 a.m. on 27th March 2020

*Thérèse Coffey*  
Secretary of State  
Department for Work and Pensions

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(a) S.I. 1982/894. Paragraph (1)(c) was inserted by S.I. 2020/287, and amended by S.I. 2020/304 and regulation 3 of these Regulations.  
(b) S.I. 2020/287.  
(c) S.I. 2020/304.

## SCHEDULE

Regulation 3(4)

### SCHEDULE TO BE INSERTED IN THE STATUTORY SICK PAY (GENERAL) REGULATIONS 1982

## “SCHEDULE

Regulation 2(1)

### ISOLATION DUE TO CORONAVIRUS

1. A person is isolating himself from other people in such a manner as to prevent infection or contamination with coronavirus in accordance with this Schedule if he is doing so pursuant to paragraphs 2 to 5.

2. The person has symptoms of coronavirus, however mild, and is staying at home for 7 days, beginning with the day (“day 1”) the symptoms started.

3. The person lives with someone who is isolating himself in accordance with paragraph 2, and that person is staying at home for 14 days, beginning with day 1.

4. The person is staying at home under paragraph 3 and develops the symptoms of coronavirus, however mild, and is staying at home for 7 days, beginning with the day the symptoms started.

5. Where the person is staying at home pursuant to paragraph 4, paragraph 3 no longer applies to that person.

6. In this Schedule—

“Chief Medical Officer” means—

- (a) the Chief Medical Officer of the Department of Health and Social Care; and
- (b) the Officer with corresponding functions in relation to Scotland and Wales;

“Deputy Chief Medical Officer” is to be construed by reference to the definition of “Chief Medical Officer”; and

“symptoms of coronavirus” means the recent onset of —

- (a) a continuous cough;
- (b) a high temperature;
- (c) both a continuous cough and a high temperature; or
- (d) any other symptoms of coronavirus as may be specified by the Chief Medical Officer or one of the Deputy Chief Medical Officers in guidance as amended from time to time.”

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations suspend the limitation, set out in section 155(1) of the Social Security Contributions and Benefits Act 1992, that Statutory Sick Pay is not payable for the first three qualifying days in a period of entitlement. They also amend the Statutory Sick Pay (General) Regulations 1982 (“the 1982 Regulations”) to specify when a person isolating by reason of coronavirus is deemed to be incapable of work.

Statutory sick pay is not payable for the first three qualifying days of a period of entitlement to statutory sick pay. These days are known as “waiting days”. Regulation 2 disapplies the waiting

days where an employee is incapable of doing the work the employee can reasonably be expected to do under the employee's contract of service, or where the employee is deemed to be incapable, because of coronavirus. This applies retrospectively from 13th March 2020.

Regulation 3 amends the 1982 Regulations. It inserts a Schedule into those Regulations which specifies when a person is deemed to be incapable of work because the person is staying at home. This includes persons with symptoms of coronavirus staying at home for 7 days and persons living in the household of a person with symptoms of coronavirus staying at home for 14 days.

Regulations 4 and 5 omit the provision that previous Regulations amending the 1982 Regulations will expire after 8 months. The Secretary of State will keep the provisions under review in line with corresponding provision in the Coronavirus Act 2020.

No regulatory impact assessment has been produced for these Regulations in view of the urgency required to provide additional financial support to those unable to work as a result of coronavirus.

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