

2022 No. 381

SOCIAL SECURITY

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days) (Saving Provision) Regulations 2022

Made - - - - 24th March 2022

Coming into force - - 25th March 2022

The Secretary of State makes the following Regulations in exercise of the power conferred by section 89(3) of the Coronavirus Act 2020(a).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days) (Saving Provision) Regulations 2022 and come into force on 25th March 2022.

(2) These Regulations extend to England and Wales and Scotland.

Saving provision related to the suspension of waiting days

2.—(1) Despite the expiry of section 40 of the Coronavirus Act 2020(b), regulation 2 of the Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020(c) (“the 2020 Regulations”) shall continue to have effect, subject to the modifications specified in paragraph (3), as set out in this regulation.

(2) Regulation 2 of the 2020 Regulations shall continue to have effect, subject to the modifications specified in paragraph (3), in relation to a period of incapacity for work which is related to coronavirus where that period of incapacity for work begins on or before 24th March 2022.

(3) The modifications are that regulation 2 of the 2020 Regulations is treated as though the following were omitted—

- (a) the word “or” at the end of paragraph (3)(b)(i) of that regulation; and
- (b) paragraphs (3)(b)(ii) and (4) of that regulation.

(4) In this regulation—

- (a) “period of incapacity for work” has the meaning given by section 152 of the Social Security Contributions and Benefits Act 1992(d); and

(a) 2020 c. 7.

(b) Section 40 of the Coronavirus Act 2020 expires at midnight on 24th March 2022. Regulations made under that power also expire, except as provided for in these Regulations, at the same time.

(c) S.I. 2020/374. This instrument has been amended by S.I. 2020/681.

(d) 1992 c. 4.

- (b) whether a period of incapacity for work is related to coronavirus is to be determined in accordance with regulation 2(3)(b) of the 2020 Regulations.

Signed by the authority of the Secretary of State for Work and Pensions

Chloe Smith
Minister of State

24th March 2022

Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 makes saving provision related to the expiry of section 40 of the Coronavirus Act 2020. Section 40 allowed regulations to disapply section 155(1) of the Social Security Contributions and Benefits Act 1992 (which provides that Statutory Sick Pay is not payable for the first 3 days of a period of incapacity for work) where a period of incapacity for work is related to coronavirus. Section 40 expires at midnight on 24th March 2022 and, as a result, regulation 2 of the Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020 (“the 2020 Regulations”), which was made under that power, also expires. The effect of regulation 2 of the 2020 Regulations was that Statutory Sick Pay was payable from day 1 of a period of incapacity for work which is related to coronavirus, as opposed to day 4 as would otherwise be the case.

Regulation 2(1) and (2) makes saving provision by providing that regulation 2 of the 2020 Regulations continues to have effect where a period of incapacity for work commences on or before 24th March 2022. This is subject to the modifications in regulation 2(3) which reflect the revocation of the deeming provisions contained in regulation 2(1)(c) and (d) and Schedules 1 and 2 of the Statutory Sick Pay (General) Regulations 1982.

A full impact assessment has not been produced for this instrument due to the urgency required to make these Regulations in time to align with the expiry of section 40.

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