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STATUTORY INSTRUMENTS

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**2020 No. 814**

**The Employment Rights Act 1996 (Coronavirus,  
Calculation of a Week's Pay) Regulations 2020**

**PART 2**

Calculation of a week's pay

**Calculation of a week's pay in relation to furloughed employees**

**3.—(1)** These Regulations prescribe the manner in which the amount of a week's pay<sup>(1)</sup> is to be calculated in the case of an employee who is, or has been, furloughed ("E"), subject to paragraph (2), where—

- (a) E is entitled pursuant to section 53 or 54 of the Act to be paid remuneration for a period of absence to look for employment or arrange training as a result of a notice of dismissal given on or after the date on which E became furloughed, for the calculation of that remuneration under Part 6 of the Act,
- (b) E is entitled to payment pursuant to section 88 or 89 of the Act as a result of a notice to terminate E's contract of employment given on or after the date on which E became furloughed, for the calculation of that payment under Part 9 of the Act,
- (c) E is entitled pursuant to section 93 of the Act to be paid a sum as a result of a failure by their employer relating to the obligation to provide a written statement giving particulars of the reasons for E's dismissal, and the notice to terminate E's contract of employment was given or (if the dismissal was without notice) the date of termination was on or after the date on which E became furloughed, for the calculation of that sum under Part 9 of the Act,
- (d) E is entitled pursuant to section 117 of the Act to be paid an additional award of compensation as a result of a failure by their employer to comply with an order for reinstatement or re-engagement, and the notice to terminate E's contract of employment was given or (if the dismissal was without notice) the date of termination was on or after the date on which E became furloughed, for the calculation of that additional award under Part 10 of the Act,
- (e) E is entitled to an award of compensation for unfair dismissal calculated in accordance with sections 118 to 126 of the Act, and the notice to terminate E's contract of employment was given or (if the dismissal was without notice) the date of termination was on or after the date on which E became furloughed, for the calculation of that award under Part 10 of the Act,
- (f) E is entitled to a redundancy payment under Part 11 of the Act, and the notice to terminate E's contract of employment was given or (if the dismissal was without notice) the date of termination was on or after the date on which E became furloughed, for the calculation of that redundancy payment under Part 11 of the Act, and

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<sup>(1)</sup> See section 235(1) of the Act for the definition of a "week".

- (g) E may be eligible for a redundancy payment in accordance with section 148 of the Act by reason of being laid off or kept on short-time on or after the date on which E became furloughed, for the assessment of whether E is to be taken to be kept on short-time for a week in accordance with section 147(2) of the Act.
- (2) These Regulations only apply—
  - (a) in a case where regulation 4 applies, where the calculation date is on or before 31st October 2020~~(2)~~,
  - (b) in a case where regulation 5, 6 or 8 applies, where the relevant period, within the meaning given in regulation 5, 6 or 8 (as the case may be), includes a week when E was furloughed.
- (3) For the purposes of paragraph (1), “the date of termination” means the date on which termination of E’s contract of employment takes effect.

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(2) By virtue of paragraph 40(a) of the Schedule to the third CJRS Direction, the last date in respect of which a claim under the Coronavirus Job Retention Scheme can be made is 31st October 2020.