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# Social Security Contributions and Benefits (Northern Ireland) Act 1992

## 1992 CHAPTER 7

### PART XI

#### STATUTORY SICK PAY

*Rate of payment, etc.*

#### 153 Rate of payment.

- (1) Statutory sick pay shall be payable by an employer at the weekly rate of—
  - [<sup>F1</sup>(a) £52 50, in a case where the employee's normal weekly earnings under his contract of service with that employer are not less than £195 00; or
  - (b) £46 95, in any other case.]
- (2) The Department may by order—
  - (a) substitute alternative provisions for the paragraphs of subsection (1) above; and
  - (b) make such consequential amendments as appear to the Department to be required of any provision contained in this Part of this Act.
- (3) The amount of statutory sick pay payable by any one employer in respect of any day shall be the weekly rate applicable on that day divided by the number of days which are, in the week (beginning with Sunday) in which that day falls, qualifying days as between that employer and the employee concerned.

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#### Textual Amendments

**F1** S. 153(1)(a)(b) substituted (6.4.1993) by S.R. 1993/152, **art.2** (with **art. 3**) (which art. 2 was revoked (6.4.1994) by S.R. 1994/82, **art. 3**)

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**Modifications etc. (not altering text)**

C1 S. 153(1) amended (6.4.1993) by S.R. 1993/150, arts. 1(c),9

**154 Recovery by employers of amounts paid by way of statutory sick pay.**

- (1) Regulations shall make provision—
- (a) entitling, except in prescribed circumstances, any employer who has made one or more payments of statutory sick pay in a prescribed period to recover an amount equal to the sum of—
    - (i) the aggregate of such of those payments as qualify for small employers' relief; and
    - (ii) 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; and
  - (b) for the payment, in prescribed circumstances, by or on behalf of the Department of sums to employers who are unable so to recover the whole, or any part, of the amounts which they are entitled to recover by virtue of paragraph (a) above.
- (2) For the purposes of this section, a payment of statutory sick pay which an employer is liable to make to an employee for any day which forms part of a period of incapacity for work qualifies for small employers' relief if—
- (a) on that day the employer is a small employer who has been liable to pay statutory sick pay in respect of that employee for earlier days forming part of that period of incapacity for work; and
  - (b) the aggregate amount of those payments exceeds the entitlement threshold, that is to say, an amount equal to  $W \times R$ , where—
- W is a prescribed number of weeks; and
- R is the appropriate weekly rate set out in section 153 above;
- and regulations may make provision for calculating the entitlement threshold in any case where the employee's entitlement to statutory sick pay is calculated by reference to different weekly rates in the same period of incapacity for work.
- (3) For the purposes of this section, "small employer" shall have the meaning assigned to it by regulations, and, without prejudice to the generality of the foregoing, any such regulations—
- (a) may define that expression by reference to the amount of an employer's contributions payments for any prescribed period; and
  - (b) if they do so, may in that connection make provision for the amount of those payments for that prescribed period—
    - (i) to be determined without regard to any deductions that may be made from them under this section or under any other statutory provision; and
    - (ii) in prescribed circumstances, to be adjusted, estimated or otherwise attributed to him by reference to their amount in any other prescribed period.

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- (4) In this section “contributions payments”, in relation to an employer, means any payments which the employer is required, by or under any statutory provision, to make in discharge of any liability in respect of primary or secondary Class 1 contributions.
- (5) Regulations under this section may, in particular,—
  - (a) provide for any deduction made in accordance with the regulations to be disregarded for prescribed purposes; and
  - (b) provide for the rounding up or down of any fraction of a penny which would otherwise result from calculating the amount which an employer is entitled to recover for any period by virtue of subsection (1)(a) above.
- (6) Where, in accordance with any provision of regulations made under this section, an amount has been deducted from an employer’s contributions payments, the amount so deducted shall (except in such cases as may be prescribed) be treated for the purposes of any provision made by or under any statutory provision in relation to primary or secondary Class 1 contributions as having been—
  - (a) paid (on such date as may be determined in accordance with the regulations); and
  - (b) received by the Department,  
towards discharging the liability mentioned in subsection (4) above.
- (7) Any day of incapacity for work falling before 6th April 1991 shall be left out of account for the purposes of subsection (2) above.

#### **155 Power to substitute provisions for s. 154(2).**

- (1) If the Department by order so provides for any tax year, the following subsections shall have effect for that tax year in substitution for section 154(2) above—
  - “(2A) For the purposes of this section, a payment of statutory sick pay which an employer is liable to make to an employee for any day in a tax year qualifies for small employers’ relief if—
    - (a) on that day the employer is a small employer who has been liable to make payments of statutory sick pay for earlier days in that tax year in respect of any employees of his; and
    - (b) the aggregate of any such payments for those earlier days exceeds a prescribed sum.
  - (2B) In any case where—
    - (a) an employer is liable to make two or more payments of statutory sick pay for the same day in a tax year; and
    - (b) by virtue of the condition in subsection (2A)(b) above, none of those payments would qualify for small employers’ relief; but
    - (c) that condition would have been fulfilled in relation to a proportion of the aggregate amount of those payments, had he been liable—
      - (i) to pay as statutory sick pay for an earlier day in that tax year, instead of for the day in question, the smallest part of that aggregate that would enable that condition to be fulfilled; and
      - (ii) to pay the remainder as statutory sick pay for the day in question,

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he shall be treated for the purposes of subsection (2A) above as if he had been liable to make payments of statutory sick pay as mentioned in paragraph (c) above instead of as mentioned in paragraph (a) above.

(2C) If, in a case not falling within subsection (2B) above—

- (a) an employer is liable to make a single payment of statutory sick pay for a day in a tax year; and
- (b) by virtue of the condition in subsection (2A)(b) above, that payment would not qualify for small employers' relief; but
- (c) that condition would have been fulfilled in relation to a proportion of that payment, had he been liable—
  - (i) to pay as statutory sick pay for an earlier day in that tax year, instead of for the day in question, the smallest part of that payment that would enable that condition to be fulfilled; and
  - (ii) to pay the remainder as statutory sick pay for the day in question,

he shall be treated for the purposes of subsection (2A) above as if he had been liable to make payments of statutory sick pay as mentioned in paragraph (c) above instead of the payment mentioned in paragraph (a) above.”.

- (2) Without prejudice to section 171(4) below, the Department may by regulations make such transitional or consequential provision or savings as the Department considers necessary or expedient in connection with the coming into force of an order under subsection (1) above or the expiry or revocation of any such order and the consequent revival of section 154(2) above.

VALID FROM 22/03/1994

**[<sup>F2</sup>155A Power to provide for recovery by employers of sums paid by way of statutory sick pay.**

- (1) The Department may by order provide for the recovery by employers, in accordance with the order, of the amount (if any) by which their payments of, or liability incurred for, statutory sick pay in any period exceeds the specified percentage of the amount of their liability for contributions payments in respect of the corresponding period.
- (2) An order under subsection (1) above may include provision—
  - (a) as to the periods by reference to which the calculation referred to above is to be made,
  - (b) for amounts which would otherwise be recoverable but which do not exceed the specified minimum for recovery not to be recoverable,
  - (c) for the rounding up or down of any fraction of a pound which would otherwise result from a calculation made in accordance with the order, and
  - (d) for any deduction from contributions payments made in accordance with the order to be disregarded for such purposes as may be specified,

and may repeal sections 154 and 155 above and make any amendments of other statutory provisions which are consequential on the repeal of those sections.

- (3) In this section—

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“contributions payments” means payments which a person is required by or under any statutory provision to make in discharge of any liability of his as an employer in respect of primary or secondary Class 1 contributions; and  
“specified” means specified in or determined in accordance with an order under subsection (1).

- (4) The Department may by regulations make such transitional and consequential provision, and such savings, as it considers necessary or expedient for or in connection with the coming into operation of any order under subsection (1) above.]

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#### **Textual Amendments**

**F2** S. 155A inserted (22.3.1994) by S.I. 1994/766 (N.I. 5), **arts. 1(2), 5(1)**

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