
STATUTORY INSTRUMENTS

2020 No. 513

The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) Regulations 2020

PART 2

Eligibility for funding

Funding of eligible employers' liabilities by HMRC

3.—(1) An eligible employer who has made a payment of statutory sick pay ^{M1} to an employee where—

- (a) that employee's period of incapacity for work ^{M2} is related to coronavirus; and
- (b) the first day of incapacity for work in that period falls on or after 13th March 2020 [^{F1}and no later than 30th September 2021] ,

is, subject to paragraphs (2) [^{F2}, (2A)] and (3), entitled to recover the amount paid to the employee (the “reimbursement amount”) from HMRC.

(2) An eligible employer is not entitled to recover a reimbursement amount from HMRC—

- (a) if, were the eligible employer to receive the reimbursement amount claimed, the amount of State aid received by the eligible employer would exceed the maximum temporary aid amount for that eligible employer; or
- (b) in respect of an employee for a period for which the eligible employer is entitled to a grant in respect of that employee under the Coronavirus Job Retention Scheme.

[^{F3}(2A) A reimbursement amount does not include any amount paid to an employee in respect of a qualifying day which falls after 30th September 2021.]

(3) The amount which an eligible employer may recover from HMRC under these Regulations is limited to—

- (a) in relation to a single employee, [^{F4}£192.70]; and
- (b) in total, [^{F5}£192.70] multiplied by the number of employees enrolled in PAYE schemes of the eligible employer on 28th February 2020, determined in accordance with regulation 4.

(4) In this regulation—

- (a) an employee includes an employee who—
 - (i) was employed by the eligible employer during a period of incapacity for work related to coronavirus,
 - (ii) has received a payment of statutory sick pay from the eligible employer in respect of that period of incapacity for work, and
 - (iii) no longer works for the eligible employer;
- (b) the reference to the reimbursement amount in paragraph (2)(a) is to that amount converted into euros using the European Commission's—

Changes to legislation: There are currently no known outstanding effects for the The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) Regulations 2020, PART 2. (See end of Document for details)

- (i) official monthly accounting rate for the euro; and
- (ii) conversion rate for April 2020 ^{M3}; and
- (c) the “Coronavirus Job Retention Scheme” is the scheme set out in the Schedule to the Coronavirus Act 2020 Functions of Her Majesty's Revenue and Customs (Coronavirus Job Retention Scheme) Direction ^{M4}.

Textual Amendments

- F1** Words in reg. 3(1)(b) inserted (30.9.2021) by The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Closure) Regulations and the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) (Closure) Regulations 2021 (S.I. 2021/1013), regs. 1, **3(2)(a)**
- F2** Word in reg. 3(1) inserted (30.9.2021) by The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Closure) Regulations and the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) (Closure) Regulations 2021 (S.I. 2021/1013), regs. 1, **3(2)(b)**
- F3** Reg. 3(2A) inserted (30.9.2021) by The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Closure) Regulations and the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) (Closure) Regulations 2021 (S.I. 2021/1013), regs. 1, **3(3)**
- F4** Sum in reg. 3(3)(a) substituted (6.4.2021) by The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Amendment) Regulations and the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) (Amendment) Regulations 2021 (S.I. 2021/281), regs. 1, **2**
- F5** Sum in reg. 3(3)(b) substituted (6.4.2021) by The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Amendment) Regulations and the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) (Amendment) Regulations 2021 (S.I. 2021/281), regs. 1, **2**

Commencement Information

- I1** Reg. 3 in force at 26.5.2020, see reg. 1

Marginal Citations

- M1** “Statutory sick pay” is defined in section 147(1) of the 1992 Act.
- M2** “Period of incapacity for work” is defined in s148(2) of the 1992 Act.
- M3** The European Commission's official rates are available at https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-inforeuro_en.
- M4** The Direction dated 15 April 2020 is available at <https://www.thegazette.co.uk/notice/3551698>. A person unable to access the Direction electronically may access it while government advice on social distancing and unnecessary travel applies, in hard copy by post free of charge on application to 07785 665073 and otherwise by inspection free of charge at HMRC, 100 Parliament Street, London SW1A 2BQ.

Meaning of eligible employer

- 4.—(1) An eligible employer is an employer who—
- (a) on 28th February 2020, had fewer than 250 employees enrolled in all PAYE schemes operated by the employer; and
 - (b) on 31st December 2019, was not already in difficulty.
- [^{F6}(2) An employer is “in difficulty” if—

- (a) in the case of an employer who is not an SME, it is reasonable to assume that the employer would be regarded as an undertaking in difficulty under Article 2(18) of the General Block Exemption Regulation; or
- (b) in the case of an employer who is an SME, it is reasonable to assume that the employer would be regarded as an undertaking in difficulty under Article 2(18)(c) of the General Block Exemption Regulation, as if the words after “collective insolvency proceedings”, in the first place it appears, to the end were omitted, or under Article 2(18)(d) of the General Block Exemption Regulation.]
- (3) Where, on 28th February 2020, the employer was one of—
- (a) two or more companies which were not charities and which were connected with one another, or
- (b) two or more charities which were connected with one another,
- the number of employees referred to in paragraph (1) is the total number of employees enrolled in all PAYE schemes operated by the connected companies or charities, as applicable.
- (4) For the purposes of paragraph (3)—
- (a) Part 1 of Schedule 1 to the National Insurance Contributions Act 2014 ^{M5} sets out the rules for determining if two or more companies are connected with one another;
- (b) Part 2 of Schedule 1 to that Act sets out the rules for determining if two or more charities are connected with each other.
- (5) In this regulation—
- “charity” has the same meaning as in section 18(1) of the Small Charitable Donations Act 2012 ^{M6}, subject to paragraph 8(5) of Schedule 1 to the National Insurance Contributions Act 2014; and
- “company” has the meaning given by section 1121(1) of the Corporation Tax Act 2010 ^{M7} and includes a limited liability partnership;
- [^{F7}“General Block Exemption Regulation” means [Commission Regulation \(EU\) No. 651/2014](#) of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty;
- “SME” means an employer who is within the category of micro, small and medium-sized enterprises in paragraph 1 of Annex 1 of the General Block Exemption Regulation.]

Textual Amendments

- F6** Reg. 4(2) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) \(Amendment\) Regulations and the Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) \(Northern Ireland\) \(Amendment\) Regulations 2020 \(S.I. 2020/1030\)](#), regs. 1(1), **3(2)**
- F7** Words in reg. 4(5) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) \(Amendment\) Regulations and the Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) \(Northern Ireland\) \(Amendment\) Regulations 2020 \(S.I. 2020/1030\)](#), regs. 1(1), **3(3)**

Commencement Information

- I2** Reg. 4 in force at 26.5.2020, see reg. 1

Marginal Citations

- M5** 2014 c. 7.
M6 2012 c. 23.

Changes to legislation: There are currently no known outstanding effects for the *The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) Regulations 2020, PART 2*. (See end of Document for details)

M7 2010 c. 4. Section 1121(1) was amended by [S.I. 2013/1388](#).

When an employee's incapacity for work is related to coronavirus

5.—(1) An employee's incapacity for work is related to coronavirus if the employee is—

- (a) incapable by reason of infection or contamination with coronavirus, or
- (b) deemed, in accordance with regulation 2(1)(c) [^{F8}or (d)] of the Statutory Sick Pay (General) (Northern Ireland) Regulations 1982 ^{M8}, 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, and references in these Regulations to an employee's period of incapacity for work related to coronavirus shall be construed in accordance with this regulation.

(2) The reference to regulation 2(1)(c) of the Statutory Sick Pay (General) (Northern Ireland) Regulations 1982 in paragraph (1)(b) is a reference to the regulation which was in force on the first day of incapacity for work in question.

Textual Amendments

F8 Words in reg. 5(1)(b) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) \(Amendment\) Regulations and the Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) \(Northern Ireland\) \(Amendment\) Regulations 2020 \(S.I. 2020/1030\)](#), regs. 1(1), 4

Commencement Information

I3 Reg. 5 in force at 26.5.2020, see reg. 1

Marginal Citations

M8 [S.I. 1982/263](#). Paragraph (1)(c) was inserted by [S.I. 2020/32](#) and amended by [S.I. 2020/37](#) and [2020/54](#).

Changes to legislation:

There are currently no known outstanding effects for the The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) Regulations 2020, PART 2.