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SCHEDULES

SCHEDULE 2

RELATIONSHIP WITH BENEFITS AND OTHER PAYMENTS, ETC

Benefit paid when statutory sick pay due

- 11 (1) This paragraph applies in any case where—
- (a) in respect of any period, an amount has been paid to a person by way of benefit;
 - (b) as a result of any appeal heard, or review conducted, under any enactment it has been determined that the recipient of the benefit was not entitled to it; and
 - (c) the recipient was entitled, in respect of that period, to payment by an employer of his of an amount of statutory sick pay.
- (2) In any case to which this paragraph applies, the Secretary of State may serve on the employer concerned, in a prescribed form and manner, a notice—
- (a) informing him that an amount has been paid to the recipient by way of benefit and of the period in respect of which the payment was made;
 - (b) requiring him to inform the Secretary of State in writing within such period as may be specified in the notice—
 - (i) of the amount of any statutory sick pay which he was liable to pay to the employee in respect of the period mentioned in sub-paragraph (1)(c) above ;
 - (ii) of the amount of any other sickness payment for which he was so liable ; and
 - (iii) if any such liability has been discharged in whole or in part, of the extent to which it has been, and the date on which it was, discharged ; and
 - (c) requiring him to comply with sub-paragraph (3) below if, at the time when he receives the notice, any liability of his falling within paragraph (b)(i) or (ii) above has not been wholly discharged.
- (3) Where an employer is required to comply with this sub-paragraph he shall—
- (a) calculate, in accordance with regulations, the net payment for the purposes of sub-paragraph (5) below ;
 - (b) inform the Secretary of State, in writing and before the expiry of the period mentioned in sub-paragraph (2)(b) above, of the amount of the net payment, as calculated by him; and
 - (c) withhold, pending a decision by the Secretary of State as to whether to require payment under sub-paragraph (5) below, so much of the sickness payment, or part, in question as is equal to the net payment.
- (4) In any case where an employer who is required by sub-paragraph (3) above to calculate the net payment to be made in his case—

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- (a) fails to inform the Secretary of State as required by sub paragraph (3)(b) above ; or
 - (b) in the opinion of the Secretary of State, has in purporting to calculate that payment failed to do so in accordance with the relevant regulations ;
- the Secretary of State may make the calculation for him ; and this paragraph shall have effect as if a calculation made by the Secretary of State under this sub-paragraph had been duly made by the employer concerned.
- (5) Where the Secretary of State has served a notice under sub-paragraph (2) above, and the employer concerned has been required to comply with sub-paragraph (3) above, that employer shall, if the Secretary of State so requires, pay to the Secretary of State within the prescribed period whichever is the lesser of the following—
- (a) the amount mentioned in sub-paragraph (2)(a) above ;
 - (b) an amount equal to the net payment, or the aggregate of the net payments, required to be withheld by virtue of sub-paragraph (3)(c) above.
- (6) In this paragraph " sickness payment" has the same meaning as in paragraph 7 above.
- (7) Regulations shall provide—
- (a) for the extent to which, and purposes for which, an employer who has made a payment to the Secretary of State under this paragraph is to be treated as having discharged his liability to make the sickness payment or payments to which the payment under this paragraph is attributable ; and
 - (b) for an amount, calculated in accordance with the regulations, to be treated in a case to which sub-paragraph (8) below applies and for prescribed purposes as having been paid to the employee concerned as remuneration derived from an employed earner's employment.
- (8) This sub-paragraph applies to any case (other than one of a prescribed class) where an employer is required by virtue of sub-paragraph (3)(c) above to withhold the whole or any part of a sickness payment.
- (9) Regulations made by virtue of sub-paragraph (7)(b) above may make provision for determining the date on which any payment treated as mentioned in that sub-paragraph is to be taken as having been made.
- (10) Subject to regulations made under sub-paragraph (11) below, nothing in this paragraph shall be taken to prejudice the right of the Secretary of State, under any enactment, to recover any amount paid to a person by way of benefit.
- (11) Regulations may provide for the modification of section 119 of the principal Act (effect of adjudication on payment and recovery of benefit) in relation to any case to which this paragraph applies ; and any such regulations may, in particular—
- (a) make provision pending a determination whether or not a case is one to which this paragraph applies ; and
 - (b) provide for section 119 to have effect as if subsection (2) (no recovery of benefit where no lack of due care and diligence) were omitted.
- (12) Any sum paid to the Secretary of State under this paragraph shall be paid by him into the National Insurance Fund.