



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

## 1992 CHAPTER 7

### PART XI

#### STATUTORY SICK PAY

##### *Miscellaneous*

#### **156 Relationship with benefits and other payments, etc.**

Schedule 12 to this Act has effect with respect to the relationship between statutory sick pay and certain benefits and payments.

#### **157 Crown employment - Part XI.**

- (1) Subject to subsection (2) below, the provisions of this Part of this Act apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.
- (2) The provisions of this Part of this Act do not apply in relation to persons serving as members of Her Majesty's forces, in their capacity as such.
- (3) For the purposes of this section Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed by regulations made by the Secretary of State [<sup>F1</sup>with the concurrence of the Treasury], being establishments and organisations in which persons serve under the control of the Defence Council.

#### **Textual Amendments**

- F1** Words in s. 157(3) inserted (24.3.1999 for specified purposes and 1.4.1999 otherwise) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 12** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)

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## 158 Special classes of persons.

- (1) The Department may [<sup>F2</sup>with the concurrence of the Treasury] make regulations modifying this Part of this Act in such manner as the Department thinks proper in their application to any person who is, has been or is to be—
- (a) employed on board any ship, vessel, hovercraft or aircraft; or
  - (b) outside Northern Ireland at any prescribed time or in any prescribed circumstances.
- (2) Regulations under subsection (1) above may in particular provide—
- (a) for any provision of this Part to apply to any such person, notwithstanding that it would not otherwise apply;
  - (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
  - (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in Northern Ireland;
  - (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory other than Northern Ireland, by a British consular official or such other person as may be determined in accordance with the regulations.

### Textual Amendments

- F2** Words in s. 158(1) inserted (24.3.1999 for specified purposes and 1.4.1999 otherwise) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 13** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)

## 159 Interpretation of Part XI and supplementary provisions.

- (1) In this Part of this Act—
- “contract of service” (except in paragraph (a) of the definition below of “employee”) includes any arrangement providing for the terms of appointment of an employee;
- “employee” means a person who is—
- (a) gainfully employed in Northern Ireland either under a contract of service or in an office (including elective office) with [<sup>F3</sup>general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)] ; and
  - (b) over the age of 16;
- but subject to regulations, which may provide for cases where any such person is not to be treated as an employee for the purposes of this Part of this Act and for cases where any person who would not otherwise be an employee for those purposes is to be treated as an employee for those purposes;
- “employer”, in relation to an employee and a contract of service of his, means a person who under section 6 above is, or but for [<sup>F4</sup>the condition in] subsection (1)(b) of that section would be, liable to pay secondary Class 1 contributions in relation to any earnings of the employee under the contract;
- “period of entitlement” has the meaning given by section 149 above;
- “period of incapacity for work” has the meaning given by section 148 above;

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...

“prescribed” means prescribed by regulations;

“qualifying day” has the meaning given by section 150 above;

“week” means any period of 7 days.

- (2) For the purposes of this Part of this Act an employee’s normal weekly earnings shall, subject to subsection (4) below, be taken to be the average weekly earnings which in the relevant period have been paid to him or paid for his benefit under his contract of service with the employer in question.
- (3) For the purposes of subsection (2) above, the expressions “earnings” and “relevant period” shall have the meaning given to them by regulations.
- (4) In such cases as may be prescribed an employee’s normal weekly earnings shall be calculated in accordance with regulations.
- (5) Without prejudice to any other power to make regulations under this Part of this Act, regulations may specify cases in which, for the purposes of this Part of this Act or such of its provisions as may be prescribed—
- (a) two or more employers are to be treated as one;
  - (b) two or more contracts of service in respect of which the same person is an employee are to be treated as one.
- (6) Where, in consequence of the establishment of one or more Health and Social Services trusts under the<sup>M1</sup> Health and Personal Social Services (Northern Ireland) Order 1991, a person’s contract of employment is treated by a scheme under that Order as divided so as to constitute two or more contracts, regulations may make provision enabling him to elect for all of those contracts to be treated as one contract for the purposes of this Part of this Act or of such provisions of this Part of this Act as may be prescribed; and any such regulations may prescribe—
- (a) the conditions that must be satisfied if a person is to be entitled to make such an election;
  - (b) the manner in which, and the time within which, such an election is to be made;
  - (c) the persons to whom, and the manner in which, notice of such an election is to be given;
  - (d) the information which a person who makes such an election is to provide, and the persons to whom, and the time within which, he is to provide it;
  - (e) the time for which such an election is to have effect;
  - (f) which one of the person’s employers under the two or more contracts is to be regarded for the purposes of statutory sick pay as his employer under the one contract;

and the powers conferred by this subsection are without prejudice to any other power to make regulations under this Part of this Act.

- (7) Regulations may provide for periods of work which begin on one day and finish on the following day to be treated, for the purposes of this Part of this Act, as falling solely within one or other of those days.

#### Textual Amendments

- F3** Words in s. 159(1) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 202](#) (with [Sch. 7](#))

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- F4** Words in definition in s. 159(1) inserted (6.4.1999) by S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 55**; S.R. 1999/72, art. 2(b), **Sch.**
- F5** Definition in s. 159(1) repealed (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(2), **Sch. 3**; S.R. 1996/401, **art. 2**

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**Marginal Citations**

- M1** S.I. 1991/194 (N.I. 1).

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