



Coronavirus Act 2020

2020 CHAPTER 7

PART 1

MAIN PROVISIONS

Statutory sick pay

39 Statutory sick pay: funding of employers' liabilities

- (1) The Social Security Contributions and Benefits Act 1992 has effect as if after section 159A there were inserted—

“159B Funding of employers' statutory sick pay liabilities in relation to coronavirus

- (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for the payment by employers of statutory sick pay in respect of incapacity for work related to coronavirus to be funded by Her Majesty's Revenue and Customs to such extent and in such manner as may be prescribed.
- (2) Regulations under subsection (1) may—
- (a) make provision for a person who has made a payment of statutory sick pay in respect of an employee whose incapacity for work is related to coronavirus to be entitled, except in prescribed circumstances, to recover some or all of that payment;
 - (b) include provision for a person who has made a payment of statutory sick pay in respect of an employee whose incapacity for work is related to coronavirus to be entitled, except in prescribed circumstances, to recover an additional amount, determined in such manner as may be prescribed.
- (3) Regulations under subsection (1) may make provision about when an employee's incapacity for work is related to coronavirus.

Status: Point in time view as at 25/03/2020.

Changes to legislation: There are currently no known outstanding effects for the Coronavirus Act 2020, Cross Heading: Statutory sick pay. (See end of Document for details)

- (4) Regulations under subsection (1) may, in particular, make provision—
- (a) for funding in advance as well as in arrear;
 - (b) for funding, or the recovery of amounts due under provision made by virtue of subsection (2)(b), by means of deductions from such amounts for which employers are accountable to Her Majesty's Revenue and Customs as may be prescribed, or otherwise;
 - (c) for the recovery by Her Majesty's Revenue and Customs of any sums overpaid to employers under the regulations.
- (5) Where in accordance with any provision of regulations under subsection (1) an amount has been deducted from an employer's contributions payments, the amount so deducted is (except in such cases as may be prescribed) to be treated for the purposes of any provision made by or under any enactment in relation to primary or secondary Class 1 contributions—
- (a) as having been paid (on such date as may be determined in accordance with the regulations), and
 - (b) as having been received by Her Majesty's Revenue and Customs, towards discharging the employer's liability in respect of such contributions.
- (6) Regulations under subsection (1) may make provision—
- (a) about the procedure for an employer to make a claim under those regulations;
 - (b) about the determination of claims by Her Majesty's Revenue and Customs;
 - (c) requiring an employer to keep records in relation to payments of statutory sick pay in respect of incapacity for work related to coronavirus.
- (7) Regulations under subsection (1) may have retrospective effect in relation to a day of incapacity for work that falls on or after 13 March 2020.
- (8) In this section—
- “contributions payments”, in relation to an employer, means any payments which the employer is required, by or under any enactment, to make in discharge of any liability in respect of primary or secondary Class 1 contributions;
- “coronavirus” means severe acute respiratory syndrome coronavirus 2.
- (9) Regulations under subsection (1) must be made with the concurrence of the Secretary of State.”
- (2) The Social Security Administration Act 1992 has effect as if in section 113A (statutory sick pay and statutory maternity pay: breach of regulations)—
- (a) in subsection (1)(c), after “153(5)(b)” there were inserted “ or 159B ”;
 - (b) in subsection (3), after “132” there were inserted “ of this Act, or section 159B of the Contributions and Benefits Act ”.
- (3) The Social Security Administration Act 1992 has effect as if in section 113B (statutory sick pay and statutory maternity pay: fraud and negligence)—
- (a) in subsection (1)(b)(iii), after “153(5)(b)” there were inserted “ or 159B ”;
 - (b) after subsection (2) there were inserted—

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Changes to legislation: There are currently no known outstanding effects for the Coronavirus Act 2020, Cross Heading: Statutory sick pay. (See end of Document for details)

“(2A) Where an employer fraudulently or negligently receives a payment in pursuance of regulations under section 159B of the Contributions and Benefits Act (funding of employers' statutory sick pay liabilities in relation to coronavirus), the employer is liable to a penalty not exceeding £3,000.”

40 Statutory sick pay: power to disapply waiting period limitation

- (1) The Secretary of State may by regulations make provision disapplying section 155(1) of the Social Security Contributions and Benefits Act 1992 in relation to an employee whose incapacity for work is related to coronavirus.
- (2) Regulations under subsection (1) may make provision about when an employee's incapacity for work is related to coronavirus.
- (3) Section 175(3) to (5) of the Social Security Contributions and Benefits Act 1992 applies to regulations made under subsection (1) as if that subsection were contained in that Act.
- (4) Regulations under subsection (1) may have retrospective effect in relation to a day of incapacity for work that falls on or after 13 March 2020.
- (5) In this section “employee” and “incapacity for work” have the same meaning as in Part 11 of the Social Security Contributions and Benefits Act 1992.
- (6) Regulations under subsection (1) are to be made by statutory instrument.
- (7) A statutory instrument containing regulations under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

41 Statutory sick pay: modification of regulation making powers

- (1) The Social Security Contributions and Benefits Act 1992 has effect as if in section 151 (employer's liability for statutory sick pay), after subsection (4) there were inserted—
 - “(4A) Regulations under subsection (4) may make provision about whether an employee is deemed to be incapable (as referred to in that subsection) in relation to severe acute respiratory syndrome coronavirus 2 by reference to guidance or any other document published by Public Health England, NHS National Services Scotland, the Public Health Wales National Health Service Trust or any other person specified in the regulations as that guidance or other document is amended from time to time.”
- (2) The Social Security Contributions and Benefits Act 1992 has effect as if in section 175 (regulations), after subsection (5) there were inserted—
 - “(5A) But regulations under—
 - (a) section 151(4) in relation to severe acute respiratory syndrome coronavirus 2, or
 - (b) section 159B,may provide for a person to exercise a discretion in dealing with any matter under those regulations.”

Status: Point in time view as at 25/03/2020.

Changes to legislation: There are currently no known outstanding effects for the Coronavirus Act 2020, Cross Heading: Statutory sick pay. (See end of Document for details)

42 Statutory sick pay: funding of employers' liabilities: Northern Ireland

- (1) The Social Security Contributions and Benefits (Northern Ireland) Act 1992 has effect as if after section 155A there were inserted—

“155B Funding of employers' statutory sick pay liabilities in relation to coronavirus

- (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for the payment by employers of statutory sick pay in respect of incapacity for work related to coronavirus to be funded by Her Majesty's Revenue and Customs to such extent and in such manner as may be prescribed.
- (2) Regulations under subsection (1) may—
- (a) make provision for a person who has made a payment of statutory sick pay in respect of an employee whose incapacity for work is related to coronavirus to be entitled, except in prescribed circumstances, to recover some or all of that payment;
 - (b) include provision for a person who has made a payment of statutory sick pay in respect of an employee whose incapacity for work is related to coronavirus to be entitled, except in prescribed circumstances, to recover an additional amount, determined in such manner as may be prescribed.
- (3) Regulations under subsection (1) may make provision about when an employee's incapacity for work is related to coronavirus.
- (4) Regulations under subsection (1) may, in particular, make provision—
- (a) for funding in advance as well as in arrear;
 - (b) for funding, or the recovery of amounts due under provision made by virtue of subsection (2)(b), by means of deductions from such amounts for which employers are accountable to Her Majesty's Revenue and Customs as may be prescribed, or otherwise;
 - (c) for the recovery by Her Majesty's Revenue and Customs of any sums overpaid to employers under the regulations.
- (5) Where in accordance with any provision of regulations under subsection (1) an amount has been deducted from an employer's contributions payments, the amount so deducted is (except in such cases as may be prescribed) to be treated for the purposes of any provision made by or under any statutory provision in relation to primary or secondary Class 1 contributions—
- (a) as having been paid (on such date as may be determined in accordance with the regulations), and
 - (b) as having been received by Her Majesty's Revenue and Customs, towards discharging the employer's liability in respect of such contributions.
- (6) Regulations under subsection (1) may make provision—
- (a) about the procedure for an employer to make a claim under those regulations;
 - (b) about the determination of claims by Her Majesty's Revenue and Customs;

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- (c) requiring an employer to keep records in relation to payments of statutory sick pay in respect of incapacity for work related to coronavirus.
- (7) Regulations under subsection (1) may have retrospective effect in relation to a day of incapacity for work that falls on or after 13 March 2020.
- (8) 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;
- “coronavirus” means severe acute respiratory syndrome coronavirus 2;
- “prescribed” means specified in or determined in accordance with regulations made under subsection (1).
- (9) Regulations under subsection (1) must be made with the concurrence of the Secretary of State.”
- (2) The Social Security Administration (Northern Ireland) Act 1992 has effect as if in section 107A (statutory sick pay and statutory maternity pay: breach of regulations)—
- (a) in subsection (1)(c), after “149(5)(b)” there were inserted “ or 155B ”;
- (b) in subsection (3), after “124” there were inserted “ of this Act, or section 155B of the Contributions and Benefits Act ”.
- (3) The Social Security Administration (Northern Ireland) Act 1992 has effect as if in section 107B (statutory sick pay and statutory maternity pay: fraud and negligence)—
- (a) in subsection (1)(b)(iii), after “149(5)(b)” there were inserted “ or 155B ”;
- (b) after subsection (2) there were inserted—
- “(2A) Where an employer fraudulently or negligently receives a payment in pursuance of regulations under section 155B of the Contributions and Benefits Act (funding of employers' statutory sick pay liabilities in relation to coronavirus), the employer is liable to a penalty not exceeding £3,000.”

43 Statutory sick pay: power to disapply waiting period limitation: Northern Ireland

- (1) The Secretary of State may by regulations make provision disapplying section 151(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 in relation to an employee whose incapacity for work is related to coronavirus.
- (2) Regulations under subsection (1) may make provision about when an employee's incapacity for work is related to coronavirus.
- (3) Section 171(3) to (5) and (10) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 applies to regulations made under subsection (1) as if that subsection were contained in that Act.
- (4) Regulations under subsection (1) may have retrospective effect in relation to a day of incapacity for work that falls on or after 13 March 2020.

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- (5) In this section “employee” and “incapacity for work” have the same meaning as in Part 11 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.
- (6) A statutory instrument containing regulations under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

44 Statutory sick pay: modification of regulation making powers: Northern Ireland

The Social Security Contributions and Benefits (Northern Ireland) Act 1992 has effect as if—

- (a) in section 147 (employer's liability for statutory sick pay), after subsection (4) there were inserted—

“(4A) Regulations under subsection (4) may make provision about whether an employee is deemed to be incapable (as referred to in that subsection) in relation to severe acute respiratory syndrome coronavirus 2 by reference to guidance or any other document published by the Regional Agency for Public Health and Social Well-being, Public Health England, NHS National Services Scotland, the Public Health Wales National Health Service Trust or any other person specified in the regulations as that guidance or other document is amended from time to time.”;

- (b) in section 171 (regulations), after subsection (5) there were inserted—

“(5A) But regulations under—

- (a) section 147(4) in relation to severe acute respiratory syndrome coronavirus 2, or
- (b) section 155B,

may provide for a person to exercise a discretion in dealing with any matter under those regulations.”

Status:

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Changes to legislation:

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