STATUTORY INSTRUMENTS

1982 No. 894

The Statutory Sick Pay (General) Regulations 1982

Normal weekly earnings

19.—(1) For the purposes of section 26(2) and (4), and employee's normal weekly earnings shall be determined in accordance with the provisions of this regulation.

(2) In this regulation—

"the critical date" means the first day of the period of entitlement in relation to which a person's normal weekly earnings fall to be determined, or, in a case to which paragraph 2(c) of Schedule 1 applies, the relevant date within the meaning of Schedule 1;

"normal pay day" means a day on which the terms of an employee's contract of service require him to be paid, or the practice in his employment is for him to be paid, if any payment is due to him; and

"day of payment" means a day on which the employee was paid.

(3) Subject to paragraph (4), the relevant period (referred to in section 26(2)) is the period between—

(a) the last normal pay day to fall before the critical date; and

(b) the last normal pay day to fall at least 8 weeks earlier than the normal pay day mentioned in sub-paragraph (a),

including the normal pay day mentioned in sub-paragraph (a) but excluding that first mentioned in sub-paragraph (b).

(4) In a case where an employee has no identifiable normal pay day, paragraph (3) shall have effect as if the words "day of payment" were substituted for the words "normal pay day" in each place where they occur.

(5) In a case where an employee has normal pay days at intervals of or approximating to one or more calendar months (including intervals of or approximating to a year) his normal weekly earnings shall be calculated by dividing his earnings in the relevant period by the number of calendar months in that period (or, if it is not a whole number, the nearest whole number), multiplying the result by 12 and dividing by 52.

(6) In a case to which paragraph (5) does not apply and the relevant period is not an exact number of weeks, the employee's normal weekly earnings shall be calculated by dividing his earnings in the relevant period by the number of days in the relevant period and multiplying the result by 7.

(7) In a case where the normal pay day mentioned in sub-paragraph (a) of paragraph (3) exists but that first mentioned in sub-paragraph (b) of that paragraph does not yet exist, the employee's normal weekly earnings shall be calculated as if the period for which all the earnings under his contract of service received by him before the critical date represented payment were the relevant period.

(8) In a case where neither of the normal pay days mentioned in paragraph (3) yet exists, the employee's normal weekly earnings shall be the remuneration to which he is entitled, in accordance with the terms of his contract of service, for, as the case may be—

(a) a week's work; or

(b) a number of calendar months' work, divided by that number of months, multiplied by 12 and divided by 52.