
STATUTORY INSTRUMENTS

1983 No. 376**TERMS AND CONDITIONS OF EMPLOYMENT****The Statutory Sick Pay (Compensation of Employers)
and Miscellaneous Provisions Regulations 1983**

<i>Made</i>	- - -	11th March 1983
<i>Laid before Parliament</i>		16th March 1983
<i>Coming into Operation</i>		6th April 1983

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 1(4), 9(1) and (6), 26(1) and (3) of, and paragraph 39 of Schedule 4 to, the Social Security and Housing Benefits Act 1982(a) and of all other powers enabling him in that behalf, hereby makes the following regulations.

This instrument satisfies the requirements of paragraph 38 of Schedule 4 to the Social Security and Housing Benefits Act 1982, and the Secretary of State has not referred proposals to make any of the regulations contained in it to the Industrial Injuries Advisory Council or the Social Security Advisory Committee.

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations 1983, and shall come into operation on 6th April 1983.

(2) In these regulations—

“the Act” means the Social Security and Housing Benefits Act 1982;

“contributions payments” has the same meaning as in section 9 of the Act;

“section 9(6)” means section 9(6) of the Act;

“regulation 2” and “regulation 3” mean regulations 2 and 3 respectively of these regulations;

and other expressions have the same meanings as in the Act.

Deductions from contributions payments

2. An employer who has made a payment of statutory sick pay may recover the amount so paid by making one or more deductions from his contributions payments except where and insofar as—

(a) 1982 c.24.

- (a) the contributions payments relate to earnings paid before the beginning of the income tax month in which the payment of statutory sick pay was made;
- (b) the contributions payments are made by him later than 6 years after the end of the tax year in which that payment was made;
- (c) the amount of that payment has been repaid to him by or on behalf of the Secretary of State under regulation 3; or
- (d) he has made a request in writing under regulation 3 that the amount of that payment be repaid to him, and he has not, or not yet, received notification by or on behalf of the Secretary of State that the request is refused.

Payments to employers by or on behalf of the Secretary of State

3. There shall be repaid by or on behalf of the Secretary of State to an employer a sum paid by that employer by way of statutory sick pay, or part thereof, if the following circumstances exist, namely that the employer has requested him in writing to do so and the Secretary of State is satisfied that either—

- (a) the total amount which the employer is or would otherwise be entitled to deduct under regulation 2 exceeds the total amount which the employer is liable to pay by way of primary and secondary Class 1 contributions in respect of earnings paid in an income tax month (disregarding any liability arising under the National Insurance Surcharge Act 1976(a)), in which event the amount of the excess shall be repaid; or
- (b) the employer is not liable to pay any primary or secondary Class 1 contributions, but would otherwise be entitled to deduct an amount under regulation 2, in which event that amount shall be repaid.

Date when certain contributions are to be treated as paid

4. Where an employer has made a deduction from a contributions payment under regulation 2, the date on which it is to be treated for the purposes of section 9(6) (amount deducted to be treated as paid and received towards discharging liability in respect of Class 1 contributions) as having been paid is—

- (a) in a case where the deduction did not extinguish the contributions payment, the date on which the remainder of the contributions payment, or, as the case may be, the first date on which any part of the remainder of the contributions payment, was paid; and
- (b) in a case where the deduction extinguished the contributions payment, the fourteenth day after the end of the income tax month during which there were paid the earnings in respect of which the contributions payment was payable.

Amendment of the Statutory Sick Pay (General) Regulations 1982

5.—(1) The Statutory Sick Pay (General) Regulations 1982(b) shall be amended in accordance with the provisions of this regulation.

(a) 1976 c.85.

(b) S.I. 1982/894.

(2) In regulation 16 (meaning of “employee”) there shall be inserted the following paragraph after paragraph (1)—

“(1A) Any person who is in employed earner’s employment within the meaning of the Social Security Act 1975 under a contract of apprenticeship shall be treated as an employee for the purposes of Part I.”

(3) In regulation 17 (meaning of “earnings”)—

(i) in paragraph (2) (e) after the words “made to or by trustees” there shall be inserted the words “not being a sickness payment which by virtue of section 3(1A) of the Social Security Act 1975(a) is treated as remuneration derived from employed earner’s employment”,

(ii) after paragraph (2) there shall be inserted the following paragraph:—

“(2A) Where the funds for making a sickness payment in accordance with arrangements of the kind mentioned in section 3(1A) (b) of the Social Security Act 1975 are attributable in part to contributions to those funds by the employed earner, there shall be disregarded for the purposes of section 26(2) (meaning of an employee’s normal weekly earnings) so much of the sickness payment as is attributable to those contributions.”

(4) In regulation 20 (Treatment of one or more employers as one)—

(a) at the beginning of paragraph (3) there shall be inserted the words “Subject to paragraphs (4) and (5)”; and

(b) after paragraph (3) there shall be inserted the following paragraphs:—

“(4) Where a contract of service (“the current contract”) was preceded by two or more contracts of service entered into between the same employer and employee (“the previous contracts”) and the previous contracts—

(a) existed concurrently for at least part of their length, and

(b) the intervals between the dates on which each of the previous contracts ceased to have effect and that on which the current contract came into force was not more than 8 weeks,

then for the purposes of establishing the employee’s maximum entitlement within the meaning of section 5 the provisions of Part I shall not have effect as if the employer were a different employer in relation to the current contract and whichever of the previous contracts was the contract by virtue of which the employer had become liable to pay the greatest proportion of statutory sick pay in respect of any tax year or period of entitlement.

(5) If, in any case to which paragraph (4) applies, the same proportion of the employer’s liability for statutory sick pay becomes due under each of the previous contracts, then for the purpose of establishing the employee’s maximum entitlement within the meaning of section 5, the provisions of Part I shall have effect in relation to only one of the previous contracts.”

(a) 1975 c.14; section 3(1A) was inserted by section 37 of the Social Security and Housing Benefits Act 1982.

Transitional provisions

6. Where an employee has a period of incapacity for work in relation to his contract of service with an employer which began before 6th April 1983 and which has not come to an end before that date—

- (a) if 6th April 1983 is a day of incapacity for work, a period of entitlement to statutory sick pay shall not arise in relation to that period of incapacity for work;
- (b) if 6th April 1983 is not a day of incapacity for work a period of entitlement to statutory sick pay shall arise, subject to the provisions of section 22 of, and Schedule 1 to, the Act and regulations made under those provisions, on the first day of incapacity for work after 6th April 1983 in the period of incapacity for work.

Signed by authority of the Secretary of State for Social Services.

Hugh Rossi,
Minister of State,
Department of Health and Social Security.

11th March 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

The regulations provide for compensation of employers who have made payments of statutory sick pay under the Social Security and Housing Benefits Act 1982. They also contain some miscellaneous provisions.

Regulation 2 provides that an employer who has made a payment of statutory sick pay may, subject to specified exceptions, recover its amount by making one or more deductions from the payments of Class 1 contributions which he is required to make under the Social Security Act 1975.

Regulation 3 specifies circumstances in which the Secretary of State is to repay to an employer a sum which the employer has paid as statutory sick pay.

When a deduction has been made under regulation 2, the amount deducted is treated under section 9(6) of the 1982 Act as having been paid towards discharging the liability for contributions under the 1975 Act. Regulation 4 makes provision for determining the date on which it is to be treated as having been paid.

Regulation 5 makes amendments to the Statutory Sick Pay (General) Regulations 1982 and regulation 6 contains transitional provisions.

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