
STATUTORY INSTRUMENTS

2003 No. 672

The Statutory Maternity Pay (Compensation of Employers) Amendment Regulations 2003

Substitution of regulations 4, 5 and 6 of the principal GB Regulations

4. For regulations 4, 5 and 6 of the principal GB Regulations there shall be substituted the following regulations—

“Right of employers to prescribed amount

4. An employer who has made, or is liable to make, any payment of statutory maternity pay shall be entitled to recover—

- (a) an amount equal to 92 per cent. of such payment; or
- (b) if he is a small employer—
 - (i) an amount equal to such payment, and
 - (ii) an additional amount under regulation 3,in accordance with the provisions of these Regulations.

Application for advance funding from the Board

5.—(1) If an employer is entitled to recover an amount determined in accordance with regulation 4 in respect of statutory maternity pay which he is required to pay to an employee or employees in any income tax month or income tax quarter and the amount exceeds the aggregate of—

- (a) the total amount of tax which the employer is required to pay to the collector of taxes in respect of deductions from the emoluments of his employees in accordance with the Income Tax (Employments) Regulations 1993⁽¹⁾ for that income tax month or income tax quarter;
- (b) the total amount of deductions made by the employer from the emoluments of his employees for that income tax month or income tax quarter in accordance with regulations made under section 22(5) of the Teaching and Higher Education Act 1998⁽²⁾ or section 73B of the Education (Scotland) Act 1980⁽³⁾ or in accordance with Article 3(5) of the Education (Student Support) (Northern Ireland) Order 1988⁽⁴⁾;
- (c) the total amount of contributions payments which the employer is required to pay to the collector of taxes in respect of the emoluments of his employees (whether by means of deduction or otherwise) in accordance with the Contributions Regulations for that income tax month or income tax quarter;

(1) S.I.1993/744; the relevant amending instruments are S.I. 1993/2276, 2000/1152 and 2742.
(2) 1998 c. 30.
(3) 1980 c. 44.
(4) S.I. 1998/1760 (N.I. 14).

- (d) the total amount of payments which the employer is required to pay to the collector of taxes in respect of deductions made on account of tax from payments to sub-contractors in accordance with section 559 of the Income and Corporation Taxes Act 1988(5) for that income tax month or income tax quarter; and
- (e) the statutory paternity pay, statutory adoption pay and statutory maternity pay which the employer is required to pay to his employees in that income tax month or income tax quarter,

the employer may apply to the Board in accordance with paragraph (2) for funds (“advance funding”) to pay that excess (or so much of it as remains outstanding) to the employee or employees.

(2) Where—

- (a) the conditions in paragraph (1) are satisfied; or
- (b) the employer considers that the conditions in paragraph (1) will be satisfied on the date of any subsequent payment of emoluments to one or more employees who are entitled to a payment of statutory maternity pay,

the employer may apply to the Board for advance funding on a form approved for that purpose by the Board.

(3) An application by an employer under paragraph (2) shall be for an amount not exceeding the amount of statutory maternity pay which the employer is entitled to recover in accordance with regulation 4 and which he is required to pay to an employee or employees for the income tax month or income tax quarter to which the payment of emoluments relates.

Deductions from payments to the Board

6. An employer who is entitled to recover an amount under regulation 4 may do so by making one or more deductions from the aggregate of the amounts specified in subparagraphs (a) to (e) of regulation 5(1), except where and insofar as—

- (a) those amounts relate to earnings paid before the beginning of the income tax month or income tax quarter in which the payment of statutory maternity pay was made;
- (b) those amounts are paid by him later than six years after the tax year in which the payment of statutory maternity pay was made;
- (c) the employer has received advance funding from the Board in accordance with an application under regulation 5; or
- (d) the employer has made a request in writing under regulation 5 that the amount which he is entitled to recover under regulation 4 be paid to him and he has not received notification by the Board that such request is refused.

Payments to employers by the Board

6A. If, in an income tax month or an income tax quarter—

- (a) the total amount that the employer is entitled to deduct under regulation 6 is less than the amount which the employer is entitled to recover under regulation 4;
- (b) the Board is satisfied that this is so; and
- (c) the employer has so requested in writing,

the Board shall pay to the employer the sum that the employer is unable to deduct under regulation 6.”.