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STATUTORY INSTRUMENTS

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**2022 No. 5**

**The Statutory Sick Pay (Coronavirus) (Funding  
of Employers' Liabilities) Regulations 2022**

**PART 2**

Eligibility for funding

**Meaning of eligible employer**

- 4.—(1) An eligible employer is an employer who—
- (a) on 30th November 2021, had fewer than 250 employees enrolled in all PAYE schemes operated by the employer; and
  - (b) on 31st December 2019, was not already in difficulty.
- (2) An employer is “in difficulty” if—
- (a) in the case of an employer who is not a micro or small enterprise, it is reasonable to assume that the employer would be regarded as an undertaking in difficulty under Article 2(18) of the General Block Exemption Regulation; or
  - (b) in the case of an employer who is a micro or small enterprise, it is reasonable to assume that the employer would be regarded as an undertaking in difficulty either under Article 2(18)(c) of the General Block Exemption Regulation, as if the words after “collective insolvency proceedings”, in the first place it appears, to the end were omitted, or under Article 2(18)(d) of the General Block Exemption Regulation.
- (3) Where, on 30th November 2021, the employer was one of—
- (a) two or more companies which were not charities and which were connected with one another; or
  - (b) two or more charities which were connected with one another,
- the limit in paragraph (1)(a) applies to the total number of employees enrolled in all PAYE schemes operated by the connected companies or charities, as applicable.
- (4) For the purposes of paragraph (3)—
- (a) Part 1 of Schedule 1 to the National Insurance Contributions Act 2014<sup>(1)</sup> sets out the rules for determining if two or more companies are connected with one another;
  - (b) Part 2 of Schedule 1 to that Act sets out the rules for determining if two or more charities are connected with each other.
- (5) In this regulation—
- “charity” has the same meaning as in section 18(1) of the Small Charitable Donations Act 2012<sup>(2)</sup>, subject to paragraph 8(5) of Schedule 1 to the National Insurance Contributions Act 2014;

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(1) 2014 c. 7.  
(2) 2012 c. 23.

“company” has the meaning given by section 1121(1) of the Corporation Tax Act 2010<sup>(3)</sup> and includes a limited liability partnership;

“General Block Exemption Regulation” means [Commission Regulation \(EU\) No. 651/2014](#) of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty<sup>(4)</sup>;

“micro or small enterprise” means an employer who is a micro-enterprise or a small enterprise within the meaning of Article 2 of Annex 1 of the General Block Exemption Regulation.

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(3) [2010 c. 4](#). Section 1121(1) was amended by [S.I. 2013/1388](#).

(4) OJ No. L 187, 26.6.2014, p. 1, to which there are amendments not relevant to these Regulations.