**1983 No. 54**

## STATUTORY SICK PAY

### The Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations (Northern Ireland) 1983

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| *Made* . . . . . | *22nd March 1983* |
| *Coming into operation* . . . | *6th April 1983* |

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 3(4), 11(1) and (6) and 28(1) and (3) of, and paragraph 21 of Schedule 4 to, the Social Security (Northern Ireland) Order 1982(a) and of all other powers enabling it in that behalf, hereby makes the following regulations which correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(b) are not subject to the requirement of section 10(1) of that Act for prior reference to 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 (Northern Ireland) 1983 and shall come into operation on 6th April 1983.

(2) In these regulations—

"the Order" means the Social Security (Northern Ireland) Order 1982;

"contributions payments" has the same meaning as in Article 11 of the Order.

*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 in so far as—

(*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 Department 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 Department that the request is refused.

*Payments to employers by or on behalf of the Department*

**3.** There shall be repaid by or on behalf of the Department 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 the Department in writing to do so and the Department is satisfied that either—

(a) S.I. 1982/1084 (N.I. 16)
(b) 1980 c. 30

(*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 Article 11(6) of the Order (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 14th 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 (Northern Ireland) 1982*

**5.**—(1) The Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(**b**) shall be amended in accordance with the following provisions.

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

"(1A) Any person who is in employed earner's employment within the meaning of the Social Security (Northern Ireland) Act 1975(**c**) under a contract of apprenticeship shall be treated as an employee for the purposes of Part II.".

(3) In regulation 17 (meaning of "earnings")—

(*a*) in paragraph (2)(*e*) after "made to or by trustees" there shall be inserted "not being a sickness payment which by virtue of section 3(1A)(**d**) of the Social Security (Northern Ireland) Act 1975 is treated as remuneration derived from employed earner's employment";

(*b*) 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 (Northern Ireland) Act 1975 are attributable in part to contributions to those funds by the employed earner, there shall be disregarded for the purposes of Article 28(2) (meaning of an employee's normal weekly earnings) so much of the sickness payment as is attributed to those contributions.".

(4) In regulation 20 (treatment of 2 or more employers as one)—

(*a*) at the beginning of paragraph (3) there shall be inserted "Subject to paragraphs (4) and (5),";

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

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(**a**) 1976 c. 85
(**b**) S.R. 1982 No. 263
(**c**) 1975 c. 15
(**d**) Section 3(1A) was inserted by Article 30(1) of the Social Security (Northern Ireland) Order 1982