STATUTORY INSTRUMENTS

2026 No. 373 (C. 33)

TERMS AND CONDITIONS OF EMPLOYMENT

STATUTORY SICK PAY

The Employment Rights Act 2025 (Commencement No. 3 and Transitional Provisions) Regulations 2026

Made - - - - 25th March 2026

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 155 and 159(3) of the Employment Rights Act 2025(**a**).

Citation and interpretation

1.—(1) These Regulations may be cited as the Employment Rights Act 2025 (Commencement No. 3 and Transitional Provisions) Regulations 2026.

(2) In these Regulations—

"the 1992 (GB) Act" means the Social Security Contributions and Benefits Act 1992(**b**);

"the 1992 (NI) Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**c**);

"the 2025 Act" means the Employment Rights Act 2025;

"the 1982 Regulations (GB)" means the Statutory Sick Pay (General) Regulations 1982(**d**);

"the 1982 Regulations (NI)" means the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(**e**);

"day of incapacity for work in relation to a contract of service"—

(a) in respect of an employee in Great Britain, has the meaning given in section 151(4) of the 1992 (GB) Act(**f**), or

(b) in respect of an employee in Northern Ireland, has the meaning given in section 147(4) of the 1992 (NI) Act(**g**);

"employee"—

(**a**) 2025 c. 36.
(**b**) 1992 c. 4.
(**c**) 1992 c. 7.
(**d**) S.I. 1982/894, amended by S.I. 2026/210; there are other amending instruments but none is relevant.
(**e**) S.R. 1982 No. 263, amended by S.I. 2026/210; there are other amending instruments but none is relevant.
(**f**) Section 151(4) was amended by paragraph 34 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18).
(**g**) Section 147(4) was amended by paragraph 34 of Part 1 of Schedule 1 to S.I. 1994/1898 (N.I. 12).

(a) in relation to a person in Great Britain, has the meaning given in section 163(1) of the 1992 (GB) Act(**a**), or

(b) in relation to a person in Northern Ireland, has the meaning given in section 159(1) of the 1992 (NI) Act(**b**);

"normal weekly earnings" means the employee's average weekly earnings which are determined in accordance with—

(a) regulation 19 of the 1982 Regulations (GB) as it has effect immediately before 6th April 2026, in relation to an employee in Great Britain, or

(b) regulation 19 of the 1982 Regulations (NI) as it has effect immediately before 6th April 2026, in relation to an employee in Northern Ireland;

"period of entitlement"—

(a) in relation to an employee in Great Britain, has the meaning given in section 153 of the 1992 (GB) Act as it has effect immediately before 6th April 2026, or

(b) in relation to an employee in Northern Ireland, has the meaning given in section 149 of the 1992 (NI) Act as it has effect immediately before 6th April 2026;

"period of incapacity for work"—

(a) in relation to an employee in Great Britain, has the meaning given in section 152 of the 1992 (GB) Act as it has effect immediately before 6th April 2026, or

(b) in relation to an employee in Northern Ireland, has the meaning given in section 148 of the 1992 (NI) Act as it has effect immediately before 6th April 2026;

"post-6th April period of entitlement" means a period of entitlement—

(a) in relation to an employee in Great Britain, within the meaning given in section 153 of the 1992 (GB) Act, or

(b) in relation to an employee in Northern Ireland, within the meaning given in section 149 of the 1992 (NI) Act;

"post-6th April period of incapacity for work" means a period of incapacity for work—

(a) in relation to an employee in Great Britain, within the meaning given in section 152 of the 1992 (GB) Act, or

(b) in relation to an employee in Northern Ireland, within the meaning given in section 148 of the 1992 (NI) Act;

"post-6th April qualifying day" means a qualifying day—

(a) in relation to an employee in Great Britain, within the meaning given in section 154 of the 1992 (GB) Act, or

(b) in relation to an employee in Northern Ireland, within the meaning given in section 150 of the 1992 (NI) Act;

"qualifying day"—

(a) in relation to an employee in Great Britain, has the meaning given in section 154 of the 1992 (GB) Act as it has effect immediately before 6th April 2026, or

(b) in relation to an employee in Northern Ireland, has the meaning given in section 150 of the 1992 (NI) Act as it has effect immediately before 6th April 2026;

(**a**) Section 163(1) was amended by paragraph 3 of Schedule 2 to the National Insurance Contributions Act (c. 7) and paragraph 9 of Schedule 8 to S.I. 2006/1031; there are other amending instruments but none is relevant.

(**b**) Section 159(1) was amended by paragraph 9 of Schedule 2 to the National Insurance Contributions Act (c. 7) and Schedule 8 to S.R. 2006 No. 261; there are other amending instruments but none is relevant.

"statutory sick pay"—

(a) in relation to an employee in Great Britain, has the meaning given in section 151(1) of the 1992 (GB) Act, or

(b) in relation to an employee in Northern Ireland, has the meaning given in section 147(1) of the 1992 (NI) Act.

(3) In these Regulations, except where otherwise specified, any reference to a section of, or Schedule to, the 1992 (GB) Act or 1992 (NI) Act (as the case may be) is a reference to that provision as it has effect on and after 6th April 2026.

Provisions of the 2025 Act coming into force on 6th April 2026

2. The following provisions of the 2025 Act come into force on 6th April 2026—

(a) section 10 (statutory sick pay in Great Britain: removal of waiting period);

(b) section 11 (statutory sick pay in Great Britain: lower earnings limit etc);

(c) section 12 (statutory sick pay in Northern Ireland: removal of waiting period);

(d) section 13 (statutory sick pay in Northern Ireland: lower earnings limit etc).

Transitional provision in relation to employees serving waiting days before 6th April 2026

3.—(1) This regulation applies to an employee in respect of whom a qualifying period arises.

(2) A "qualifying period" arises where the employee has a period comprising at least two consecutive days that includes—

(a) not more than two days of incapacity for work in relation to a contract of service, which fall on or before 5th April 2026 and are waiting days, and

(b) at least one day of incapacity for work in relation to a contract of service which—

(i) falls on or after 6th April 2026,

(ii) is a post-6th April qualifying day, and

(iii) would have been a waiting day had sections 10 or 12 of the 2025 Act (as the case may be) not come into force.

(3) The employee is eligible for statutory sick pay in respect of any post-6th April qualifying day in the qualifying period which falls on or after 6th April 2026, subject to Part 11 of the 1992 (GB) Act or Part 11 of the 1992 (NI) Act (as the case may be).

(4) Regulation 19 of the 1982 Regulations (GB) or regulation 19 of the 1982 Regulations (NI) (as the case may be) has effect in respect of the qualifying period as if, for the definition of the critical date in paragraph (2) of that regulation, there was substituted—

""the critical date" means the first day of the qualifying period".

(5) In this regulation "waiting day" means a day for which statutory sick pay is not payable in accordance with—

(a) section 155(1) of the 1992 (GB) Act as it has effect immediately before 6th April 2026, in relation to an employee in Great Britain, or

(b) section 151(1) of the 1992 (NI) Act as it has effect immediately before 6th April 2026, in relation to an employee in Northern Ireland.

Transitional provision in relation to employees whose normal weekly earnings are between £125 and £154.05 before 6th April 2026

4.—(1) This regulation applies to an employee—

(a) whose period of entitlement begins on or before 5th April 2026 and has not terminated before 6th April 2026,

(b) for whom, in respect of at least one qualifying day which falls on or before 5th April 2026 and within that period of entitlement, statutory sick pay is payable in accordance with section 151(1) of the 1992 (GB) Act or 147(1) of the 1992 (NI) Act (as the case may be) as it is in force immediately before 6th April 2026, and

(c) whose normal weekly earnings are—

(i) not less than £125, and

(ii) not more than £154.05.

(2) Subject to paragraph (3) and Part 11 of the 1992 (GB) Act or Part 11 of the 1992 (NI) Act (as the case may be), the employee is eligible for statutory sick pay in respect of any part of their period of entitlement which falls on or after 6th April 2026 (the "protection period").

(3) Where—

(a) the employee's period of incapacity for work terminates on or after 6th April 2026,

(b) the employee has a subsequent post-6th April period of incapacity for work, and

(c) section 152(3) of the 1992 (GB) Act or section 148(3) of the 1992 (NI) Act (as the case may be) applies to the periods described in sub-paragraphs (a) and (b),

the employee's protection period does not include that subsequent post-6th April period of incapacity for work.

(4) Section 157 of the 1992 (GB) Act, or section 153 of the 1992 (NI) Act (as the case may be) has effect in respect of the protection period as if, for paragraph (1), there were substituted—

"(1) Statutory sick pay shall be payable by an employer at the weekly rate of £123.25.".

Transitional provision in relation to employees earning below the lower earnings limit before 6th April 2026 (England and Wales and Scotland)

5.—(1) Subject to paragraph (5), this regulation applies to an employee in England, Wales or Scotland—

(a) whose period of incapacity for work begins on or before 5th April 2026,

(b) whose period of incapacity for work is continuing on or after 6th April 2026, including where section 152(3) of the 1992 (GB) Act applies,

(c) for whom a period of entitlement does not arise because their normal weekly earnings were less than the lower earnings limit on the first day of their period of incapacity for work, and

(d) for whom, except the lower earnings limit, no circumstances within Schedule 11 to the 1992 (GB) Act, as it has effect immediately before 6th April 2026, prevented a period of entitlement from arising on the first day of their period of incapacity for work.

(2) For the purposes of Part 11 of the 1992 (GB) Act, a post-6th April period of entitlement is deemed to arise and that post-6th April period of entitlement is deemed to commence on the employee's first day of incapacity for work in relation to a contract of service which falls on or after 6th April 2026.

(3) Paragraph (2) does not apply where, on the day that the employee's post-6th April period of entitlement would be deemed to have commenced, any of the circumstances within Schedule 11 to the 1992 (GB) Act arise.

(4) Regulation 19 of the 1982 Regulations (GB) has effect in respect of the post-6th April period of entitlement as if, for the definition of the critical date in paragraph (2) of that regulation, there was substituted—

> ""the critical date" means the first day of the employee's period of incapacity for work".

(5) This regulation does not apply to an employee whose period of incapacity for work—

(a) began on or before 21st September 2025, and

(b) for whom the period beginning with 21st September 2025 and ending with 5th April 2026 is comprised only of consecutive days of incapacity for work in relation to a contract of service, all of which form part of that period of incapacity for work.

(6) In this regulation "lower earnings limit" means the limit in force under section 5(1)(a)(i) of the 1992 (GB) Act as it has effect immediately before 6th April 2026.

Transitional provision in relation to employees earning below the lower earnings limit before 6th April 2026 (Northern Ireland)

6.—(1) Subject to paragraph (5), this regulation applies to an employee in Northern Ireland—

(a) whose period of incapacity for work begins on or before 5th April 2026,

(b) whose period of incapacity for work is continuing on or after 6th April 2026, including where section 148(3) of the 1992 Act (NI) applies,

(c) for whom a period of entitlement does not arise because their normal weekly earnings were less than the lower earnings limit on the first day of their period of incapacity for work, and

(d) for whom, except the lower earnings limit, no other circumstances within Schedule 11 to the 1992 (NI) Act, as it has effect immediately before 6th April 2026, prevented a period of entitlement from arising on the first day of their period of incapacity for work.

(2) For the purposes of Part 11 of the 1992 (NI) Act, a post-6th April period of entitlement is deemed to arise and that post-6th April period of entitlement is deemed to commence on the employee's first day of incapacity for work in relation to a contract of service which falls on or after 6th April 2026.

(3) Paragraph (2) does not apply where, on the day that the employee's post-6th April period of entitlement would be deemed to have commenced, any of the circumstances within Schedule 11 to the 1992 (NI) Act arise.

(4) Regulation 19 of the 1982 Regulations (NI) has effect as if, for the definition of the critical date in paragraph (2) of that regulation, there was substituted—

> ""the critical date" means the first day of the employee's period of incapacity for work".

(5) This regulation does not apply to an employee whose period of incapacity for work—

(a) began on or before 21st September 2025, and

(b) for whom the period beginning with 21st September 2025 and ending with 5th April 2026 is comprised only of consecutive days of incapacity for work in relation to a contract of service, all of which form part of that period of incapacity for work.

(6) In this regulation "lower earnings limit" means the limit in force under section 5(1)(a)(i) of the 1992 (NI) Act as it has effect immediately before 6th April 2026.

Signed by authority of the Secretary of State for Work and Pensions

Diana Johnson
Minister of State
25th March 2026 Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations commence sections 10 to 13 of the Employment Rights Act 2025 (c. 36) (the "2025 Act"), which relate to statutory sick pay. These Regulations also contain transitional provisions in relation to employees who are unable to work immediately before 6th April 2026 due to illness, and who continue to be unable to work due to illness on or after that date.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. An impact assessment was produced for the 2025 Act and is available from the House of Commons and House of Lords Libraries. Copies of the impact assessment on the statutory sick pay measures in the 2025 Act are available from the Department for Work and Pensions at Caxton House, Tothill Street, London, SW1H 9NA, or online: www.gov.uk/guidance/employment-rights-bill-impact-assessments.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Employment Rights Act 2025 have been brought into force by commencement regulations made before the date of these Regulations.

Provision	*Date of Commencement*	*S.I. No.*
Sections 1 to 4 (partially)	6th January 2026	2026/3
Section 5(1) and (2) (partially)	6th January 2026	2026/3
Section 6(1) and (2) (partially)	6th January 2026	2026/3
Sections 7 and 8	6th January 2026	2026/3
Section 9 (partially)	6th January 2026	2026/3
Section 15 (partially)	18th February 2026	2026/3
Section 15 (remainder)	6th April 2026	2026/3
Section 16 (partially)	6th January 2026	2026/3
Section 16 (partially)	18th February 2026	2026/3
Section 16 (remainder)	6th April 2026	2026/3
Section 17(1) and (2) (partially)	6th January 2026	2026/3
Section 17 (partially)	18th February 2026	2026/3
Section 17 (remainder)	6th April 2026	2026/3
Section 18(1) to (4), (10) and (11) (partially)	6th January 2026	2026/3
Section 23	6th April 2026	2026/323
Section 24(1) and (2) (partially)	6th January 2026	2026/3
Section 24(1) and (5) (partially)	6th April 2026	2026/323
Section 26	6th January 2026	2026/3
Section 27(1) (partially)	6th January 2026	2026/3
Section 27(2) to (5)	6th January 2026	2026/3
Section 27(6) (partially)	6th January 2026	2026/3
Section 27 (remainder)	6th April 2026	2026/323
Section 28(1) to (3) (partially)	6th January 2026	2026/3

Section 28(1) to (3) (partially)	6th April 2026	2026/323
Section 28(6)	6th January 2026	2026/3
Section 29(1) to (5) (partially)	6th January 2026	2026/3
Section 30(1) (partially)	6th January 2026	2026/3
Section 30(3)	6th January 2026	2026/3
Section 30 (remainder)	6th April 2026	2026/323
Section 31	18th February 2026	2026/3
Section 32(1) to (3) and (5) to (7) (partially)	6th January 2026	2026/3
Section 32(4)	6th January 2026	2026/3
Section 33	6th April 2026	2026/323
Section 35	6th April 2026	2026/323
Section 36 (partially)	6th January 2026	2026/3
Sections 39 to 55	6th April 2026	2026/323
Section 57	18th February 2026	2026/3
Section 58(1), (2) and (5) (partially)	6th January 2026	2026/3
Section 59(1) and (2) (partially)	6th January 2026	2026/3
Section 60 (partially)	6th January 2026	2026/3
Section 60 (partially)	6th April 2026	2026/323
Sections 64 and 65 (partially)	6th January 2026	2026/3
Section 76(1) and (2) (partially)	6th January 2026	2026/3
Section 76 (remainder)	18th February 2026	2026/3
Section 77	18th February 2026	2026/3
Section 79	18th February 2026	2026/3
Section 81	18th February 2026	2026/3
Section 85	1st April 2026	2026/323
Section 88	6th January 2026	2026/3
Section 90(1) and (3) (partially)	6th January 2026	2026/3
Section 90 (partially)	7th April 2026	2026/323
Section 91 (partially)	6th January 2026	2026/3
Section 91 (partially)	7th April 2026	2026/323
Section 92(1)	7th April 2026	2026/323
Section 92(2) (partially)	7th April 2026	2026/323
Section 92(3) to (6)	7th April 2026	2026/323
Section 93	7th April 2026	2026/323
Sections 94 to 98 (partially)	7th April 2026	2026/323
Section 99	7th April 2026	2026/323
Sections 100 to 102	7th April 2026	2026/323
Section 103(1), (2) and (7) (partially)	6th January 2026	2026/3
Section 103 (partially)	7th April 2026	2026/323
Section 104 (partially)	6th January 2026	2026/3
Section 104 (partially)	7th April 2026	2026/323
Sections 105 to 107 (partially)	7th April 2026	2026/323
Section 108(1) and (2)	6th January 2026	2026/3
Sections 108 and 109 (partially)	7th April 2026	2026/323
Sections 110 to 115	7th April 2026	2026/323
Section 118(2) (partially)	6th January 2026	2026/3
Section 118(5) to (7)	6th January 2026	2026/3
Sections 119 and 120 (partially)	7th April 2026	2026/323
Sections 121 and 122	7th April 2026	2026/323
Section 123 (partially)	7th April 2026	2026/323
Section 124	7th April 2026	2026/323
Section 125 (partially)	7th April 2026	2026/323
Sections 126 and 127	7th April 2026	2026/323
Section 128	7th April 2026	2026/323
Sections 129 to 134	7th April 2026	2026/323
Section 135(6) and (7)	6th January 2026	2026/3
Section 135 (partially)	7th April 2026	2026/323
Sections 136 to 141	7th April 2026	2026/323
Section 142 (partially)	7th April 2026	2026/323
Section 143	6th January 2026	2026/3

Sections 144 to 148	7th April 2026	2026/323
Section 149(1) (partially)	6th January 2026	2026/3
Section 149(1) (partially)	7th April 2026	2026/323
Section 149(2)	6th January 2026	2026/3
Section 149(3)	7th April 2026	2026/323
Section 150(1) (partially)	7th April 2026	2026/323
Section 150(2)	7th April 2026	2026/323
Section 151(1) (partially)	6th January 2026	2026/3
Section 151(1) (partially)	7th April 2026	2026/323
Section 151(2)	6th January 2026	2026/3
Section 151(3) and (4)	7th April 2026	2026/323
Section 151(5)	6th January 2026	2026/3
Section 153	6th January 2026	2026/3
Schedule 1 (partially)	6th January 2026	2026/3
Schedule 2 (partially)	6th January 2026	2026/3
Schedule 6 (partially)	6th January 2026	2026/3
Schedule 6 (partially)	6th April 2026	2026/323
Schedule 7 (partially)	6th January 2026	2026/3
Schedule 7 (partially)	7th April 2026	2026/323
Schedule 8	7th April 2026	2026/323
Schedule 9 (partially)	7th April 2026	2026/323
Schedule 10 (partially)	6th January 2026	2026/3
Schedule 10 (partially)	7th April 2026	2026/323
Schedule 11 (partially)	6th January 2026	2026/3
Schedule 11 (remainder)	7th April 2026	2026/323

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