1985 No. 257

STATUTORY SICK PAY

The Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations (Northern Ireland) 1985

Made . . . . . *20th September 1985*

Coming into operation . . . *6th October 1985*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 11(1A) and (6) of the Social Security (Northern Ireland) Order 1982(**a**) and paragraph 5(1) of Schedule 1 to the Social Security (Northern Ireland) Act 1975(**b**) and of all other powers enabling it in that behalf, and with the concurrence of the Inland Revenue in so far as their concurrence is required, by this rule, which contains only provisions consequential on Article 19(1) of the Social Security (Northern Ireland) Order 1985(**c**), makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations (Northern Ireland) 1985 and shall come into operation on 6th October 1985.

(2) In these regulations—

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

"the Contributions Regulations" means the Social Security (Contributions) Regulations (Northern Ireland) 1979(**d**);

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

(3) The Interpretation Act (Northern Ireland) 1954(**e**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Right of employers to a prescribed amount

2. Where an employer makes or has made a payment of statutory sick pay on or after 6th April 1985 which he is or was entitled to recover under regulation 2 or 3 of the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations (Northern Ireland) 1983(**f**), he shall be entitled to an amount, determined in accordance with the provisions of regulation 3 of these regulations, which he shall be entitled to deduct or, as the case may be, receive in accordance with the provisions of regulation 4 or 5.

Determination of amount

3.—(1) The amount to which an employer shall be entitled under regulation 2 shall be an amount equal to a percentage of the statutory sick pay he has paid at the

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(**a**) S.I. 1982/1084 (N.I. 16); Article 11(1A) was inserted by Article 19(1)(*a*) of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16))

(**b**) 1975 c. 15; paragraph 5(1) of Schedule 1 was extended by Article 11(4) and (5) of the Social Security (Northern Ireland) Order 1982, and by Article 19(1)(*c*) of the Social Security (Northern Ireland) Order 1985

(**c**) S.I. 1985/1209 (N.I. 16)

(**d**) S.R. 1979 No. 186; the relevant amending regulations are S.R. 1980 No. 463, S.R. 1983 No. 64 and S.R. 1985 No. 59.

(**e**) 1954 c. 33 (N.I.)

(**f**) S.R. 1983 No. 54

percentage rate specified in paragraph (2) at the time when the payment of statutory sick pay was made.

(2) The amount to which an employer shall be entitled under regulation 2 in respect of a payment of statutory sick pay made in the tax year commencing 6th April 1985 shall be determined by multiplying the amount of the payment by 9 per cent., that percentage rate being the total amount of secondary Class 1 contributions estimated by the Department as paid or to be paid on statutory sick pay paid by all employers in that year expressed as a percentage of the total amount of statutory sick pay estimated by it to be paid by all employers in that year.

Deduction from contributions payments

4. An employer who makes or has made a payment of statutory sick pay in accordance with the provisions of regulation 2 may deduct the amount prescribed in regulation 3 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 the payment of statutory sick pay was made;

(*c*) the said amount prescribed in regulation 3 has been paid to him by the Department or by the Commissioners of Inland Revenue on its behalf under regulation 5; or

(*d*) the employer has made a request in writing under regulation 5 that the amount to which he is entitled be paid 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

5. There shall be paid by the Department or by the Commissioners of Inland Revenue on its behalf to an employer the amount, or part thereof, prescribed in regulation 3 if the following circumstances exist, namely that the employer has requested the Department in writing to do so and the Department is satisfied either—

(*a*) that, after the employer has deducted all or part of the amount he was entitled to deduct by virtue of regulation 2 of the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations (Northern Ireland) 1983, the amount of primary and secondary Class 1 contributions he is required to pay under Regulation 26 of Schedule 1 to the Contributions Regulations is insufficient to enable him to deduct therefrom all or part of the amount he is entitled to deduct by virtue of regulations 2 and 3 of these regulations, then he shall be paid such amount as he was unable to deduct; or

(*b*) that 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 4, then that amount shall be paid.

Amendment of Schedule 1 to the Contributions Regulations

6.—(1) Schedule 1 to the Contributions Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In Regulation 5A for "30(1)(*d*) and (2)(*d*)" there shall be substituted "30(1)(*d*), (2)(*d*) and (2)(*e*)".

(3) In Regulation 26(1) after "Miscellaneous Provisions Regulations (Northern Ireland) 1983" there shall be inserted "or deducted by virtue of regulation 4 of the Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations (Northern Ireland) 1985".

(4) In Regulations 27(2), 30(6) and 32(2) after "Miscellaneous Provisions Regulations (Northern Ireland) 1983" there shall be inserted "or by virtue of regulation 4 of the Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations (Northern Ireland) 1985".

(5) In Regulation 30(2) after sub-paragraph (*d*) there shall be inserted the following sub-paragraph—

"; and

(*e*) the total amount deducted, in respect of statutory sick pay paid during that year to all his employees, by virtue of regulation 4 of the Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations (Northern Ireland) 1985.".

Consequential amendment of the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations (Northern Ireland) 1983

7. In regulation 4 of the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations (Northern Ireland) 1983 after "under regulation 2" there shall be inserted "or under regulation 4 of the Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations (Northern Ireland) 1985".

Sealed with the Official Seal of the Department of Health and Social Services on 20th September 1985.

(L.S.) *A. N. Burns*
Assistant Secretary

The Commissioners of Inland Revenue hereby concur.

A. J. C. Isaac
L. Airey
Two of the Commissioners of Inland Revenue

24th September 1985

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make provision for the additional compensation of employers in respect of payments of statutory sick pay made by them and make certain consequential amendments. They correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee. The regulations are consequential on Article 19(1) of the Social Security (Northern Ireland) Order 1985 and are made before the expiry of the period of six months beginning with the day on which the said Order of 1985 was made (31st July 1985). The regulations therefore satisfy the requirements of Article 19(2) of the said Order of 1985 and have effect from 6th April 1985.

Regulation 2 provides that where an employer makes or has made a payment of statutory sick pay on or after 6th April 1985 which he is entitled to recover under the provisions of regulation 2 or 3 of the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations (Northern Ireland) 1983, he shall be entitled to deduct or be paid an additional amount specified in these regulations.

Regulation 3 specifies the amount to be deducted by, or paid to, the employer. It provides that the additional amount is to be an amount equal to a percentage rate of the statutory sick pay paid by the employer.

Regulation 4 provides that an employer who has made a payment of statutory sick pay may, subject to specified exceptions, obtain the amount specified in regulation 3 by making one or more deductions from the payment of Class 1 contributions which he is required to make under the Social Security (Northern Ireland) Act 1975.

Regulation 5 specifies the circumstances in which the Department is to pay to the employer the amount specified in regulation 3.

Regulations 6 and 7 make amendments respectively to Schedule 1 to the Social Security (Contributions) Regulations (Northern Ireland) 1979 and to the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations (Northern Ireland) 1983 consequent on the new provisions for the additional compensation of employers in respect of statutory sick pay.