STATUTORY INSTRUMENTS

1985 No. 1411

TERMS AND CONDITIONS OF EMPLOYMENT SOCIAL SECURITY

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

Made - - - -	*6th September* 1985
Laid before Parliament	*12th September* 1985
Coming into Operation	*6th October* 1985

The Secretary of State for Social Services, with the concurrence of the Inland Revenue insofar as their concurrence is required, in the exercise of the powers conferred upon him by section 9(1A) and (6) of the Social Security and Housing Benefits Act 1982 (**a**) and paragraph 5(1) of Schedule 1 to the Social Security Act 1975 (**b**) and of all other powers enabling him in that behalf, by this instrument, which contains regulations made under section 9(1A) of the Social Security and Housing Benefits Act 1982, and which contains only provisions consequential on section 19(1) of the Social Security Act 1985 (**c**), and which satisfies the requirements of section 19(2) of the said Act of 1985 in that it is made before the expiry of the period of six months beginning with the day on which the said Act of 1985 was passed (**d**), 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 1985 and shall come into operation on 6th October 1985.

(2) In these regulations—

"the Act" means the Social Security and Housing Benefits Act 1982;

"contributions payments" has the same meaning as in section 9 of the Act;

"regulation 2", "regulation 3", "regulation 4" and "regulation 5" mean, respectively, regulations 2, 3, 4 and 5 of these regulations;

and other expressions have the same meaning as in the Act.

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 1983 (**e**), he shall be entitled to an

(**a**) 1982 c.24; section 9(1A) was inserted by the Social Security Act 1985 (c.53), section 19(1)*(a)*.
(**b**) 1975 c.14; paragraph 5(1) was extended by section 9(4) of the Social Security and Housing Benefits Act 1982 and by section 19(1)*(c)* of the Social Security Act 1985.
(**c**) 1985 c.53.
(**d**) 22nd day of July 1985.
(**e**) S.I. 1983/376.

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 percentage rate specified in paragraph (2) of this regulation 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 Secretary of State 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 him 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 insofar 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 Secretary of State or by the Commissioners of Inland Revenue on his 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 Secretary of State that the request is refused.

Payments to employers by or on behalf of the Secretary of State

5. There shall be paid by the Secretary of State or by the Commissioners of Inland Revenue on his 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 Secretary of State in writing to do so and the Secretary of State 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 1983, the amount of primary and secondary Class 1 contributions he is required to pay under Regulation 26 of Schedule 1 to the Social Security (Contributions) Regulations 1979 (**a**) 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

(**a**) S.I. 1979/591; relevant amending instruments are S.I. 1983/395, 1985/396.

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 Social Security (Contributions) Regulations 1979

6.—(1) Schedule 1 to the Social Security (Contributions) Regulations 1979(**a**) shall be amended in accordance with the provisions of this regulation.

(2) In Regulation 5A of Schedule 1 to the Social Security (Contributions) Regulations 1979 for the words "30(1)*(d)* and (2)*(d)*" there shall be substituted the words "30(1)*(d)*, (2)*(d)* and (2)*(e)*".

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

(4) In Regulations 27(2), 30(6) and 32(2) of the said Schedule 1 after the words "Miscellaneous Provisions Regulations 1983" there shall be inserted the words "or by virtue of regulation 4 of the Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations 1985".

(5) In Regulation 30(2) of the said Schedule 1 there shall be inserted after sub-paragraph *(d)* 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 1985.".

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

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

Signed by authority of the Secretary of State for Social Services.

Tony Newton,
Minister of State,
Department of Health and Social Security.

6th September 1985.

(**a**) S.I. 1979/591; relevant amending instruments are S.I. 1983/395, 1985/396.
(**b**) S.I. 1985/1411.
(**c**) S.I. 1983/376.

The Commissioners of Inland Revenue hereby concur.

By Order of the Commissioners of Inland Revenue.

A. J. G. Isaac,
D. B. Rogers,
Two of the Commissioners of
Inland Revenue.

6th 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 are either made under section 9(1A) of the Social Security and Housing Benefits Act 1982, as inserted by section 19(1) of the Social Security Act 1985, or are otherwise consequential on section 19(1). As they are also made earlier than six months from the coming into force of section 19 (22nd July 1985), they are exempted by section 27(8)*(f)* of the Social Security Act 1985 from the requirement under section 10(1) of the Social Security Act 1980 (c.30) to refer proposals to the Social Security Advisory Committee and are made without reference to that Committee.

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 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 Act 1975.

Regulation 5 specifies the circumstances in which the Secretary of State 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 1979 and to the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations 1983 consequent on the new provisions for the additional compensation of employers in respect of statutory sick pay.

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