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STATUTORY RULES OF NORTHERN IRELAND

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**1995 No. 69**

**SOCIAL SECURITY  
STATUTORY SICK PAY**

**The Statutory Sick Pay Percentage  
Threshold Order (Northern Ireland) 1995**

*Made* - - - - *7th March 1995*  
*Coming into force* - - *6th April 1995*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 155A(1) and (2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1) and of all other powers enabling it in that behalf, hereby makes the following order:

**Citation, commencement and interpretation**

1.—(1) This order may be cited as the Statutory Sick Pay Percentage Threshold Order (Northern Ireland) 1995 and shall come into operation on 6th April 1995.

(2) In this order—

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992(2);

“the Contribution and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the General Regulations” means the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(3);

“adjudicating officer” means an officer appointed in accordance with section 36(1) of the Administration Act;

“Commissioner” means the Chief or any other Social Security Commissioner appointed in accordance with section 50(1) of the Administration Act and includes a Tribunal of 2 or 3 such Commissioners constituted in accordance with section 55 of that Act;

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(1) 1992 c. 7; section 155A is inserted by Article 5(1) of the Statutory Sick Pay (Northern Ireland) Order 1994 (S.I.1994/766 (N.I. 5)).  
(2) 1992 c. 8.  
(3) S.R. 1982 No. 263; relevant amending regulations are S.R. 1984 No. 91.

“income tax month” means the period beginning on the 6th day of any calendar month and ending on the 5th day of the following calendar month;

“social security appeal tribunal” means a tribunal constituted under section 39 of the Administration Act.

(3) A reference in this order to a payment of statutory sick pay shall not include any such payment made in respect of a day of incapacity for work before the coming into operation of this order.

(4) The Interpretation Act (Northern Ireland) 1954(4) shall apply to this order as it applies to a Measure of the Assembly.

### **Right of employer to recover statutory sick pay**

2.—(1) Subject to paragraph (2), an employer is entitled to recover in accordance with articles 3 and 4 the amount, if any, by which the payments of statutory sick pay made by him in any income tax month exceed 13 per cent. of the amount of his liability for contributions payments in respect of that income tax month.

(2) For the purposes of calculating the amount an employer is entitled to recover under paragraph (1), there shall be excluded any payments of statutory sick pay which was not made—

- (a) in the income tax month in which he received notice, in accordance with regulation 7 of the General Regulations (time and manner of notification of incapacity for work), of the day or days of incapacity for work to which the payment related;
- (b) in the case where it would have been impracticable to make the payment in that income tax month in view of the employer’s methods of accounting for and paying remuneration, in the following income tax month; or
- (c) in a case where a decision has been made by an adjudication officer, social security appeal tribunal or Commissioner that the employee was entitled to that payment, within the time limits set out in regulation 9 of the General Regulations (time limits for paying statutory sick pay).

### **Recovery by deduction from contributions payments**

3.—(1) An employer may recover an amount determined in accordance with article 2 in respect of any income tax month by making one or more deductions from his contributions payments for that or any following income tax month within 6 years from the end of the tax year in which he became entitled to recover that amount, except where and insofar as—

- (a) that amount has been repaid to him by or on behalf of the Department under article 4; or
- (b) he has made a request in writing under article 4 that that amount be repaid to him, and he has not received notification by or on behalf of the Department that the request is refused.

(2) Any deduction from contributions payments made in accordance with paragraph (1) shall be disregarded for the purposes of determining whether any employer has discharged any liability of his in respect of Class 1 contributions.

### **Recovery from the Department**

4.—(1) If the amount which an employer is or would otherwise be entitled to deduct under article 3 exceeds the amount of his contributions payments in respect of earnings paid in an income tax month, and the Department is satisfied that that is so, then provided that the employer has requested the Department in writing to do so, there shall be repaid to the employer by or on behalf of the Department such amount as the employer was unable to deduct.