

The Coronavirus (Rights and Support) Act (Employment) Regulations 2021

The Secretary of State, in exercise of the powers conferred by section 43 of the Coronavirus (Rights and Support) Act 2021 makes the following Regulations:

Citation and commencement

1.—These Regulations may be cited as the Coronavirus (Rights and Support) Act (Employment) Regulations 2021.

2.— These Regulations come into force on [DATE].

SSP rates of payment

3.— (1) In relation to any period of incapacity for work related to coronavirus, the weekly rate at which statutory sick pay shall be payable by an employer under section 157(1) of the Social Security Contributions and Benefits Act 1992, shall be the rate of a week's pay.

(2) Sections 221 to 224 of the Employment Rights Act 1996 shall apply for the purpose of determining the amount of a week's pay for the purposes of this regulation, subject to the modifications set out in paragraph (3).

(3) The provisions referred to in sub-section (2) shall apply--

(a) as if the calculation date were the first day of the period of incapacity for work;

(b) as if the references to sections 227 and 228 did not apply;

(c) subject to the exception in sub-paragraph (f)(ii), as if in sections 221(3), 222(3) and (4), 223(2) and 224(2) and (3) references to twelve were references to— (i) in the case of a worker who on the calculation date has been employed by their employer for less than 52 complete weeks, the number of complete weeks for which the worker has been employed, or (ii) in any other case, 52; and

(d) in any case where section 223(2) or 224(3) applies as if—

(i) account were not to be taken of remuneration in weeks preceding the period of 104 weeks ending— (aa) where the calculation date is the last day of a week, with that week, and (bb) otherwise, with the last complete week before the calculation date; and

(ii) the period of weeks required for the purposes of sections 221(3), 222(3) and (4) and 224(2) was the number of weeks of which account is taken.

(4) In this regulation—

(a) “period of incapacity for work” has the meaning given by section 152 of the 1992 Act; and

(b) a period of incapacity for work is related to coronavirus if the employee is—

(i) incapable by reason of infection or contamination with coronavirus, or

(ii) deemed, in accordance with regulation 2(1)(c) or (d) of the Statutory Sick Pay (General) Regulations 1982 (S.I. 1982/894), to be incapable by reason of coronavirus, of doing work which the employee can reasonably be expected to do under the employee's contract of service.

SSP Government reimbursement

4.— (1) The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) Regulations 2020 are amended as follows.

(2) In regulation 3(1)(b) for “13th March 2020” substitute “[date new regs are given effect]”.

(3) For regulation 3(3) substitute:

(1) The amount which an eligible employer may recover from HMRC under these Regulations is limited to, in relation to a single employee, four weeks' pay.

(2) A week's pay in this paragraph has the same meaning as in [refer back to new legislation enabling a 'week's pay' above]

National living wage – version 1 – minor changes

6.— (1) The National Minimum Wage Regulations 2015 (S.I. 2015/621) are amended as follows.

(2) In regulation 4 (the national living wage) for “£8.72” substitute “£9.50”.

(3) In regulation 4A(1) (workers who qualify for the national minimum wage at a different rate)—

(a) for “£8.20” substitute “£9.50”;

(b) for “£6.45” substitute “£9.50”;

(c) for “£4.55” substitute “£9.50”;

(d) for “£4.15” substitute “£9.50”.

National living wage – version 2 – more substantial changes

7.— (1) The National Minimum Wage Regulations 2015 (S.I. 2015/621) are amended as follows.

(2) For regulation 4 (the national living wage) substitute:—

(1) “The single hourly rate of the national minimum wage for the purposes of section 1(3) of the Act (“the national living wage rate”) and in respect of a London worker is £10.85.

(2) The single hourly rate of the national minimum wage for the purposes of section 1(3) of the Act (“the national living wage rate”) and in respect of an other worker is £10.85.

(3) In this regulation and regulation 4A:—

“London worker” means a worker who is resident in Greater London within the meaning of the Greater London Authority Act 1999 and who the employer knows, or ought reasonably to know, is a resident in Greater London;

“other worker” means a worker who is not a London worker.”

(3) For regulation 4A (workers who qualify for the national minimum wage at a different rate) substitute: —

(1) The hourly rate of the national minimum wage is—

- a. £10.85 for a London worker who is aged 18 years or over;
- b. £10.85 for an other worker who is aged 18 years or over;
- c. £10.85 for a London worker who is aged under 18 years;
- d. £10.85 for a London worker who is aged under 18 years;
- e. £10.85 for a worker to whom the apprenticeship rate applies, as determined in accordance with regulation 5.

(2) If the rate in paragraph (1)(e) applies to a worker, the national living wage rate and the rates in paragraph (1)(a), (b), (c) and (d) of this regulation do not apply to that worker.

Health and safety inspections

8.— (1) The Management of Health and Safety at Work Regulations 1999 (S.I. 1999/3242) are amended as follows.

(2) Add the end of regulation 3 insert: —

“(7) Where the employer employs more than 20 employees, or where the employer employs more than 10 key workers, he shall record:

(a) the significant findings of a specific assessment relating to coronavirus, including the findings in relation to the mandatory considerations in paragraph 8; and

(b) any group of his employees identified by him as being especially at risk.

(8) A specific assessment relating to coronavirus shall include an assessment of mandatory considerations relating to coronavirus including:—

(a) the number of employees and their proximity to each other or to other people;

- (b) ventilation;
- (c) the vulnerability of any particular employees, or group of employees, to coronavirus, including whether the employee has an at risk/vulnerable person in their household;
- (d) the risk of transfer of coronavirus from or between objects including surfaces, equipment or workstations;
- (e) the provision of personal protective equipment;
- (f) health hazards;
- (g) the provision of information and training of employees; and
- (h) preventive and protective measures.

(10) In this regulation:—

“key worker” means an employee as may be prescribed by order by the Secretary of State; and

“coronavirus” means severe acute respiratory syndrome coronavirus 2.”

(3) At the end of regulation 10 insert: —

“(4) The record of any specific assessment relating to coronavirus under regulation 3(7) shall be made available to employees to view by no later than 7 days after the assessment is performed.”

(4) The Control of Substances Hazardous to Health Regulations 2002 (S.I. 2002/2677) are amended as follows:

(5) In regulation 2, under the definition of “substance hazardous to health”, “a risk to health;” add: —

“(f) which is severe acute respiratory syndrome coronavirus 2;”

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

[Signature]

Minister of State

Department for Work and Pensions

[Date]