



COVID-19 AND IMPORTANT CHANGES TO STATUTORY SICK PAY

In a significant change to the rules on payment of Statutory Sick Pay (SSP), the Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020 (SI 2020/374) have been passed and will have retrospective effect in relation to any COVID-19 related absences on or after 13 March 2020.

CAN STATUTORY SICK PAY BE PAID FROM DAY ONE?

The new Regulations amend the previous rule that SSP was not payable for the first 3 qualifying days that someone was off sick and unable to work. It will now be possible to pay SSP from day 1 of an employee's absence from work (rather than day 4), if the employee is incapable, or deemed to be incapable, of doing work by reason of COVID-19.

CAN STATUTORY SICK PAY BE PAID DURING 'SELF ISOLATION'?

The Regulations also provide clarification of what it means for an employee to be "deemed to be incapable of work because they are self-isolating to prevent infection from COVID-19" and include the following:

1. They have symptoms of COVID-19 and are staying at home for 7 days, beginning with the day on which the symptoms started (day 1).
2. They live with someone who is self-isolating for the reasons set out above and are staying at home for 14 days, beginning with day 1.
3. They are already self-isolating in accordance with point 2 above, develop symptoms of COVID-19 and are staying at home for 7 days, beginning with the day the symptoms started.

This is an important change to the rules on SSP to try to provide financial support for those who are forced to self-isolate either due to their own sickness or for those living with someone who is displaying symptoms of COVID-19.

CAN STATUTORY SICK PAY BE PAID IF AN EMPLOYEE IS 'SHIELDING'?

If an employee is considered to be "extremely vulnerable" from COVID-19 and following government advice is 'shielding' at home for 12 weeks they will not be entitled to SSP. In this scenario, if they cannot work from home, the options for an employer are either to continue to pay the employee their full pay or perhaps place them on furlough leave under the Coronavirus Job Retention Scheme if the relevant criteria are satisfied.

WHEN DO THE NEW REGULATIONS STOP?

The new Regulations do not have an 'expiry date' as expected but they will be kept under review by the Secretary of State in line with the Coronavirus Act 2020.

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FURTHER CHANGES EXPECTED?

Further changes are also expected including the ability for small and medium size businesses who have fewer than 250 employees to be able to claim a refund of any SSP paid to employees who are absent from work due to COVID-19 for a period up to 14 days. As yet the regulations that will introduce this change have not been drafted but are likely to have retrospective effect from 14th March 2020.

NEED ASSISTANCE?

If you have any questions about what sick pay and other payments your workforce are entitled to during this pandemic, please contact Julie Edmonds, Head of Employment, by email (jedmonds@jpclaw.co.uk); telephone (0207 644 7286) or contact her on LinkedIn <https://www.linkedin.com/in/julie-edmonds-7a608346/>