

New statutory sick pay regulations, 26 May 2022

The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) Regulations 2020 come into force on 26 May. [Read more here.](#)

18 May 2020

The Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) Regulations 2020 come into force on 26 May.

These Regulations provide further information as to how eligible employers can claim reimbursement from HMRC for coronavirus-related absences where the first day of absence falls after 13 March 2020. Reimbursement is capped at £191.70 per employee, and in total by £191.70 multiplied by the number of employees enrolled on PAYE schemes of the employer as at 28 February 2020. It cannot be claimed for any employees in respect of whom the employer would be entitled to claim a grant under the Coronavirus Job Retention Scheme for that period. As previously indicated, eligible employers must have had fewer than 250 employees enrolled on their PAYE schemes as at 28 February 2020. However, where companies or charities are connected, this total must be calculated using PAYE schemes of all connected companies/charities.

Clarification is provided in relation to two further particular aspects.

Time period: Any claim for reimbursement by an employer must be made before the end of either (1) a year from the last qualifying day in the period of incapacity for work to which the reimbursement amount relates or (2) a year from 26 May 2020, whichever of these dates is later.

"In difficulty": Any claim must contain a declaration that the employer was not already in difficulty as at 31 December 2019. An employer who is considered to be in difficulty cannot therefore claim for reimbursement. Whether an employer is "in difficulty" has a complex definition under EU law (and is determined in accordance with Article 2(18) of the Commission Regulation (EU) No.651/2014).

The Regulations allow employers to correct claims when the amount has been over or understated. They also set out HMRC's power to recover overpayments. Specific records in respect of these sickness absences must be kept by employers for 3 years, beginning with the date payment is made.

Eligible employers must pay careful attention to time limits to ensure they do not lose the opportunity to receive reimbursement. We recommend diarising key dates. It also reinforces the importance of keeping accurate records in case reimbursement claims are questioned by HMRC.

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