



Department
for Work &
Pensions

The Draft Statutory
Sick Pay (General)
(Coronavirus
Amendment)
Regulations 2022
(SI 2022/****)



Department
for Work &
Pensions

The Draft Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2022 (SI 2022/****)

Report by the Social Security Advisory
Committee under Sections 172(1) and Section
174(1) of the Social Security Administration Act
1992 and statement by the Secretary of State
for Work and Pensions in accordance with
Section 174(2) of that Act

Presented to Parliament pursuant to
Section 174(2) of the Social Security Administration Act 1992
March 2022



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Contents

Secretary of State's Statement in response to the Social Security Advisory Committee's report dated 2 March 2022 on the Statutory Sick Pay (Coronavirus) (General Amendment) Draft Regulations 2022.	3
Letter to Secretary of State from Social Security Advisory Committee	7
Letter from DWP to Social Security Advisory Committee Chair, dated 25 February 2022	10
The Statutory Sick Pay (Coronavirus) (General Amendment) Draft Regulations 2022	14
The Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days) (Transitional Provision) Draft Regulations 2022	16

**2 The Draft Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2022
(SI 2022/****)**

Secretary of State's Statement in response to the Social Security Advisory Committee's report dated 2 March 2022 on the Statutory Sick Pay (Coronavirus) (General Amendment) Draft Regulations 2022.

Following further legal checks after the SSAC report, the title of the regulations has now changed to Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2022. The regulations included in this report were previously shared with the SSAC, these have been amended in light of legal checks prior to being laid.

During the pandemic, the UK Government took swift and decisive action to support the country through an unprecedented health crisis. As part of this response, temporary, emergency changes were made to the rules around Statutory Sick Pay (SSP). This included widening eligibility in defined circumstances relating to Covid-19 and suspending waiting days so that SSP was payable from the first day of work missed due to sickness or self-isolation, rather than the fourth. This was a vital step while the country built up protection through the vaccination programme and developed a range of new treatments. Following the success of the vaccination programme, the Government considers the changes are no longer required. The UK population has much stronger protection against Covid-19 than at any other point in the pandemic. We can now deal with the virus in a very different way, moving from government restrictions to personal responsibility, in the same way in which we treat other infectious diseases.

When the changes to SSP were announced in March 2020, the Government was clear they would be temporary. The Government has previously committed to reviewing the changes to SSP in line with the expiry of the Coronavirus Act (CVA) and, as the CVA provisions will lapse on 24 March, so too should the SSP deeming provisions. On 21 February, the Prime Minister confirmed the changes to SSP would end on 24 March, along with the CVA provisions, thus returning to SSP rules which were in place before the pandemic. The timetable my officials set out to the Social Security Advisory Committee for revoking the Covid-related SSP regulations was therefore designed to reflect this and to allow for the regulations to be laid 21 days prior to coming into force. My officials provided the Committee with all the relevant information available at the time of the Committee's meeting and everything that was asked for prior to their meeting.

I have carefully considered the recommendations contained in the report by the Committee dated 2 March 2022. The Committee was concerned regarding the timetable for laying the regulations. In light of this, I have delayed making and laying the regulations to enable a better understanding of the impact of the regulations. I have done so by instructing my officials to review the Equality Analysis and by obtaining more information from the Department of Health and Social Care on the key principles of the public health guidance from 1 April. I expand on these points below.

4 The Draft Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2022 (SI 2022/**)**

In relation to recommendation 1:

The Committee was concerned that the Department had not properly considered the impact of these changes and raised concerns regarding the provisional equality analysis which was provided to the Committee. In light of the Committee's comments, a further review of relevant analysis and evidence has been undertaken at pace. The draft Equality Analysis provided to the Committee has since been finalised and my officials have expanded the analysis presented. My officials have considered data on working from home patterns, vaccination status, and identifying sectors where those with protected characteristics may be more likely to work and the impact of this. However, evidence is limited on four key points:

- Infection and illness patterns now are different from those seen in the earlier part of the pandemic, and we would expect this to change again with the recent changes to rules and guidance and the effectiveness of the vaccine rollout. This limits the ability to say which groups will be more or less likely to be Covid-positive but not sufficiently ill to be eligible for SSP under normal rules.
- We have limited information on the degree to which the ability to work at home varies between groups.
- We do not know whether different groups will have a different ability or propensity to continue to work with a Covid infection or after close contact with a Covid infection if they are unable to work from home.
- We cannot anticipate employer response and do not know the extent to which contractual agreements and employer-provided sick pay will mitigate any impact, nor do we know what employer responses will be, or how this will then impact different individuals with protected characteristics.

I have been provided with updated analysis on the equalities implications and am satisfied that I do understand – as far as the data allows – the impact and consequences of the repeal of these regulations both on people with protected characteristics and more broadly. There are no reporting requirements for providing data on SSP to Government, and my officials are not aware of any existing or planned data sources which would provide robust estimates of any disproportionate impact of the removal of these provisions on groups with protected characteristics. As such, a delay to these regulations would not be expected to significantly improve the evidence available.

I note the Committee's concerns regarding people beyond those with protected characteristics. People with clinical vulnerabilities are only eligible for SSP where they are self-isolating because they have symptoms, or following a positive test, or where they have been identified as a close contact of a positive case, but not where they are following shielding measures. This has been the position since the shielding programme was ended last year. I understand why clinically extremely vulnerable people may be concerned about going into a workplace where people may be infected with Covid-19, however this should be a matter of discussion between employer and employee. The Government will offer guidance for employers to help them understand what actions they can take to reduce the spread of respiratory infections in the workplace. There may also be circumstances where employees qualify for SSP under the non-Covid related deeming provisions, such as where they are advised by a doctor against going to work in specific circumstances as a result of a pre-existing health condition, or people working in particular roles. These instances will be specific to the individual's circumstances and the nature of the employment contract and are not something which I can offer comment on.

I have delayed the making and laying of these regulations and opted to conduct further analysis as set out above. Having reviewed the available analysis, and given due regard to my Public Sector Equality Duty, I am confident that it remains the right course of action to introduce these regulations which revoke the SSP provisions to the revised timetable.

The Committee was concerned that regulations would be laid before it was known what the revised public health guidance would be after 1 April. My officials have engaged with colleagues across

Government to better understand the planned contents of the public health guidance from April. I have taken time to consider what this guidance will advise and the interaction with SSP. While it would not be appropriate to discuss the detail of the future content of such guidance here, I am satisfied that from 1 April there will be a rationale for treating Covid-19 like other respiratory illnesses. As such, I do not deem it necessary or proportionate to maintain specific provisions for Covid-related absences in the SSP regulations. I am therefore satisfied that this course of action remains appropriate and confident that these regulations are consistent with the guidance which will come into force on 1 April.

The same SSP rules have always applied to all employees regardless of the nature of their work or workplace. It would therefore not be appropriate to create different schemes for particular sectors or certain subsets of employees. It is for the relevant Government Departments responsible for high risk settings to set out particular requirements for workplace measures and to consider whether any support is necessary.

Regarding businesses and the workplace, the Government is moving away from a prescriptive approach and will issue guidance for employers around working safely but will no longer be telling employers exactly how they should be managing Covid-19 in the workplace. We will return to the approach taken before the pandemic where it is a matter for employers to determine how to manage infectious disease in the workplace and to determine what mitigations are appropriate, as they do with other health and safety risks. Employers will need to determine their organisational policies regarding sickness management in the workplace and engage with their workforce accordingly. As before the pandemic, employees will be eligible for SSP where they are sick and incapable of work which they can reasonably be expected to perform, subject to meeting the usual eligibility conditions. The welfare system will continue to provide support to those who need further financial help, depending on their personal circumstances.

In summary, in response to recommendation 1:

- a) I have delayed making and laying these regulations, in line with SSAC's recommendation, to gain a better understanding of both the future guidance and the equalities implications. As a result of this delay:
 - i) I have been provided with updated analysis on the equalities implications and am satisfied that I understand – as far as the data allows – the impact and consequences of the repeal of these regulations both on people with protected characteristics and more broadly;
 - ii) I have been provided with the principles which will underpin guidance from 1 April, and it is appropriate and proportionate that SSP system returns to pre-pandemic rules.
- b) As the SSP provisions in Coronavirus Act expire on 24 March, it is appropriate that all SSP changes should happen at the same time to provide clarity for employers and employees, and avoid confusion and complication in the operation of SSP. Some aspects of the deeming provisions rely in part on CVA powers and, as those powers expire on 24 March, it follows that these regulations should be revoked at the same time. The Government has previously committed to reviewing the expiry of these measures in line with the CVA and so this is consistent with those commitments. I do not therefore consider it appropriate to delay the coming into force of these regulations until 1 April as SSAC recommended.
- c) Regarding the recommendation to review the proposals after 1 April, I consider it unlikely that any change in approach will be necessary in light of the assurances I have had with regard to the nature of the future guidance.

In relation to recommendation 2, as always, we will continue to keep all policy measures under review, but it is not my intention to do any future evaluation.

I have delayed the making and laying of the regulations to gain a better understanding on the concerns SSAC has raised. However, for the reasons set out above, I will not be giving effect to the Committee's

6 The Draft Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2022 (SI 2022/**)**

broader recommendations and will proceed to making these regulations as proposed. The Committee's recommendations do not include recommendations regarding how the regulations themselves should be framed and, as such, no amendments have been made to the substance of the draft regulations in the light of the Committee's comments.

Letter to Secretary of State from Social Security Advisory Committee

SOCIAL SECURITY
ADVISORY COMMITTEE

The Rt Hon Thérèse Coffey MP
Secretary of State
Department for Work and Pensions
Caxton House
6-12 Tothill Street
London
SW1H 9NA

2 March 2022

Dear Secretary of State,

The Statutory Sick Pay (Coronavirus) (General Amendment) Regulations 2022

The Prime Minister outlined the Government's plans for *Living with COVID* on 21 February, and the Committee understands the imperative to move beyond the framework of emergency Coronavirus legislation. The above regulations respond to that announcement by removing people who are self-isolating or shielding due to Coronavirus from being deemed incapable of work for the purpose of Statutory Sick Pay. This restores legislation to the pre-pandemic setting.

When the proposals were presented to this Committee for statutory scrutiny on the afternoon of Friday 25 February, we were advised that it was the Department's intention to lay them the following Thursday and that, if this challenging deadline was to be achieved without the need to invoke urgency, the Committee would need to complete its scrutiny by Tuesday 1 March (i.e. within two working days).

Our statutory duty is to provide you with advice and assistance, based on our effective scrutiny of draft proposals, so that the regulations are presented to Parliament in their most robust form. We acknowledge and have supported many times over the last few years the use of urgency to lay

8 The Draft Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2022 (SI 2022/****)

regulations before this statutory scrutiny process can be completed, where urgency is necessary and proportionate.

While we have not seen, nor been presented with, a rationale for the use of urgency to facilitate the compressed nature of the proposed timetable, we considered it imperative to engage in our statutory responsibilities on a compressed timeline. Accordingly, I asked for an extraordinary meeting of the Committee to be arranged yesterday morning in order that we could examine the proposals in more detail with DWP officials. I am grateful to Dilys Alam and her team for attending this meeting at short notice, and for the helpful and constructive contribution they made.

Having scrutinised these proposals, we are concerned that the pace at which they have been developed substantively risks compromising the quality and effectiveness of these regulations – in particular with respect to ensuring strong evidence about the impact of these regulations and the extent to which they fulfil the underlying policy intent. We consider the information made available to us on the impacts and consequences (whether intended or unintended) is inadequate for the purposes of the Committee's statutory scrutiny process, or for the Government to lay regulations on this timetable.

The timetable means that the regulations would be laid:

- i. to take effect one week *before* any change in public health guidance. The Department's proposals pre-empt the revised English Department for Health and Social Care's (DHSC's) public health guidance, which is due to be published a week after these regulations are scheduled to come into force, on 1 April. There did not appear to the committee any pressing reason why there should be a planned inconsistency between public health guidance and SSP regulations.
- ii. before it is known whether or not the proposals will be consistent with revised public health guidance in any part of the UK. This revised guidance will set out the rules and instructions underpinning the *Living with COVID* plan. Until the content of this guidance is published and fully understood, it is impossible to know the full impact of these regulations in England, and consideration also needs to be given to the public health guidance that will be brought forward by other parts of the UK.
- iii. without a clear understanding about what the impact will be on the very large numbers of employees who will continue to be required to stay away from work if they test positive – including front-line health and social care workers, and workers in other sectors as yet unidentified by the Department;
- iv. before there is an understanding of the degree to which these risks will be mitigated by employers' sick pay provision, Universal Credit, or by any other local or national schemes to compensate people who are not allowed to work, or are advised not to work.
- v. without having completed anything more than a provisional analysis on whether the proposals will have disproportionate impacts on particular groups. The provisional analysis presented to us identifies that there are likely to be impacts on, for example, those who are disabled, who have clinical vulnerabilities to Coronavirus, young people, and people in some ethnic groups, but it does not offer any reasoned argument qualifying these impacts in wider policy terms or how any adverse impacts might be mitigated. Neither does it analyse any potential disproportionate impact on people in jobs that cannot be undertaken from home, nor the groups - including

women and people from minority ethnic communities - who are particularly likely to hold such roles.

Therefore, after careful deliberation, the Committee has decided to take these regulations on formal reference in accordance with sections 172(1) and 174(1) of the Social Security Administration Act 1992.

Given the nature of our concerns, we do not intend to consult on these proposals at the current time. We therefore set out our recommendations below:

Recommendation 1: We strongly recommend that the Department:

- (a) reviews its timetable for introducing this legislation until the impact and consequences – both of these proposals and their interaction with public health guidance – are fully assessed, understood and published, with appropriate mitigations in place for any groups disproportionately impacted. This should not be confined to groups with protected characteristics, but should consider wider impacts, for example those with clinical vulnerabilities, social care workers and others in low paying roles;
- (b) as a minimum, defers the commencement of these regulations until 1 April, to be coincident with the change in public health guidance; and
- (c) reviews the proposals at that point to ensure they remain consistent and proportionate to the public health guidance, once it is available on 1 April.

Recommendation 2: We also recommend that the Department should further evaluate the impact of this change, and present the findings of this to us, within six months.

I would be very happy to discuss with you any of the issues raised in this letter if that would be helpful.

In closing, I would like to place on record the Committee's thanks to Dilys Alam, Rachel Nicholls and William Redfern, who have kept us informed of developments on a fast-moving piece of work and responded constructively to the Committee's questions. We have been grateful for their support.

A copy of this letter goes to the Minister for Disabled People, Health and Work, Lady Stedman-Scott, the Permanent Secretary, Katie Farrington and Dilys Alam.


Yours sincerely,



Dr Stephen Brien

SSAC Chair

Letter from DWP to Social Security Advisory Committee Chair, dated 25 February 2022

 Department for Work & Pensions	From: Rachel Nicholls Employers, Health & Inclusive Employment Directorate.
	Phone: [REDACTED] Email: [REDACTED]
Dr Stephen Brien Chairman, Social Security Advisory Committee Caxton House Tothill Street London SW1H 9NA	
25 February 2022	

Dear Dr Brien

On Monday 21 February, the Prime Minister presented the “*Living with COVID-19 Plan*” to the House^a. He confirmed that the Government will expire all remaining temporary provisions in the Coronavirus Act (CVA) on 24 March.

The majority of the COVID-related SSP regulations we have made have been linked to the Coronavirus Act (CVA) – either directly, because they were made under CVA powers or, where they were made under existing powers, indirectly. Most of the changes made to SSP in response to COVID-19 were made through regulations under the Social Security and Contributions Benefits Act (SSCBA) 1992 rather than via the CVA. These regulations are therefore not due to automatically expire on 24 March. However, they are indirectly linked to the CVA because, throughout the pandemic, Ministers made clear

^a COVID-19 Response: Living with COVID-19 - GOV.UK (www.gov.uk)

that SSP coronavirus-related regulations which we introduced were temporary and would be reviewed in line with any revision of the CVA.

The Living with COVID-19 Plan confirms that from 25 March the Statutory Sick Pay (General) Regulations 1982 will be amended to remove COVID-19 provisions which deemed people to be incapable of work where they were isolating or shielding. Pre-pandemic SSP rules will then apply. The Plan also confirms that s40 of the CVA will expire at midnight on 24 March, meaning that Regulation 2 of the Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020 (which suspends waiting days for coronavirus periods of incapacity) will also expire.

Public Health guidance in England was amended on 24 February 2022^b. People who have the main symptoms of coronavirus or who have tested positive continue to be advised (but not legally required) to stay at home and avoid contact with other people. They are advised to do this for at least five full days and then continue to follow the guidance until they have received two negative test results on consecutive days. The Government announced that the guidance will be updated from 1 April and will set out the ongoing steps that people with COVID-19 should take to minimise contact with other people. The Government's ambition is to treat COVID-19 in a similar way to other infectious diseases.

Employees with COVID-19 who cannot attend work will still be entitled to statutory sick pay, where they are eligible, from the first day of their absence until 24 March when provisions will be repealed. Communicating the intention to remove SSP COVID-19 provisions from this date aims to provide clarity for employers and employees and gives employers time to adapt and determine their own policies for managing COVID-19 and to communicate their policies and processes with their employees.

As announced in the Plan, we will amend the SSP regulations and remove the COVID-19 provisions from 25 March. We propose to introduce two Statutory Instruments, one to revoke the SSP deeming provisions and the other to put in place transitional provision arising from the expiry of s40.

The effects of the proposed Regulations are summarised as follows:

The Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days) (Transitional Provision) Regulations 2022

Section 40 of the Coronavirus Act 2022 provides powers to make regulations to disapply section 155(1) of the Social Security Contributions and Benefits Act 1992 where a period of incapacity for work is related to coronavirus. This section expires at the end of 24th March 2022. As a result, regulation 2 of the Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020 which was made under that power, also expires at that time.

These regulations make transitional provision to provide clarity to individuals and employers on eligibility for SSP and the disapplication of Waiting Days for coronavirus-related sickness absences which begin before the 24th March, but which would end after the 24th March. This means that employees who are off sick /isolating on that basis do not "fall through the cracks" and will continue to have waiting days

^b COVID-19: people with COVID-19 and their contacts - GOV.UK (www.gov.uk)

12 The Draft Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2022 (SI 2022/**)**

disapplied. Other SSP eligibility criteria apply (for example in respect of the period of incapacity for work requirement).

Regulation 2 provides that where a period of incapacity for work is related to coronavirus and has commenced on or before 24 March 2022 (that is to say, whilst s40 was in force) waiting days will continue to be suspended in relation to that period of incapacity. Due to the repeal of the deeming provisions within the Statutory Sick Pay (General) Regulations 1982, the only periods of incapacity which relate to coronavirus which will continue beyond 24 March will be those where the individual is actually incapable of work due to coronavirus. This means that a person continues to benefit from the disapplication of waiting days if they are sick or self-isolating and incapable of work where that period of incapacity begins on or before 24th March 2022.

We will provide guidance on Gov.UK for employers regarding this short transition period and the approach to waiting days for employees in this scenario.

These regulations were made under powers conferred by sections 89(3) of the Coronavirus Act 2020 and therefore we do not believe we need to refer these regulations to the SSAC for review. However, we are providing sight of the draft regulations as a courtesy to the committee and so that the committee has sight of the full picture of how the SSP post-COVID transition will work. These Regulations are subject to no parliamentary procedure.

In respect of the Waiting Days transitional provisions, we have replicated provisions for Northern Ireland (**The Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days) (Transitional Provision) (Northern Ireland) Regulations 2022**)

We are working closely with Department for Communities officials to understand their Ministers' position and whether they want these transitional regulations to be laid on their behalf.

The Statutory Sick Pay (Coronavirus) (General Amendment) Regulations 2022

As part of the response to the COVID-19 pandemic, the Government made limited, temporary changes to SSP to support compliance with public health advice on self-isolation. This included where the public health advice has been set out in both guidance and, later, in regulations. Some of the changes made to SSP in response to COVID-19 were made under existing powers provided for by the Social Security and Contributions Benefits Act (SSCBA) 1992, rather than through the CVA. This includes provisions which deem people to be incapable for work (and therefore eligible for SSP) where they would not otherwise be have been considered sick or incapable of work, including where they had no, or very mild, symptoms, or were following guidance (as replicated in the regulations) on household isolation or shielding. The other qualifying criteria continued to apply.

As announced on 21 February, these provisions will be repealed from 25 March and pre-pandemic SSP rules will apply. People will no longer be deemed eligible for SSP where they are self-isolating but may only have very mild or no symptoms and would therefore otherwise be considered capable of work. The consequence of this repeal is that individuals will have to be sick or incapable of work to be eligible for SSP.

There will be a short period between 25 March and 31 March where the Public Health Guidance in England will continue to advise (but not mandate) people to self-isolate if they are sick or have tested positive for COVID-19. In line with previous commitments that SSP deeming provisions would be reviewed in line with the temporary provisions of the Coronavirus Act, it has been decided to end the deeming provisions for people who self-isolate in line with the expiry of these temporary provisions.

Employment law, including SSP, is a reserved matter and so decisions taken on SSP are made by UK Government and have effect across Great Britain. The Government has worked closely with the Devolved Administrations throughout the pandemic to ensure that citizens in every part of the UK are supported. The Devolved Administrations are aware of the Government's intention to expire SSP provisions from 24 March. As public health is a devolved issue, it will be for each of the Devolved Administrations to determine their own guidance and any localised support schemes in the long-term.

Regulation 2(2) and (3) of these Regulations repeal the provisions within the Statutory Sick Pay (General) Regulations 1982 which deem people to be incapable of work where they are unable to work either due to isolating themselves in such a manner as to prevent infection or contamination with coronavirus, or due to shielding themselves in such a manner as to prevent infection or contamination with coronavirus.

This change will come into effect on 25 March 2022, in line with the expiry of the Coronavirus Act at midnight on 24 March 2022.

In order to lay these regulations before Parliament and provide the usual period of 21 days between laying and coming into force on 25 March 2022, we respectfully request that the Committee make urgent arrangements to review these regulations in order that we can lay the regulations before Parliament on 3 March 2022. I would be happy to make myself available to committee members to discuss these regulations and any questions they may have.

Alongside this letter, I attach the draft Statutory Instrument (s) with their respective Explanatory Memoranda which provides background and further detail. I would also ask the committee to note that these regulations and the Explanatory Memoranda attached are still in draft and are subject to further checks and refinement.

I hope this letter and enclosures will be helpful to the Committee. I am happy to provide any further information that the Committee may require.

Yours sincerely,

Rachel Nicholls

The Statutory Sick Pay (Coronavirus) (General Amendment) Draft Regulations 2022

DRAFT STATUTORY INSTRUMENTS

2022 No.

SOCIAL SECURITY

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Sick Pay (Coronavirus) (General Amendment) Draft Regulations 2022

Made - - - -

Laid before Parliament

Coming into force - -

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 151(4) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(c).

In accordance with section 173(1)(a) of the Social Security Administration Act 1992(d), it appears to the Secretary of State that by reason of the urgency of this matter it is inexpedient to refer the proposals in respect of these Regulations to the Social Security Advisory Committee.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Statutory Sick Pay (Coronavirus) (General Amendment) Regulations 2022 and come into force on 25th March 2022.

(2) These Regulations extend to England and Wales and Scotland.

^(c) 1992 c. 4. Section 151(4) was amended by section 11(1) of, and paragraph 34 of Schedule 1 to, the Social Security (Incapacity for Work) Act 1994 (c. 18). Section 175(1) is cited for the prescription of the person who is to make regulations. Section 175(1) and (4) was amended by section 2 of, and paragraph 29 of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

^(d) 1992 c. 5.

Amendment of the Statutory Sick Pay (General) Regulations 1982

2.—(1) The Statutory Sick Pay (General) Regulations 1982(e) are amended as follows.

(2) In Regulation 2(1)—

(a) In sub-paragraph (a)(iii), after the words “contract of service,”, insert “or”;

(b) in sub-paragraph (b), for the semi-colon which appears after the words “relevant infection or contamination”, substitute a full stop;

(c) omit sub-paragraphs (c) and (d).

(3) Schedules 1 and 2 are omitted.

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

	<i>Name</i>
	Minister of State
Date	Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2(2) and (3) of these Regulations repeals the provisions within the Statutory Sick Pay (General) Regulations 1982 (“the 1982 Regulations”) which deem people to be incapable of work where they are unable to work either due to isolating themselves in such a manner as to prevent infection or contamination with coronavirus, or due to shielding themselves in such a manner as to prevent infection or contamination with coronavirus.

(e) S.I. 1982/894. Relevant amending instruments are S.I. 2006/799, 2011/2425, 2020/287, 304, 374, 427, 539, 681, 829, 892 and 1638.

The Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days) (Transitional Provision) Draft Regulations 2022

STATUTORY INSTRUMENTS

2022 No.

SOCIAL SECURITY

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days) (Transitional Provision) Draft Regulations 2022

Made - - - -

Laid before Parliament

Coming into force - -

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 89(3) of the Coronavirus Act 2020^(f).

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days) (Transitional Provision) Regulations 2022 and come into force on 24th March 2022.
- (2) These Regulations extend to England and Wales and Scotland.

Transitional provision related to the suspension of waiting days

2.—(1) Despite the expiry of section 40 of the Coronavirus Act 2020, regulation 2 of the Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020^(g) (“the 2020 Regulations”) shall continue to have effect as described in this Regulation.

^(f) 2020 c. 7.

^(g) S.I. 2020/374. This instrument has been amended by S.I. 2020/681.

(2) Regulation 2 of the 2020 Regulations shall continue to have effect in relation to a period of incapacity for work which is related to coronavirus where that period of incapacity begins on or before 24th March 2022.

(3) In this regulation—

- (a) “period of incapacity for work” has the meaning given by section 152 of the Social Security Contributions and Benefits Act 1992; and
- (b) whether a period of incapacity is related to coronavirus is to be determined in accordance with regulation 2(3)(b) of the 2020 Regulations.

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

2nd March 2022

Name
Minister of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 makes transitional provision related to the expiry of section 40 of the Coronavirus Act 2020. Section 40 allowed regulations to disapply section 155(1) of the Social Security Contributions and Benefits Act 1992 where a period of incapacity for work is related to coronavirus. Section 40 expires at the end of 24th March 2022 and, as a result, regulation 2 of the Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020 (“the 2020 Regulations”), which was made under that power, also expires. Regulation 2 makes transitional provision by providing that Regulation 2 of the 2020 Regulations continues to have effect where a period of incapacity for work commences on or before 24th March 2022.

