

# Statutory Sick Pay

Employment Rights Advice Leaflet

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Most employees who earn above £75.00 a week and who pay or are credited with paying national insurance contributions are entitled to some pay when they are off work sick.

If you qualify for SSP, it is administered and paid by your employer. It is the minimum you should receive. You may have additional rights to sick pay under your contract (known as "Contractual Sick Pay")

## How to qualify?

The basic qualifying criteria for SSP require you to be:

- aged between 16 and 65;
- an employee earning at least £ 75.00 per week (whether full or part-time);
- on a contract expected to last longer than 3 months; and off work sick for at least four days when you would have worked.

### You should also note that:

- SSP is payable for a maximum of 28 weeks. If your period of sickness continues beyond 28 weeks you may be entitled to Incapacity Benefit;
- The first three days you miss work because of sickness are known as "waiting days" and you are not entitled to SSP on these days;
- Sickness periods that are less than eight weeks apart are treated as one period of incapacity for work. You re-qualify for SSP from the first day of that sickness period, and do not need to wait the three days again to re-qualify;
- Whether your contract is expected to last longer than three months is a question of fact. If your contract is permanent or for a fixed term longer than three months you qualify even if you have not yet worked for three months. If you have been continuously employed for longer than three months you qualify, whatever the intended length of the contract.

## How much SSP should you get?

SSP is worth £ 63.25 per week, after the first 3 waiting days. When you are not sick for an entire week it is calculated on a daily basis. The daily rate is calculated by dividing the weekly rate by the number of "qualifying days". "Qualifying days" are usually those days of the week on which you would normally work if you were not sick.

*Example 1: If you normally work Monday to Friday and are sick for two weeks - Monday, Tuesday and Wednesday of the first week will be waiting days and you will begin to qualify for SSP on the Thursday of that week. Your daily rate of SSP will be £ 63.25 divided by 5 days equals £ 12.65 per day.*

*Example 2: If you normally work only on Tuesdays and Thursdays, your waiting days would also be only on Tuesday and Thursday. So you would not qualify for SSP until the Thursday of your second week of sickness. Your daily rate of SSP will be £ 63.25 divided by 2 days, or £ 31.62 per day.*

Remember, SSP is the minimum that you should receive and your contract may give you rights to additional payments when you are off sick. If your contract only entitles you to SSP you could try negotiating with your employer for improved rights to sick pay.

## How to claim SSP

To claim you must **notify your employer of your sickness**. The procedure for doing this is normally decided by your employer and should be agreed as part of your terms and conditions. If there is no such procedure, you should notify your employer in writing within seven days of the first day you didn't work because of your sickness.

For SSP purposes your employer cannot require you to give **notice** of your sickness:

- personally;
- before the first day you didn't work because of sickness;
- before a specific time on that day;
- by providing medical evidence (for notice - but see below); or
- where it is required in writing, on a document provided by them or on a printed form.

## Providing medical evidence to support your claim

Your employer can request as much proof as is reasonably required to decide your entitlement:

- For the first seven days of days of sickness, your employer cannot insist that you obtain a medical certificate - you are only required to provide a self-certificate as evidence of your incapacity for work.
- If your period of sickness continues beyond seven days you should normally provide a certificate from your doctor.
- Your employer can refuse to pay you SSP if they do not accept that you are sick. If your employer refuses to pay you, you can challenge their decision.

## Getting paid SSP

If your employer decides that you are entitled, they should pay you your SSP along with your wages on the next ordinary pay day.

## What if your employer refuses to pay you SSP?

If your employer refuses or stops paying you SSP they should provide you with reasons on form SSP1.

If you disagree with your employer's decision you should:

- Complete the second section of the SSP1 (to claim for Incapacity Benefit);
- Indicate on the SSP1 that you want the Inland Revenue to consider your eligibility;
- Send the SSP1 to your local social security office (Jobcentre Plus network) and a copy to your local national insurance contributions office; and
- Keep a copy yourself.

## *You should note that:*

- Your request for the Inland Revenue to review your employer's decision must be made within six months;
- If the Inland Revenue rule in your favour and your employer still refuses to pay, the Inland Revenue should take responsibility for paying your SSP;
- Both you and your employer can appeal a decision of the Inland Revenue to the tax appeal commissioner.

## Dismissal for claiming your rights

By law your employer cannot dismiss you to avoid paying SSP. If you are dismissed solely or mainly for that reason, your employer remains liable to pay your SSP.

Not all employees have the right to claim unfair dismissal. Normally employees can only claim unfair dismissal if they have worked continuously for their employer for over one year.

However, employees who are dismissed for "asserting a statutory right" do not need to have one year's service to make a claim. Standing up for your right to statutory sick pay should count as asserting a statutory right, as failure to pay SSP represents a breach of your statutory right not to suffer an Unauthorised Deduction from Wages.

For more information see our leaflet **Unfair Dismissal**

## Other benefits

If you are on a low income while off sick you may be entitled to Income Support, Housing Benefit and health benefits, (such as free prescriptions), while you are getting SSP or Incapacity Benefit.

For further details contact:

Employment Rights Advice Service (ERAS)  
Low Pay Unit  
10 Dukes Road  
London WC1H 9AD

Advice line: 020 7387 2522

[www.lowpayunit.org.uk](http://www.lowpayunit.org.uk)

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