

Statutory Pay

Statutory Sick,
Statutory Maternity and Statutory Paternity Pay

Statutory Sick Pay (SSP), Statutory Maternity Pay (SMP) and Statutory Paternity Pay (SPP) are important regulations to understand as they enforce minimum legal requirements on employers. Each operates in a different way. This factsheet sets out the main principles of the regulations and what an employer needs to consider.

Statutory Sick Pay (SSP)

SSP applies to all employers regardless of size and represents the minimum payments which should be paid by law. It is possible to opt out of the scheme but only if an employer's occupational sick pay scheme is equal to or more than SSP. There would still be a requirement to keep appropriate records etc. We have outlined the general principles below but first we need to explain some of the special terms used.

Glossary of Terms

Period of incapacity for work (PIW)

A PIW consists of four or more calendar days of sickness in a row. These do not have to be normal working days.

Linking

Where one PIW starts within eight weeks of the end of a previous PIW the periods can be linked.

Qualifying days (QDs)

These are usually the employee's normal working days unless other days have been agreed. SSP is paid for each qualifying day once the waiting days have passed.

Waiting days (WDs)

The first three QDs in a PIW are called WDs. SSP is not payable for WDs. Where PIWs are linked it is only the first three days of the first PIW which are WDs.

Who Qualifies for SSP?

All employees who at the beginning of a PIW or linked PIWs have had average weekly earnings above the Lower Earnings Limit (£95 in 2009/10).

How Much SSP is Payable?

The weekly rate of SSP for the 2009/10 tax year is £79.15 but it is computed at a daily rate.

The daily rate

The daily rate may vary for different employees. It is calculated by dividing the weekly rate by the number of qualifying days in a week. For example an employee with a five day working week would normally have a daily rate of £15.83 for 2009/10. Only QDs qualify for SSP and remember the first three days (WDs) do not qualify.

Maximum SSP

The maximum entitlement is 28 weeks in each period of sickness or linked PIW.

Recovery of SSP

Employers falling within the limits of the percentage threshold scheme can recover some of their SSP. The general principle is that if in a tax month the SSP due is more than 13% of gross Class 1 national insurance contributions (NIC) the employer is entitled to a refund of the excess.

PAYE and records

SSP is included in gross pay and PAYE operated as normal. A record of payments for each employee will be needed for the completion of the PAYE end of year forms, where the employer has claimed a recovery of SSP using the percentage threshold scheme.

Statutory Maternity Pay (SMP)

SMP is paid to female employees or former employees who have had or are about to have a baby.

It is paid to women who have been in the same employment throughout their pregnancy and is compulsory where the employee fulfils certain requirements.

The Requirements

SMP is payable provided the employee has:

- started her maternity leave
- given 28 days notice of her maternity leave (unless with good reason)
- provided medical evidence with a form (MATB1)
- been employed continuously for 26 weeks up to and including her qualifying week
- had average weekly earnings (AWE) above the Lower Earnings Limit in the relevant period.

It is important to note that mothers have a legal entitlement to take up to 52 weeks off around the time of the birth of their baby whether or not they qualify for SMP. This means that many mothers can choose to take up to one year off in total.