

**STATUTORY SICK PAY FAQS**

**Is it a legal requirement to have a sick pay policy outlining the SSP or is following the legislation sufficient?**

No, SSP does not necessarily have to be called out in a sick pay policy, however, employers must notify employees of their entitlements under the Act so that the employee can claim SSP when/if an absence arises.

**Once we receive a certificate from an employee, do we automatically pay sick leave (up to three days this year) or do they need to notify us that they want it paid? Is it as simple as a doctor cert or are more forms required?**

These are common questions as it is not clear in the Act. As per the Act, the employee must be working at least 13 weeks with the employer and be certified by a GP as unable to work. Therefore, the advice would be to confirm with the employee if they wish to avail of their SSP on this occasion on receipt of the GP certificate.

Records of statutory sick leave must be kept by the employer for a period of four years. For each such employee, this is to include the amount of service by the employee, the dates and times of statutory sick leave and the rate of payment made.

The introduction of a SSP Form is to be placed on the employee’s file for record and kept for 4 years.

ISME has collated two forms to assist you which can be found in the Members Area of isme.ie:

[SSP Form](https://isme.ie/wp-content/uploads/2023/01/SSP-Form.docx)

[Return to Work Form (including SSP Record)](https://isme.ie/wp-content/uploads/2023/01/ISME-return-to-work-interview-form-SSP-Record.docx)

**How does an employer treat a partial day, i.e. an employee goes home sick during the day?**

The entire day is treated as a sick day.

**Are part-time employees entitled to the 3 days SSL or is it pro-rated to their hours worked?**

Part-time employees are entitled to the 3 SSP days. It is not pro-rated.

**Is 70%/€110 inclusive of any additional allowances e.g. shift or is it based on base pay?**

Currently as drafted, SSP is to be based on an employee’s “normal” pay i.e. what they are contractually entitled to or what they would otherwise have earned that day had they not gone out sick.

**If any employee is currently out on Long Term sick leave and does not envisage returning to work for another 2 months, should the company pay the statutory sick leave of 3 days in January in 2023?**

Yes, provided they submit a medical certificate to cover day 1 of their absence.

**What happens when an employee changes their employer during the course of the year?**

Provided the new employee has 13 weeks service and has furnished the employer with a medical cert covering the first day of their absence, then as per Guidelines the obligation for the employer is to allow them to claim SSP. However it is worth noting that the Act does not explicitly state how to handle this scenario.

**Can an employer specify a timeframe for an employee to produce a medical cert?**

The medical cert should cover day 1 of the employee’s absence. Given the practicalities of being sick and being able to attend a doctor, employers should allow employees a reasonable amount of time to obtain a medical certificate.

Our suggestion is that a medical certificate is provided to the company within 5 days of the employee’s first day of absence. However, depending on when the sick leave is taken, it may mean that the employee will not be paid for the sick leave until the following payroll run if the medical certificate is not received in time.

**If our current policy is that the first 3 days are unpaid but paid out after that time – can we kick in our current Sick Pay Policy after the 3 SSP days with the next 3 unpaid then paid again?**

Yes, once the 3 SSP days are met in 2023, the company can invoke its own policy and requirements thereafter as it wishes.

**If an employee has already used all their discretionary sick pay, are they also entitled to these statutory sick leave days at 70%? This is on the basis that the Company Sick Pay Scheme is more beneficial than SSP?**

The SSP applies from 1st January 2023. Employers need to pay the first 3 days in 2023 as SSP once the employee has 13 weeks service and has provided a medical certificate. The company can choose to incorporate SSP into its own CSP policy if it wishes. SSP should always be considered as taken first, and thereafter discretionary sick pay.

**Our sick pay scheme (10 days full pay per calendar year) kicks in when probation is passed at 6 months. Will we need to pay the 3 days after 13 weeks or can we rely on our own policy as it is much better?**

You will need to amend your policy. The 3 SSP days will still need to be paid and should only be subject to eligibility requirements as set out in the Act. Completion of an employee’s probation and will only be applicable for days in addition to the SSP.