



Frequently Asked Questions

1. What is Statutory Sick Pay (SSP)?

Statutory Sick Pay (SSP) is a payment made to employees who are unable to work because of sickness. It is paid by the employer for up to a maximum of 28 weeks in any one year.

2. Is your employee entitled to SSP?

Your employee is entitled to SSP if:

- They are classed as an employee and have done some work for the employer
- They are sick for at least 4 consecutive days (including weekends and public holidays), known as a Period of Incapacity to Work
- They earn, before tax and National Insurance Contributions are deducted, an average amount per week above the 'Lower Earnings Limit for National Insurance Contributions'. This amount is revised annually in April.

Their earnings are averaged over an 8 week period before their sickness began. If they have just started a job, they are entitled to receive SSP if they meet the criteria.

3. When does SSP start?

SSP is a daily payment and is usually paid for the days that employees normally work (Qualifying Days). SSP **is not** paid for the first 3 Qualifying Days in any period of sickness.

4. How much is SSP?

If the employee earns an average amount per week above the 'Lower Earnings Limit for National Insurance Contributions' (NIC), they will receive the standard rate of SSP. Both the SSP rate and the lower earnings limit for NIC are revised annually in April, see FMB Information Sheet Benefit Rates.

5. How do employees report sickness in order to claim SSP?

They should tell the employer that they are sick in accordance with the employer's workplace rules for when and how to report sickness or within 7 days of the first day of absence if there are no such rules. The employer may ask the employee to do so in writing.

The employer **cannot** insist that the employee tell them:

- In person
- Earlier than the first Qualifying Day
- By a set time on the first Qualifying Day
- On a special form
- On a medical certificate or Fit Note (Statement of Fitness for Work)
- More than once a week during the period of sickness

6. Can the employer delay payment for late notification?

The employer can withhold payment of SSP for the period of the delay if notification is given outside of these time limits and they do not accept that there was good cause for delay.

7. How do employees prove they are sick?

For the first 7 days of sickness, the employer cannot ask the employee for a medical certificate or Fit Note (Statement of Fitness for Work)
The employer may ask the employee to fill in a company self-certification form when they return to work or form SC2, available from www.hmrc.gov.uk/forms/sc2.pdf

After the first 7 days of sickness, a doctor's medical certificate or Fit Note will normally be required by the employer.

8. How will SSP be paid?

The employee will receive SSP in the same way and at the same time as they are normally paid their wages. Tax and National Insurance will be deducted

9. What happens if the employee is ill twice in short succession?

If the employee is sick, for at least 4 days in a row, more than once with 8 weeks or less between the periods of absence, they will be counted as one Period of Incapacity for Work. This means that waiting days (i.e. the first 3 Qualifying Days) will only apply to the first period of absence.

10. Do employees have protection of employment while they are sick?

Yes. The employer cannot end the employee's contract to avoid paying SSP.

11. Are there times when the employee would not get SSP?

The employee would not be entitled to SSP if:

- They have already received SSP for 28 weeks
- They were away from work because of a trade dispute which started before they became sick
- They were in legal custody when they became sick
- They are in receipt of alternative benefits such as Employment and Support Allowance or Statutory Maternity Pay.

12. What happens if the employee does not qualify for SSP?

- They should ask the employer for form SSP 1, which the employer should fill in before giving it to the employee.
- The employee should contact Jobcentre Plus who will explain what they should do with the form and how to claim alternative benefits.

13. What happens when the employee's period of SSP ends?

See question 12.

14. What about sick leave and holidays?

Statutory holiday entitlement is built up (accrued) while an employee is off work sick (no matter how long they are off). Any statutory holiday entitlement that isn't used because of illness can be carried over into the next leave year.

If an employee is ill just before or during their holiday leave, they can take it as sick leave instead and take the missed holiday leave at a later date.

An employee on sick leave is entitled to take statutory annual leave at the same time if they wish. If they decide to do this the employer would have to pay them their normal holiday pay for the days that they wish to treat as annual leave. If the employee qualifies for SSP the employer would carry on paying them SSP during their annual leave and the SSP would count towards any holiday pay that is paid to them. If the sick pay period has ended, the employer should pay them their normal holiday pay.

15. As an employer do I have to pay BATJIC Sick Pay as well as SSP?

If you operate the BATJIC Working Rule Agreement, there is an entitlement to Contractual Sick Pay under Working Rule 12. BATJIC Sick Pay is then paid **in addition to SSP**.

16. What are the details of BATJIC Sick Pay?

- BATJIC Sick Pay is paid to all adult operatives aged 18 years and over
- The maximum period for payment is 12 weeks in any one year (April – March)
- There is **one** Qualifying Day before payment is made – BATJIC Sick Pay is paid from the second day of sickness
- No payment is payable on Saturdays, Sundays, and days of annual or public holidays
- No payment is payable where the employee fails to follow the notification procedure or provide certificates as required

17. How much is BATJIC Sick Pay?

The current rates can be found on the BATJIC section of the FMB website at www.fmb.org.uk/information-and-help/publications/batjic/

18. How can employers recover some of the SSP paid to employees?

Under the Percentage Threshold Scheme (PTS) employers may be able to recover some or all of the SSP paid to employees from HM Revenue & Customs (HMRC).

Recovery under the PTS is worked out for each separate tax month in which SSP is paid. If in the tax month your SSP is more than 13% of the total Class 1 National Insurance Contributions (NICs) you have paid you can get back the difference. There is an SSP calculator at www.hmrc.gov.uk/calcs/ssp.htm

Remember that if you qualify in one tax month you do not automatically qualify in others. You will have to make separate calculations for each tax month.

This Information Sheet has been produced for general guidance. It does not constitute specific legal advice, which should be sought if any of the above issues arise. Except as required by law, we accept no liability for your reliance on the information provided here.