

## STATUTORY SICK PAY FACTSHEET

### Introduction

The information in this factsheet is intended to be a guide to the rules for Statutory Sick Pay and does not cover every circumstance. It is possible that some of the information is over simplified or may become inaccurate over time, for example because of changes to the law. Any rates shown are applicable from April 2022 to March 2023. Blesma has made every effort to ensure that the information is correct at the time of publication.

### 1) What is Statutory Sick Pay?

Statutory Sick Pay is paid to employees by their employers for up to 28 weeks in any period of sickness lasting four or more days. You may also be entitled to contractual sick pay depending on the terms of your contract of employment.

Statutory Sick Pay is primarily the responsibility of employers. The scheme is operated by Her Majesty's Revenue and Customs.

### 2) Who is entitled to Statutory Sick Pay?

You can receive Statutory Sick Pay if:

- You are an employee **and**
- Your earnings are equal to or more than the lower earnings limit for national insurance contributions **and**
- You are incapable for work

You are not entitled to Statutory Sick Pay if you are self employed. You may be able to claim Employment and Support Allowance and/or Universal Credit. Please refer to our Employment and Support Allowance and Universal Credit factsheet.

### 3) Who is an employee?

To be entitled to Statutory Sick Pay you must be an employee who is an employed earner for national insurance purposes. Your normal earnings must be equal to or greater than the lower earnings limit for national insurance contributions. The lower earnings limit is currently £123.00 per week.

Your gross earnings are averaged over the eight weeks ending with the last payday before the start of the Statutory Sick Pay period.

There are special rules to calculate your earnings if you have not been employed sufficiently long enough to have been paid wages over the eight week period. Contact Her Majesty's Revenue and Customs enquiry line if this applies to you. Telephone 0300 200 3500.

### 4) Who is incapable for work?

To be considered incapable for work for Statutory Sick Pay purposes, you must be incapable of doing work that you could reasonably be expected to do under the terms of your contract.

The first three days of sickness are referred to as 'waiting days' and you cannot be paid Statutory Sick Pay during this period. You can only qualify once you have been off sick for at least four days in a row.

Periods of sickness separated by eight weeks or less are linked. If you have been sick and receiving Statutory Sick Pay within the last eight weeks, you will receive it again from your first day off work without the need to serve the three day waiting period.

### **5) How much is Statutory Sick Pay and how long will you receive it for?**

Statutory Sick Pay is paid at £99.35 per week and is paid for a maximum of 28 weeks. If you are receiving Statutory Sick Pay that is linked to a previous incapacity for work period, these will be added together to count towards the 28 weeks.

If your contract of employment ends before the 28 weeks, your entitlement to Statutory Sick Pay ends. Your employer cannot terminate your employment solely to avoid paying Statutory Sick Pay.

### **6) What happens when Statutory Sick Pay ends?**

If you are unable to return to work at the end of your Statutory Sick Pay entitlement, you may be able to claim Employment and Support Allowance and/or Universal Credit, even if you continue to receive contractual sick pay. Please see our Employment and Support Allowance and Universal Credit factsheet for further information. Or visit [www.gov.uk/universal-credit](http://www.gov.uk/universal-credit)

If it is clear that you will still be incapable for work at the 28<sup>th</sup> week of Statutory Sick Pay entitlement, your employer should give you form SSP1 which explains why you are no longer entitled to Statutory Sick Pay. You can be given this form from the 23<sup>rd</sup> week of incapacity for work.

You will need form SSP1 to make a claim for Employment and Support Allowance.

### **7) What if I am refused Statutory Sick Pay?**

If your employer decides you are not entitled to Statutory Sick Pay, they should provide you with a statement, normally on form SSP1, within seven days, giving you reasons for their decision.

If you disagree with the decision contact Her Majesty's Revenue and Customs enquiry line 0300 200 3500.

If you wish to challenge the decision further, you can ask Her Majesty's Revenue and Customs to decide whether you are entitled using form SSP14. This is available from HMRC Statutory Payment Dispute Team. Telephone 03000 560 630.

It will be expected that you have discussed the matter with your employer, if it is reasonable to do so, and to have gone through any agreed grievance procedure at your workplace.

Both you and your employer may be asked to send comments in writing to Her Majesty's Revenue and Customs. A copy of the decision will be sent to you and your employer.