

# STATUTORY SICK PAY FACTSHEET

## 1. Introduction

- 1.1. 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 2015 to March 2016 and the Limbless Association has made every effort to ensure that the information is correct at the time of publication.

## 2. What is Statutory Sick Pay?

- 2.1. 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.
- 2.2. You may also be entitled to contractual sick pay depending on the terms of your contract of employment.
- 2.3. Statutory Sick Pay is primarily the responsibility of employers. The scheme is operated by Her Majesty's Revenue and Customs.

## 3. Who is entitled to Statutory Sick Pay?

- 3.1. 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
- 3.2. You are not entitled to Statutory Sick Pay if you are self employed.

## 4. Who is an employee?

- 4.1. As an employed earner for national insurance purposes you will be eligible to receive Statutory Sick Pay.
- 4.2. Your normal earnings must be equal to or greater than the lower earnings limit for national insurance contributions
- 4.3. The lower earnings limit is currently £112 per week.

- 4.4. Your gross earnings are averaged over the eight weeks ending with the last payday before the start of the Statutory Sick Pay period.
- 4.5. There are special rules to calculate your earnings if you have not been employed sufficiently long enough to have been paid wages over this eight week period. Contact Her Majesty's Revenue and Customs employees' enquiry line if this applies to you. Telephone: 0300 200 3500.

## **5. Who is incapable for work?**

- 5.1. To be considered as being 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.
- 5.2. 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.
- 5.3. Periods of sickness separated by eight weeks or less are linked. If you had 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 for the three day waiting period.

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

- 6.1. Statutory Sick Pay is paid at £88.45 per week and is paid for a maximum of 28 weeks.
- 6.2. 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.
- 6.3. 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 you Statutory Sick Pay.

## **7. What happens when Statutory Sick Pay ends?**

- 7.1. If you are still unable to return to work at the end of your 28 week period, you may be able to claim Employment and Support Allowance, even if you continue to receive contractual sick pay. Refer to our Employment and Support Allowance factsheet for further information.
- 7.2. If it is clear that you will still be incapable of for work at the 28<sup>th</sup> week, your employer should give you form SSP1 which explains why you are no longer

entitled to Statutory Sick Pay. Please note that you can be given this form from the 23<sup>rd</sup> week of incapacity for work.

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

## **8. What if I am refused Statutory Sick Pay?**

- 8.1. If your employer decides that 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.
- 8.2. If you disagree with this decision you can ask Her Majesty's Revenue and Customs to decide whether you are entitled. Contact HMRC employees' enquiry line. Telephone: 0300 200 3500.
- 8.3. You and your employer have the right to appeal against Her Majesty's Revenue and Customs decision on your entitlement.
- 8.4. If you are considering challenging your employer's decision on your entitlement, consider how this might affect your employment. You may wish to consult an independent employment adviser to discuss this.