

## *Policy Circular*

**Document No 06/07**

**Owner:** Strategy & Communications Directorate

**Subject:** Statutory Sick Pay

**Version:** 1 of 1

**Last Amended:** 14 February 2007

**Date Reviewed:** February 2011

**Next Review:** February 2013

### **1.0 Background**

Statutory Sick Pay (SSP) is payable where an employee:

- Is employed under a contract of employment and has actually started work for the employer
- Is sick for more than 3 consecutive days
- Has average weekly earnings of at least the lower earnings limit (LEL) for National Insurance

SSP is not payable where an employee is:

- Self employed or unemployed

For full list of exemptions see Disability Rights Handbook

If an employee does not qualify for SSP they may put in a claim for Incapacity benefit via a Jobcentreplus or social security office using form SSP1.

#### **Independent Living Fund**

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The Independent Living Fund is an Executive Non-Departmental Public Body of the Department for Work and Pensions

An employee who qualifies for SSP will not be paid their normal salary but an amount specified by Her Majesty's Revenue and Customs (HMRC). For information about the currently weekly amount, Users may wish to contact the HMRC employer helpline or visit the HMRC website

An employee can self-certify for the first seven days of an illness after which time evidence of sickness, usually a doctor's note, must be produced. SSP is payable for a maximum of 28 weeks.

It is the employer's responsibility to pay SSP where it is due.

Under the percentage threshold scheme (PTS) employers are able to recover some or all of the SSP they have to pay to their employees. (See appendix 1 for details of how the PTS works)

The normal method of recovery is by deduction from NI and PAYE tax payments that the employer is due to make to the Inland Revenue. If these are not sufficient deductions can be made from future payments due and where excess monies are required urgently a payment can be requested from the HMRC Accounts Office.

All normal deductions such as tax and NI should be taken from the SSP to be paid to the individual.

## **2.0 Policy**

As the employer it is the Users responsibility to establish whether SSP is due to be paid to a PA and to make arrangements to do so. It is also the responsibility of the User to ascertain (in discussion with HMRC if necessary) how much they are able to recover from their upcoming Tax and NI contributions and establish what, if anything, the shortfall is.

Where there is a shortfall in the amount that can be recovered from the upcoming tax and NI contributions or if there is a situation where none of the SSP monies can be recovered the ILF will consider paying the shortfall. Such a payment may only be made where to do so will not breach the ILF maximum sum.

ILF will not provide funding to cover any shortfall in SSP monies where the care is provided by an agency or by a self-employed PA.

The ILF will not make payments for any other type of sick pay that may have been agreed under a contract of employment.

Normal ILF monies may be used to pay for any replacement care that is needed while the usual PA is absent from work due to sickness.

ILF monies can be used to cover annual leave costs that may accumulate during a period where a PA is sick providing to do so does not breach the ILF maximum sum.

### **3.0 Procedure**

If staff receive queries regarding SSP Users or social workers should be advised that where a User employs a PA who qualifies for SSP the ILF could consider making an additional payment for the amount that cannot be recovered from upcoming tax and NI payments. This is providing that to do so will not breach the ILF maximum sum limit.

In order to make such a payment the ILF will require evidence that the PA is eligible for SSP and of the amount of money that is needed. This should take the form of any copy correspondence from or to the HMRC and or SSP record sheets. (HMRC have an optional record sheet entitled SSP2 that is available to be used for record keeping purposes)

It should be noted that there is a weekly maximum SSP amount that a person may be entitled to and where a request is received for ILF to make such a payment details of the weekly maximum amount can be obtained from HMRC website or employer helpline.

If there is a dispute over a PA's entitlement to SSP clients should be advised to contact the HMRC, as it is their responsibility to deal with such issues.

Where a client is seeking information about how to deal with SSP they should be directed to the HMRC as they have publications providing information on matters such as how to calculate the amount of SSP that can be recovered and the procedure to follow for recovery.

ILF staff should not act as advisors to clients regarding SSP issues and should refer them to the HMRC for such guidance.

#### **4.0 Source**

Trustees meetings 13 September 2006 & 13 December 2007

#### **5.0 Cross References**

Statutory Maternity pay policy

Statutory Paternity pay policy

Statutory Adoption pay policy

#### **6.0 Additional reference points**

HMRC Website

HMRC Employer helpline 0845 7143143

#### **7.0 History Date Reviewed**

February 2009

February 2011

## Appendix A

The percentage threshold scheme (PTS) operates so that employed can recover some or all of the monies that they are due to pay to their employee as statutory sick pay (SSP)

The PTS operates as follows:

1. The employer will add up all payments of SSP that he or she has paid in a tax month
2. The employer will then add together all the gross Class 1 NIC liability for the same month. The employer will then calculate 13% of this sum
3. If the amount at point 1 is greater than the amount at point 2 the employer can recover the difference between the two figures.

### Example

- The amount of SSP the employer has paid in a tax month is £70.00
- The employer is due to pay £195.00 in NI contributions in the same tax month
- 13% of £195.00 is £25.35
- The difference between £70.00 and £25.35 is £44.65
- The employer is therefore able to recover £44.65 from upcoming tax and NI payments or from the accounts office if there is a need for fast recovery

### ILF policy

For the above example ILF could consider funding the shortfall of £25.35. Calculated as follows:

- £70 paid in SSP minus £44.65 recovered = £25.35
- It is not the responsibility of the ILF to carry out any of the above calculations. If the User wishes for the ILF to consider funding the shortfall they should report amount of monies that are required to the ILF.

(Please note the figures used in this example are fictitious and have been used purely to demonstrate the practical application of the policy)