

## **STATUTORY SICK PAY (SSP) AND STATUTORY MATERNITY PAY (SMP)**

SSP and SMP are important regulations to understand as they enforce minimum legal requirements on employers. Each operates in a different way.

This factsheet sets out the main principles of the regulations and what an employer needs to consider.

### **STATUTORY SICK PAY**

SSP applies to all employers regardless of size and represents the minimum payments which should be paid by law.

It is possible to opt out of the scheme but only if an employer's occupational sick pay scheme is equal to or more than SSP. There would still be a requirement to keep appropriate records etc.

We have outlined the general principles below but first we need to explain some of the special terms used.

#### **GLOSSARY OF TERMS**

##### ***Period of incapacity to work (PIW)***

A PIW consists of four or more calendar days of sickness in a row. These do not have to be normal working days.

##### ***Linking***

Where one PIW starts within eight weeks of the end of a previous PIW the periods can be linked.

##### ***Qualifying days (QDs)***

These are usually the employee's normal working days unless other days have been agreed.

SSP is paid for each qualifying day once the waiting days have passed.

##### ***Waiting days (WDs)***

The first three QDs in a PIW are called waiting days. SSP is not payable for WDs.

Where PIWs are linked it is only the first three days of the first PIW which are WDs.

#### **WHO QUALIFIES FOR SSP?**

All employees who at the beginning of a PIW or linked PIWs:

- are aged 16 or over and under 65
- have had average weekly earnings above the Lower Earnings Limit (currently £75 pw).

#### **HOW MUCH SSP IS PAYABLE?**

The weekly rate of SSP for the 2002/03 tax year is £63.25 but it is computed at a daily rate.

##### ***The daily rate***

The daily rate may vary for different employees. It is calculated by dividing the weekly rate by the number of qualifying days in a week. For example an employee with a five day working week would normally have a daily rate of £12.65.

Only QDs qualify for SSP and remember the first three days (WDs) do not qualify.

##### ***Maximum SSP***

The maximum entitlement is 28 weeks in each period of sickness or linked PIW.

##### ***Recovery of SSP***

Employers falling within the limits of the percentage threshold scheme can recover some of their SSP.

The general principle is that if in a tax month the SSP due is more than 13% of gross Class 1 national insurance contributions (NIC) (less any contracted-out NIC rebate due) the employer is entitled to a refund of the excess.

## **PAYE and records**

SSP is included in gross pay and PAYE operated as normal.

A record of payments for each employee will be needed for the completion of the PAYE end of year forms.

## **STATUTORY MATERNITY PAY**

SMP is paid to female employees or former employees who have had or are about to have a baby.

It is paid to women who have been in the same employment throughout their pregnancy and is compulsory where the employee fulfils certain requirements.

### **THE REQUIREMENTS**

SMP is payable provided the employee has:

- taken her maternity leave. No SMP is payable for any week in which the employee does some work
- given 21 days notice of her maternity leave (unless with good reason)
- provided medical evidence with a form (MATB1)
- been employed continuously for 26 weeks up to and including her qualifying week
- had average weekly earnings above the Lower Earnings Limit in the relevant period.

### **THE AMOUNT PAYABLE**

SMP is payable for a maximum of 18 weeks at the following rates:

- first six weeks at 90% of average weekly earnings (or £75 if higher)
- up to a further 12 weeks at £75 per week.

SMP is treated as normal pay.

### **Average weekly earnings**

Average weekly earnings need to be calculated for two purposes:

- to determine if the employee is entitled to SMP (earnings must be above the Lower Earnings Limit)
- to establish the rate for the first six weeks of SMP.

The average is calculated by reference to the employee's relevant period. This is based on an eight week period and will vary depending upon the employee's pay periods.

Earnings for this purpose are the same as for Class 1 NIC and include SSP but not Working Families Tax Credit.

### **Recovery of SMP**

92% of SMP paid can be recovered by deduction from the monthly PAYE payments.

Employers may qualify for Small Employers' Relief (SER). SER is 100% of SMP plus a 4.5% NIC compensation.

To qualify for SER, the current limits are:

- total gross Class 1 NIC (less any contracted-out NIC rebate entitlement) for the employee's qualifying tax year must be less than £40,000
- the employee's qualifying tax year is the last complete tax year that ends before the start of her qualifying week.

### **GLOSSARY OF TERMS**

#### **Expected week of confinement (EWC)**

The week in which the baby is expected to be born. This starts on a Sunday.

#### **Qualifying week (QW)**

The 15<sup>th</sup> week before the EWC.

The EWC and QW are easy to establish from the Inland Revenue SMP tables.

#### **Maternity Pay Period (MPP)**

The period of up to 18 weeks during which SMP can be paid.

#### **MATB1**

Maternity certificate provided by a midwife or doctor. Now available up to 20 weeks before the baby is due. SMP cannot be paid without this.

### **HOW WE CAN HELP**

As both schemes are statutory it is important that rules are adhered to and we will be more than happy to provide you with assistance or any additional information required.

**For information of users:** This material is published for the information of clients. It provides only an overview of the regulations in force at the date of publication, and no action should be taken without consulting the detailed legislation or seeking professional advice. Therefore no responsibility for loss occasioned by any person acting or refraining from action as a result of the material can be accepted by the authors or the firm.