

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 for 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 (£82 per week in 2005/06 and £84 in 2006/07).

How Much SSP is Payable?

The weekly rate of SSP for the 2005/06 tax year is £68.20 (£70.05 for 2006/07) 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 £13.64 (£14.01 for 2006/07).

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) 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, where the employer has claimed a recovery of SSP using the percentage threshold scheme.

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 28 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 26 weeks at the following rates in 2005/06:

- first six weeks at 90% AWE (see below)
- up to a further 20 weeks at the lower of:
 - 90% of AWE
 - £106.00 per week (£108.85 from 6 April 2006)

SMP is treated as normal pay.

Average weekly earnings (AWE)

AWE 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 of SMP.

The average is calculated by reference to the employee's relevant period. This is based on an eight week period up to the end of the qualifying week. In some instances subsequent pay rises have to be taken into account when calculating SMP. Earnings for this purpose are the same as for Class 1 NIC and include SSP but not Working 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 for the employee's qualifying tax year must be less than £45,000
- the employee's qualifying tax year is the last complete tax year that ends before the start of her qualifying week.

Glossary of Terms

Week baby due

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

Qualifying week (QW)

The 15th week before the week baby due.

The week baby due and QW are easy to establish from the Revenue SMP tables.

Maternity Pay Period (MPP)

The period of up to 26 weeks during which SMP can be paid.

MATB1

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

The Future

Much has been made of government plans to extend maternity leave and pay. The first step will be an extension of the current entitlement of 26 weeks to 39 weeks from April 2007.

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.

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For further information please use any of the following means to contact us:

Tel	0116 233 8500	Email	advice@hayles.co.uk
Fax	0116 233 7288	Website	www.hayles.co.uk

Or in person at 39 Castle Street, Leicester LE1 5WN