

## 5. Sickness, Absence and Pay

Legislation on Statutory Sick Pay is set out in the **Statutory Sick Pay (General) Regulations 1982** and **Social Security Contributions and Benefits Act 1992** Part XI.

**UK Gov: The Statutory Sick Pay (General) Regulations 1982**

**UK Gov: Social Security Contributions and Benefits Act**

### **In statute, only employees have the right to take unpaid time off work to help someone who depends on them (a 'dependant') in an unexpected event.**

Employers should ensure that employees and workers are informed of workplace policies and procedures for reporting absences from work.

Employers should understand that people might need time off work at short notice for various reasons, some are noted:-

- Illness, both short-term and long-term
- Emergency leave due to a dependant – partner / child or family member
- Attending medical appointments
- Weather and transport
- Bereavement
- Pregnancy related / check-up appointments

In any given situation an employer should ensure that any decisions or actions they take are reasonable and proportionate. Information on sick pay entitlement can be found below.

**UK Gov: Statutory Sick Pay (SSP)**

Please refer to ACAS guidance:

**ACAS: Creating absence policies**

An employee or worker should submit a Self Certificate of Absence when the sickness absence is for 7 days or less. An employer may have their own form for this, or, the government has produced a form for this called Employee's Statement of Sickness SC2 Form:

Some employers pay enhanced company sick pay, whilst others only pay statutory sick pay. An employer must pay the amount of sick pay that is noted in the contract of employment.

The government has produced a calculator to assist employers and this explains qualifying days for part time workers:

**UK Gov: Ask your employer for Statutory Sick Pay**

**UK Gov: Calculate your employee's statutory sick pay**



If you need more help with employment rights, contact your nearest **Citizens Advice Bureau**.

The current rate of Statutory Sick Pay (SSP) is noted here and this can be paid for up to 28 weeks. Normally, rates change every year.

There are specific rules for when there is no entitlement to SSP, a few reasons are noted:

- self employment
- already had received SSP for 28 weeks (and the 28 weeks ended within the last 8 weeks)
- had Employment and Support Allowance (ESA) in the last 12 weeks
- already getting Statutory Maternity Pay or Maternity Allowance
- are pregnant, and, baby is due in 4 weeks or less, if the illness is pregnancy-related
- had a baby in the last 14 weeks (or the last 18 weeks if the baby was born over 4 weeks early)
- are in the armed forces
- are in legal custody (detained either by the police or in prison)

There are separate rules covered in Agricultural Wages in Scotland: guide – 29th edition.

Citizens Advice provides further information on this which is aimed at employees, it is also useful for employers to view.

**UK Gov:** Statutory Sick Pay (SSP) What you'll get



**Scottish Gov:** Agricultural wages guide



**Citizens Advice Scotland:** Check if you can get sick pay



## South of Scotland Employment Rights Advice Service

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