Statutory Sick Leave Pay Scheme

Note: This guideline supersedes guideline 22-2021/2022 - Statutory Sick Leave Pay Scheme
This guideline has been updated in January 2025.

Introduction

The Sick Leave Act commenced on 1 January 2023 and provides for an entitlement to statutory sick leave for an employee who would have ordinarily worked but was incapable of doing so due to illness or injury.

The Sick Leave Act 2022 applies to employees, who have at least 13 weeks continuous service, who are employed under a contract of employment, whether full-time, part-time, permanent, or fixed term. Since 1 January 2023**,** employees have a right to 3 days paid sick leave per calendar year. The daily sick pay payment amount is 70% of the employees normal daily pay up to a maximum of €110 per day. This is the now the legal minimum number of paid sick days per year in 2023.

Phased Increase in Entitlements:

The Government is currently reviewing ESRI research on the impact of statutory sick leave before confirming any further increases to paid sick leave for 2025 and 2026.

1. Rate of payment

- Sick pay is paid by the board of management at 70% of the employee's normal daily gross pay up to a maximum of €110 a day.

***Example 1**:*

Calculation of the daily rate of statutory sick pay (SSP) for an employee earning a weekly salary of €750 in respect of a 5-day week.

Weekly salary		€750
Daily rate of pay	€750/ 5 days =	€150
SSP	€150 x 70% =	€105

Example 2:

Calculation of the daily rate of SSP for an employee earning a weekly salary of €800 in respect of a 5-day week.

Weekly salary		€800
Daily rate of pay	€800/ 5 days =	€160
SSP	€160 x 70% = €112 restricted to maximum of	€110

- If the pay is based on a fixed hourly rate but for a variable number of hours, then the pay should be calculated on what would have been payable to the employee if they had worked that day.

Example 3:

An employee works 4 hours on a Tuesday, 6 hours on a Wednesday, and 8 hours on a Friday. They are paid the national minimum wage of €11.30. Calculate their daily rate of SSP if they were absent on certified sick leave on a Tuesday, Wednesday or Friday.

Tuesday	4 hours x €11.30 x 70% =	€31.64
Wednesday	6 hours x €11.30 x 70% =	€47.46
Friday	8 hours x €11.30 x 70% =	€63.28

Otherwise, if pay changes from week-to-week the employees normal pay is the average of their pay over the 13 weeks before they are on sick leave.

2. Qualifying criteria

To qualify the employee must:

- have 13 weeks continuous service with the school (periods of lay-off less than or equal to 26 weeks are counted as service),
- be certified by a GP as unable to work,
- and the sick day falls on a day they would be expected to work.

For the avoidance of doubt, there is no entitlement to statutory sick leave for uncertified illness.

3. Existing entitlements

This is the minimum sick pay arrangement that the board of management must provide to employees.

The Sick Leave Act states that if an existing entitlement to paid sick leave in an employment contract is as favourable or more favourable than the statutory entitlement, then the employer's obligation under the legislation is met. Any such provision shall be a substitution for, and not in addition to that entitlement.

3.1 Revised terms for school secretaries/clerical officers under the Workplace Relations Commission agreement per Circular 0036/2022

School secretaries who have opted into the above agreement will have the following entitlements to paid sick leave during the school academic year as follows:

- 2023/2024 school year - 5 days full pay
- 2024/2025 school year - 7 days full pay
- 2025/2026 school year and onwards - 10 days full pay

The school secretary/clerical officer must provide a medical certificate for the sick leave to be payable.

3.2 Other categories of staff e.g., cleaners, caretakers, non-teacher supervisors, coaches

The board of management will need to review existing leave entitlements to ensure that they are as a whole as favourable or more favourable to the employee.

The Sick Leave Act sets out the criteria for employers to determine whether their existing sick pay scheme is more favourable than the proposed statutory provisions provided in the Act:

- The period of service of an employee required before sick leave is payable.
- The number of days an employee is absent before sick leave is payable.
- The period for which sick leave is payable.
- The amount of sick leave that is payable.
- The reference period of the sick leave scheme.

➢ Where an employee's entitlement to paid sick leave under their contract is more favourable than the increased statutory sick leave entitlement of 5 days, the employee should be advised that there are no changes to the employment contract and that the sick leave provisions within the contract will continue to apply.

➢ The Act provides that, where existing entitlements are not as favourable as the statutory sick leave, those entitlements shall be deemed to be modified so as not to be less favourable. Employees should be advised in writing of their statutory sick leave entitlement and the qualifying criteria for payment. Employees should be notified of changes to their sick leave entitlements.

4. Other points to note

Sick days can be taken as consecutive days or non-consecutive days.

The statutory sick pay year is the calendar year, so it runs from 1 January to 31 December.

In the case of school secretaries/clerical officers opting into the agreement outlined in section 3.1, the sick pay year is the academic school year.

5. Records to be retained:

The board must maintain a record of all statutory sick leave taken to include:

a) the period of employment of each employee who availed of statutory sick leave,
b) the dates and times of statutory sick leave in respect of each employee who availed of such leave, and
c) the rate of statutory sick leave payment in relation to each employee who availed of statutory sick leave.
d) records must be retained for four years.

6. Income Tax, PRSI and USC implications

Statutory sick pay should be recorded as part of the employee's gross pay and is subject to income tax, USC, employer and employees PRSI. As the payment is reckonable for PRSI purposes, the employee should be awarded an insurable week in respect of the days he/she is in receipt of statutory sick pay.

7. State Illness Benefit

Any employee who is in receipt of statutory paid sick leave from their employer will not be entitled to State Illness Benefit on the same day.

There is no state illness benefit for the first three days of illness.

8. Other useful resources

- Sick leave and Sick Pay (citizensinformation.ie)
- Sample Statutory Sick Pay Policy Template

Further information or clarification on any of the issues raised in this Guideline can be obtained from the FSSU.

Tel: 01 2690677
info@fssu.ie

6th November 2023 (updated January 2025)

Scéim Pá um Shaoire Bhreoiteachta Reachtúil

Tabhair do d'aire: Gabhann an treoirlíne seo in ionad treoirlíne 22-2021/2022 - Scéim Pá um Shaoire Bhreoiteachta Reachtúil

Réamhrá

Tháinig an tAcht um Shaoire Bhreoiteachta i bhfeidhm ar an 1 Eanáir 2023 agus forálann sé do theidlíocht ar shaoire bhreoiteachta reachtúil i gcás fostaí a bheadh ag obair de ghnáth ach nach raibh in ann oibriú de dheasca breoiteachta nó gortaithe.

Baineann an tAcht um Shaoire Bhreoiteachta 2022 le fostaithe, a bhfuil ar a laghad 13 seachtaine de sheirbhís leanúnach acu, atá fostaithe faoi chonradh fostaíochta, cibé acu faoi chonradh lánaimseartha, páirtaimseartha, buan, nó téarma seasta. Ón 1 Eanáir 2023 i leith**,** tá sé de cheart ag fostaithe 3 lá saoire breoiteachta íoctha a fháil in aghaidh na bliana féilire. Is é an méid íocaíochta breoiteachta laethúil ná 70% de ghnáthphá laethúil na bhfostaithe suas go huasmhéid €110 in aghaidh an lae. Is é seo an t-íoslíon dlíthiúil laethanta breoiteachta íoctha in aghaidh na bliana anois in 2023.

Ón 1 Eanáir 2024, méadófar an teidlíocht íosta go 5 lá in aghaidh na bliana agus meastar go dtiocfaidh méadú air sna blianta amach romhainn mar seo a leanas:

- 2025 - 7 lá
- 2026 - 10 lá

1. Ráta Íocaíochta

- Íocann an bord bainistíochta pá breoiteachta ag 70% de ghnáthphá comhlán laethúil an fhostaí suas go huasmhéid €110 in aghaidh an lae.

Sampla 1:

An ráta laethúil de phá breoiteachta reachtúil a ríomh d'fhostaí a thuilleann tuarastal seachtainiúil €750 i leith seachtain 5 lá.

Tuarastal seachtainiúil		€750
Ráta pá laethúil	€750/ 5 lá =	€150
Pá Breoiteachta Reachtúil	€150 x 70% =	€105

Sampla 2:

An ráta laethúil de phá breoiteachta reachtúil a ríomh d’fhostaí a thuilleann tuarastal seachtainiúil €800 i leith seachtain 5 lá.

Tuarastal seachtainiúil		€800
Ráta pá laethúil	€800/ 5 lá =	€160
Pá Breoiteachta Reachtúil	€160 x 70% = €112 teoranta don uasmhéid	€110

- Má tá an pá bunaithe ar ráta seasta in aghaidh na huaire ach le haghaidh líon inathraithe uaireanta, ba chóir an pá a ríomh ar an méid a bheadh iníoctha leis an bhfostaí dá mbeadh sé/sí ag obair an lá sin.

Sampla 3:

Oibríonn fostaí 4 huaire an chloig ar an Máirt, 6 huaire an chloig ar an gCéadaoin, agus 8 n-uaire an chloig ar an Aoine. Íoctar an t-íosphá náisiúnta €11.30 leo. Déan a ráta laethúil de Phá Breoiteachta Reachtúil a ríomh dá mbeidís as láthair ar shaoire bhreoiteachta le teastas ar an Máirt, ar an gCéadaoin nó ar an Aoine.

An Mháirt	4 huaire x €11.30 x 70% =	€31.64
An Chéadaoin	6 huaire x €11.30 x 70% =	€47.46
An Aoine	8 huaire x €11.30 x 70% =	€63.28

Seachas sin,má athraíonn an pá ó sheachtain go seachtain is é gnáthphá an fhostaí meán a bpá don tréimhse 13 seachtaine sula dtéann siad ar saoire bhreoiteachta.

2. Critéir cháilitheacha

Chun a bheith cáilithe, ní mór don fhostaí:

- 13 seachtaine de sheirbhís leanúnach a bheith aige/aici leis an scoil (déantar tréimhsí asleagain níos giorra ná, nó cothrom le, 26 seachtaine a mheas mar sheirbhís),
- teastas a bheith acu ó Dhochtúir Teaghlaigh á rá go bhfuil sé/sí neamhinniúil chun oibre,
- a bheith in ainm is a bheith ag obair ar an lá breoiteachta.

D’fhonn amhras a sheachaint, níl aon teidlíocht ar shaoire bhreoiteachta reachtúil i gcás breoiteachta gan teastas.

3. Teidlíochtaí atá ann cheana féin

Is é seo an socrú pá breoiteachta íosta nach mór don bhord bainistíochta a sholáthar d'fhostaithe.

Luaitear san Acht um Shaoire Bhreoiteachta má tá teidlíocht ar shaoire bhreoiteachta íoctha ann cheana féin i gconradh fostaíochta agus í chomh fabhrach nó níos fabhraí ná an teidlíocht reachtúil, meastar go bhfuil oibleagáid an fhostóra faoin reachtaíocht comhlíonta ansin. Is in ionad na teidlíochta sin, agus ní i dteannta na teidlíochta sin, a bheidh foráil ar bith den sórt sin.

3.1 Téarmaí athbhreithnithe do rúnaithe scoile/oifigigh chléireachais faoi chomhaontú an Choimisiúin um Chaidreamh san Áit Oibre de réir Chiorclán 0036/2022

Beidh na teidlíochtaí seo a leanas ar shaoire bhreoiteachta íoctha le linn na scoilbhliana acadúla ag rúnaithe scoile a roghnaigh a bheith páirteach sa chomhaontú thuasluaite:

- Scoilbhliain 2023/2024 - 5 lá ar phá iomlán
- Scoilbhliain 2024/2025 - 7 lá ar phá iomlán
- scoilbhliain 2025/2026 agus ar aghaidh - 10 lá ar phá iomlán

Ní mór don rúnaí scoile/oifigeach cléireachais teastas dochtúra a chur ar fáil ionas go mbeidh an tsaoire bhreoiteachta iníoctha.

3.2 Catagóirí eile foirne, e.g. glantóirí, feighlithe, maoirseoirí nach múinteoirí iad, cóitseálaithe

Beidh ar an mbord bainistíochta athbhreithniú a dhéanamh ar na teidlíochtaí saoire atá ann cheana féin chun a chinntiú go bhfuil siad, ina n-iomláine, chomh fabhrach nó níos fabhraí don fhostaí.

Leagann an tAcht um Shaoire Bhreoiteachta amach na critéir d'fhostóirí chun a chinneadh cibé an bhfuil a scéim pá bhreoiteachta reatha níos fabhraí ná na forálacha reachtúla beartaithe dá bhforáiltear san Acht:

- An tréimhse seirbhíse a chaithfidh fostaí a bheith aige/aici sula mbeidh saoire bhreoiteachta iníoctha.
- Líon na laethanta a bhíonn fostaí as láthair sula mbeidh saoire bhreoiteachta iníoctha.
- An tréimhse dá bhfuil saoire bhreoiteachta iníoctha.
- An méid saoire breoiteachta atá iníoctha.
- Tréimhse thagartha na scéime saoire breoiteachta.

- ➢ Sa chás go bhfuil teidlíocht an fhostaí ar shaoire bhreoiteachta íoctha faoina c(h)onradh níos fabhraí ná an teidlíocht mhéadaithe de 5 lá saoire bhreoiteachta reachtúil, ba chóir a chur in iúl don fhostaí nach bhfuil aon athrú ag teacht ar an gconradh fostaíochta agus go mbeidh feidhm i gcónaí ag na forálacha um shaoire bhreoiteachta sa chonradh.

- Déantar foráil san Acht, i gcás nach bhfuil teidlíochtaí reatha chomh fabhrach leis an tsaoire bhreoiteachta reachtúil, go meastar go bhfuil na teidlíochtaí sin modhnaithe ar dhóigh nach lú fabhar é. Ba cheart a dteidlíocht saoire breoiteachta reachtúil agus na critéir cháilitheacha le haghaidh íocaíochta a chur in iúl i scríbhinn d'fhostaithe. Ba cheart fógra a thabhairt d'fhostaithe faoi athruithe ar a dteidlíochtaí saoire bhreoiteachta.

4. Pointí eile le tabhairt do faoi deara

Is féidir laethanta breoiteachta a thógáil mar laethanta as a chéile nó mar laethanta aonair.

Is ionann an bhliain pá bhreoiteachta reachtúla agus an bhliain féilire, i.e. téann sí ón 1 Eanáir go dtí an 31 Nollaig.

I gcás rúnaithe scoile/oifigigh chléireachais a roghnaíonn a bheith páirteach sa chomhaontú atá leagtha amach i gcuid 3.1, is ionann an bhliain pá bhreoiteachta agus an scoilbhliain acadúil.

5. Taifid le coinneáil

Ní mór don bhord taifead a choinneáil maidir leis an tsaoire bhreoiteachta reachtúil go léir a thógtar, lena n-áirítear:

a) tréimhse fostaíochta gach fostaí a bhaineann leas as saoire bhreoiteachta reachtúil,
b) dátaí agus amanna na saoire breoiteachta reachtúla maidir le gach fostaí a bhaineann leas as an tsaoire sin, agus
c) an ráta íocaíochta don tsaoire breoiteachta reachtúil i ndáil le gach fostaí a bhaineann leas as saoire bhreoiteachta reachtúil.
d) Ní mór na taifid a choinneáil ar feadh ceithre bliana.

6. Impleachtaí Cánach Ioncaim, ÁSPC agus MSU

Ba cheart pá breoiteachta reachtúil a thaifeadadh mar chuid de phá comhlán an fhostaí agus tá sé faoi réir cánach ioncaim, MSU agus ÁSPC an fhostóra agus an fhostaí. Toisc go bhfuil an íocaíocht ináirithe chun críocha ÁSPC, ba chóir seachtain inárachais a bhronnadh ar an bhfostaí i leith na laethanta a bhfuil sé/sí ag fáil pá bhreoiteachta reachtúil.

7. Sochar Breoiteachta Stáit

Níl fostaí ar bith a fhaigheann an tSaoire Bhreoiteachta Íoctha reachtúil seo óna bhfostóir i dteideal Sochar Breoiteachta Stáit a fháil ar an lá céanna.

Ní íoctar sochar breoiteachta stáit don chéad 3 lá breoiteachta.

8. Acmhainní eile úsáideacha

- Saoire Bhreoiteachta agus Pá Breoiteachta (citizensinformation.ie)
- Teimpléad do bheartas samplach um Pá Breoiteachta Reachtúil

Déan teagmháil le FSSU le tuilleadh eolais nó soiléiriú a fháil ar aon cheann de na saincheisteanna sa Treoirlíne seo.

Guthán: 01 2690677

info@fssu.ie

An 6 Samhain 2023