

Proposed legislation introducing sick pay and sick leave for employees

In June, it was announced that the Government will be introducing sick pay and sick leave rights for employees from January 2022. In Ireland currently, there is no legal obligation on employers to pay an employee who is absent due to illness.

The new legislation means employers across all sectors including the non-profit must provide a minimum number of paid sick days annually from 2022. Prior to this announcement, Ireland had been out of line with almost all other European countries as well as the UK in terms of paying employees when unable to work due to illness. And, the Government had estimated that up to half of workers did not have sick pay coverage.

According to our HR Barometer Report earlier this year, six in ten Organisations said they had a sick pay policy in place. This has been relatively consistent over the past five years of the HR Barometer. It does, however, highlight that there is still a large number of Organisations that don't have any formal sick pay policy in place. These will now have to look closely at making additional financial provisions going into 2022, which is going to be of particular strain to those in the non-profit given the impact of Covid-19 has already had on their finances.

Draft Statutory Sick Leave Bill

The Draft Statutory Sick Leave Bill 2021, as published earlier this month provides for a statutory entitlement to a minimum period of paid sick leave for all employees in the event that they fall ill or sustain an injury which prevents them from being able to work.

The intention is that the proposed legislation will provide a floor level of protection to all employees and that existing less favourable sick pay arrangements will be rendered null and void. Where there are more favourable provisions relating to sick pay in the contract of employment any such provision shall be in substitution for and not in addition to statutory sick leave.

While there are some inconsistencies in the Bill, it provides that an Employee, subject to their having 13 weeks continuous service with their employer shall be entitled to up to and including three sick leave days per annum, or such additional number of statutory sick leave days as may stand specified from time to time by order of the Minister.

The initial three-day payment is expected to increase on a phased basis up to 10 days in 2025.

Amendments to the number of sick leave days provided for can be brought forward by the Minister following consideration of the economic climate and the possible impacts an amendment will have on both employers and employees.

Phasing of Paid Sick Leave:

- 2022 – 3 days covered by employer

- 2023 – 5 days covered by employer
- 2024 – 7 days covered by employer
- 2025 – 10 days covered by employer

Rate of sick pay

The payment rate for statutory sick pay has been set at 70% of the employees' normal rate, subject to a maximum of €110 per day. The employer must deduct taxes in the normal manner and the employee has to be medically certified as unfit for work to qualify for statutory sick pay.

Employers will have to retain records of all statutory leave taken by their employees for a period of four years and employees maintain all existing employment rights when availing of benefits under the proposed Statutory Sick Pay legislation. The right to sick pay will be legally enforceable by employees through the Workplace Relations Commission and the Courts. Remedies available to successful complainants will include an award of compensation up to a maximum of 20 weeks remuneration.

What next for the Non-Profit Sector?

Given this will be an additional cost burden on employers, non-profit organisations will need to plan for the potential impact of the scheme and also consider where changes to existing policies are required, once the new scheme is introduced next year.

If your Organisation requires support in developing a formal sick pay policy or needs any additional HR support, contact one of our team.

Adare Human Resource Management is a team of expert-led Employment Law, Industrial Relations and best practice Human Resource Management consultants. For more information go to www.adarehrm.ie or call (01) 561 3594.