

## **3.01 SICKNESS ABSENCE**

### **1. INTRODUCTION**

Unfortunately we may get ill from time to time and this may necessitate time off work to recover. The NICS recognises the need for an understanding and supportive approach in the management of sickness absence. The NICS also recognises the significant impact of ill-health and sickness absence on the cost and quality of service delivery and wishes to encourage a culture of good attendance.

This policy therefore aims to provide an appropriate balance between the needs of the service and the needs of individuals when dealing with sickness absence.

This policy should be read in conjunction with the Inefficiency Sickness Absence policy, which can be found at Section 6.06 of the HR Handbook.

### **2. NOTIFICATION OF SICKNESS ABSENCES**

**2.1** If you are unable through illness to attend work you must speak to your line manager, or a more senior officer, as early as possible on the first day of absence, this should normally be within one hour of your usual starting time. You should state the nature of your illness and when you expect to be able to return to work. Line managers are responsible for recording all sickness absence, certified and self-certified.

Should you be unable to act personally on the first day of absence, you should arrange for someone to act on your behalf on that day. It remains your responsibility to ensure the message is conveyed. If the required notification is not received by your line manager or a more senior officer on the first day of absence, you will be asked to provide an explanation of your failure to notify. Where the explanation is not accepted, you will have pay withheld, at whatever rate would otherwise have been payable, for the period of absence preceding your notification to your line manager.

**2.2** You should be aware that the misuse of the provision of sick pay by reporting sick when this is not the case will be dealt with as a disciplinary matter.

### **3. EVIDENCE OF INCAPACITY**

**3.1.** You must provide evidence of incapacity as soon as possible, within a maximum period of two weeks (see paragraph 9.17), stating the cause of such incapacity throughout any period of sickness. Your Department will refuse sick pay if satisfactory evidence is not provided.

**Self-Certification (for absences of 7 calendar days or less)**

**3.2.** For periods of sickness absence lasting 7 calendar days or less (including weekends) you must complete a self-certification form. The completed form should be submitted to your line manager who will record the absence.

**Withdrawal of Self-Certified Facility**

**3.3.** Line Management should monitor closely the use of self-certification as a method of providing evidence of incapacity. Line Management, in consultation with Departmental HR (DHR), have the discretion to withdraw the facility where they feel it is being abused, or there is potential for abuse. If the facility is withdrawn and further absences occur, you will be required to provide a Statement of Fitness for Work from your doctor as evidence of incapacity, at your own expense.

Where a sanction is being applied, for example withdrawal of the self-certified facility or withdrawal of pay etc, the terms of the Disciplinary Procedures will apply.

**Statement of Fitness for Work (for periods of more than 7 calendar days)**

**3.4** Once your sickness absence exceeds 7 calendar days you must produce medical evidence in the form of a Statement of Fitness for Work completed by a registered medical practitioner and forwarded without delay to your line manager. If a medical statement is not provided, your Department will not be able to pay sick pay.

**3.5** If you consult a doctor within the first 7 days of incapacity, and they are satisfied that you will be unfit for work for longer than 7 days, the doctor may issue a statement which covers only the forward period. In such a case, you must certify your own absence for the first 7 days of incapacity as explained in paragraph 3.2.

**3.6** Statements of Fitness for Work will be accepted for the periods specified on them. If no period is specified, they will be returned to you so that you can request an indicative end date from your doctor. However, if it is clear from the nature of the illness that the absence is likely to be long term, your Department may, at their discretion, approve up to 3 months' sickness absence on the strength of a doctor's statement.

**3.7** If you are receiving treatment in hospital and provide a certificate by a responsible officer of the hospital, you do not need to support that evidence by self-certification or by a certificate from a general practitioner. Your Department, however, has the right to ascertain the nature of the illness and normally will exercise that right.

**3.8** All medical statements submitted must satisfy your Department. While these are normally taken as adequate evidence of unfitness for work, they may not be regarded as conclusive evidence depending upon other factors and the circumstances surrounding a particular case. Employers are entitled, when in doubt, to look at the reasons for a certificate and to question this in light of any other information which may be available e.g. staff should not be found to be doing anything which is inconsistent with the diagnosis on the certificate. In the rare event that a manager has doubts about the validity of the reason given for a sickness absence, he or she should express these doubts to Departmental HR (DHR), having first been satisfied that there is sufficient justification to do so. If DHR believe it is necessary they will investigate the matter further.

**3.9** After each sickness absence whether short or long term, your line manager must carry out and record a return to work interview, normally within two working days.

#### **4. SICKNESS ABSENCE AND ANNUAL LEAVE**

**4.1** If you fall sick during a period of annual leave the period of incapacity can be recorded as sickness absence. You must inform your line manager as soon as practicable and produce a self-certificate or a medical statement from a registered medical practitioner.

**4.2** Annual leave may be applied for during a period of sickness absence. Line Manager approval is required.

#### **5. STAFF LEAVING WORK EARLY**

**5.1** If you report sick having already commenced work, normally that day will not be recorded as sickness absence. The same rules apply if you report sick in the first instance but are able to come in and work later that day. However, if management have reason to believe that you are abusing this facility, it may be removed.

#### **6. INFECTIOUS DISEASES AND THE WORKPLACE**

**6.1** Infectious diseases are extremely common although most of those likely to be encountered in the workplace context are minor and of short duration. There may be times when a member of your household has an infectious disease and you are concerned that you could inadvertently transmit the infection to colleagues at work. However, for general guidance, so long as you are in apparent good health, there is no reason why your normal work pattern should not be followed. In the case of Rubella (German measles) in a family member at home, it is advisable for you to avoid close contact with pregnant women in the workplace setting until the family member recovers.

**6.2** Brief notes on the common infectious diseases which OHS consider appropriate to the workplace context are contained in an information sheet entitled *OHS Information Sheet No3 Common Infectious Diseases and the Workplace*. This is available on the OHS website: [www.nicsohs.gov.uk](http://www.nicsohs.gov.uk) and staff and line managers are asked to refer to this for advice. The OHS is also available to answer any other questions in relation to infectious diseases and the workplace or regarding any particular issue which is causing concern to line managers.

## **7. Medical Adviser**

**7.1** The Director of the Occupational Health Service (OHS) is the Medical Adviser to the Northern Ireland Civil Service on all medical issues relating to the health, environment and conditions of work of their staff. The role of the OHS is to provide professional and appropriate occupational health advice, which can be used by the Department to manage cases of sickness absence. This will include advising on fitness for work, likely return to work, job adjustment, rehabilitation and early retirement on medical grounds. Where necessary, Departments will refer individual cases to the OHS for such advice. The appropriateness of an OHS referral will always be considered once it becomes evident that the absence may exceed 20 working days. However earlier or more urgent referrals to the OHS may be made where Departmental HR, line management or you consider such an intervention to be helpful.

**7.2** It is a condition of your employment that you co-operate fully with any investigations by the OHS, including attendance for medical examinations when this is required. Failure to co-operate could result in withdrawal of Occupational Sick Pay under the provisions of paragraph 9.18b.

## **8. ABSTRACTS AND COPIES OF DOCTORS' CERTIFICATES**

**8.1** If you are an industrial employee on sickness absence you may request that details of your doctors' certificates are provided for a Trade Union or Friendly Society as you may be entitled to some form of insurance payment from that body.

**8.2** If you are eligible to claim Employment and Support Allowance, previously Incapacity Benefit, your medical statements covering the illness should be forwarded to HRConnect, via your line manager, requesting onward transmission to the Social Security Agency.

## **9. SICK PAY**

### **Statutory Sick Pay (SSP)**

**9.1** When you are unable to attend work due to illness, the NICS pay SSP providing you satisfy the rules governing this payment. Employers are required to pay SSP for days which form a period of incapacity for work (PIW) for a maximum of 28 weeks (140 days). Brief details are set out in Annex 1.

**9.2** If you are on sickness absence during the period in which you are eligible for Statutory Maternity Pay (SMP) or Maternity Allowance (MA) you will not qualify for Statutory Sick Pay. In these circumstances you will revert to SMP or MA. This will be supplemented by the appropriate level of OSP until week 40 when OSP arrangements will apply.

### **Occupational Sick Pay (OSP)**

**9.3** The NICS also has an OSP Scheme which is payable in addition to SSP. Details of this are set out at Annex 2. Payment of OSP is subject to paragraphs 9.17 and 9.18 .OSP will be paid providing that:

- a. you comply with the conditions for notifying absences and provide evidence of incapacity as set out above; and
- b. taking account of all the facts of your case, your Department is satisfied that there is a reasonable prospect of recovery and return to work.

**9.4** Occupational Sick pay, plus any statutory benefits, will not exceed normal pay. Where this occurs, the sick pay element (i.e. OSP or pension rate of pay) will be reduced until the level of normal pay is reached. However, where for example Employment and Support Allowance is in payment and sick pay is due to be adjusted, no deduction will be made where confirmation is received from another employer that adjustment is being made by them.

### **Calculation of OSP**

**9.5** Sick pay is calculated on the first day of absence from work. This continues to be recalculated throughout the absence on a rolling period. Periods of absence occurring at intervals will be treated as cumulative.

**9.6** When full pay or half pay has ceased, it will not be restored during the same sickness absence, even if the restriction in the second column at Annex 2 ceases to apply because of the passage of time.

**Payments for Sickness Absence at Pension Rate of Pay (PROP)**

**9.7** If you exhaust OSP on full pay and half pay under paragraph 9.3 Annex 2, and your Department is satisfied from the medical evidence that there is a reasonable prospect of recovery and return to work, you may be allowed pay during sickness absence at a rate not exceeding the amount of pension (if any) for which you would have qualified, if you had been retired on ill-health grounds when normal paid sickness absence was exhausted. If PROP is higher than half pay, then the half pay rate should be paid.

**9.8** The day on which your paid absence (full and half pay) is exhausted will be treated as your last day of service for the purpose of calculating pension rate of pay. The rate will not be recalculated (other than for pensions increase purposes as explained in paragraph 9.10) until you have returned to work, re-qualified for sickness absence on either full or half pay, under the provisions of paragraph 9.3 Annex 2 and then again reverted to sickness absence at pension rate of pay.

**9.9** Your Department has discretion to allow PROP for such sickness absence (continuously or in broken periods) for up to 12 months maximum over a 4 year rolling period, from the end of the normal sickness absence pay.

**9.10** If you are on PROP you may receive a percentage increase in that pay, equivalent to the percentage by which pensions beginning on the same date as you commenced your period of sick absence at PROP would be increased. The date on which any particular period of sick absence at PROP begins is the day after the pensionable pay period on which sick pay is based. Details of the percentage increase to be applied will be supplied by Civil Service Pensions.

**9.11** The maxima of OSP may be exceeded in certain circumstances for details see Annex 3.

**On Loan Arrangements**

**9.12** The on loan arrangements will be regarded as ending on the day before payment of PROP begins. Borrowing Departments should ensure that there is no delay in informing the parent Department in such cases.

**Pay During Pregnancy-Related Illness and the Special Provision Period**

**9.13** If you are absent due to pregnancy-related illness the absence will count towards your normal OSP entitlement as detailed in Annex 2. However, if your absence occurs pre-maternity leave, and you are due sick pay at PROP or no pay, you will receive a special payment equivalent to the lower rate of statutory maternity pay or PROP, whichever is higher.

All these types of absences will accrue towards a “special provision period”. Once your maternity leave commences, the total number of days which make up the special provision period will then be known. This can be made up of one or more absences and there will be no limit to the accrued number of days.

**9.14** Any subsequent sickness absences after your maternity leave, regardless of the nature of the illness, will then benefit to the extent of the special provision period. For example if 40 days accrue towards the special provision period, 40 days potentially can attract the special payment, as detailed at paragraph 9.13 above, post-maternity leave. This will apply for a 4 year period starting from the commencement of the special provision period, pre-maternity leave.

Nothing in paragraph 9.13 or 9.14 will limit the right you would otherwise have to OSP.

#### **Certain Effects on Rate of Sick Pay**

**9.15** In determining the periods of service which govern the limit and the rate of sick pay, special leave without pay does not count. However, where credit is given for previous service in the Home Civil Service i.e. where you resigned an appointment with the Home Civil Service to take up an appointment with the NICS, your full sickness absence taken during the reckonable period will count (but see the Injury, Disease and Assault section of the HR Handbook, paragraphs 5.3.3 and 5.6.1).

**9.16** The periods on full and half pay referred to in Annex 2 are maxima only and will not be allowed as a matter of course in all cases. If, while you are on sickness absence, your Department decides that they can no longer retain your services or if the OHS recommends medical retirement, your services will be terminated even though you have not received the maximum amount of OSP, PROP or SSP permitted.

#### **Circumstances in which OSP and PROP are not payable**

**9.17** OSP and PROP will be withheld if you do not comply with the rules of the scheme in terms of notification of absence, production of satisfactory evidence of incapacity within a maximum period of 2 weeks of it becoming due, or where it is clear that your absence is not due to genuine sickness.

**9.18** In addition, OSP and PROP cease to be payable in the following circumstances:-

- a. at Departmental discretion if there is not a reasonable prospect of your recovery and return to work;

- b. if you fail to attend an appointment with the OHS, line management or DHR to discuss your sickness absence record, and an acceptable explanation is not provided;
- c. if you fail to return to work by the date specified by your Department, after the OHS has found you fit for duty. This date will be no later than 7 calendar days from the date of the Department's letter, unless there are extenuating circumstances preventing your return within the specified timeframe. In such cases, DHR must be consulted and a return to work date agreed;.

Your Department has discretion to reinstate OSP if you successfully appeal the decision that you are fit for duty. The procedures to deal with disputes about fitness to return to duty are contained in the Inefficiency Sickness Absence section of the HR Handbook;

- d. during the first 6 months of the warning period following the issue of a final written warning, due to unsatisfactory attendance under the Inefficiency procedures (see the Inefficiency Sickness Absence section of the HR Handbook). Entitlement to sick pay will be reviewed after 6 months and will only be restored where your sickness absence record is considered to have been satisfactory during the first 6 months of the warning period. If the warning period is postponed for any reason, sick pay may be restored until the warning period is re-activated;
- e. during the period(s) when you are not due to work under term-time working arrangements, although SSP will be payable if you qualify under these rules.

In all the above cases, Departments will deduct or reinstate OSP in your next pay if possible.

### **Effect of Unpaid Sickness absence**

**9.19** Sickness absences on no pay or PROP or SSP (where eligible) do not reckon for pay progression or pension entitlement. Statutory annual leave continues to accrue during PROP but sickness absence on PROP does not reckon as qualifying service for a higher (contractual) annual leave allowance.

**9.20** All sickness absences are taken into account, for the purposes of consideration under the Inefficiency procedures.

**Sickness Absence during a Period of Notice**

**9.21** If you are serving notice through resignation or termination of service, where sick pay is payable on the day before the period of notice begins, sick pay will continue to be paid at the appropriate rate ie full pay, half pay, PROP even though in this case you may not meet the requirements of paragraph 9.3b. Payment is subject however to the eligibility requirements of paragraph 9.3 Annex 2. If you have resigned, payment of sick pay is limited to a maximum of 1 month if you are paid monthly and 1 week if you are paid weekly. However, these maxima may be exceeded if you have a satisfactory attendance record and give longer notice.

**Civil Service Benevolent Fund**

**9.22** When your sick pay is reduced or ceases, the appropriate form on which to apply to the Civil Service Benevolent Fund for assistance will be issued.

**Calculation of Sickness absence Period: Non-working Days**

**9.23** In calculating any sickness absence period, Saturdays, Sundays, bank, public and privilege holidays and other days not due to be worked, will be treated as follows:

- a. those occurring within a period of sickness absence will be included and reckoned as part of the absence; payment for these days will be only that to which you are entitled under the sickness absence rules and not ordinary pay;
- b. those occurring at the beginning or end of a period of sickness absence will not normally be included in the sickness absence record. However if you wish this to count for SSP purposes, you should indicate this on the self-certified form/medical statement as a Period of Incapacity for Work (PIW) and such days will also be counted towards the sickness absence period calculations as set out in paragraph 9.23a.

**9.24** For sickness absence purposes 6 months means 183 days and 12 months 365 days.

**Calculation of Paid Sickness Absence Period****Staff Working Part-time**

**9.25** If you work part-time you will be granted sickness absence with pay on the same terms as your whole-time counterparts. Where by agreement with your Department attendance is not required on each day of the working

week sick absence allowances will be calculated pro-rata in working days with fractions of a day being rounded up. For example, if your agreed attendance is for 3 days out of a 5-day working week sick absence on full pay may be allowed for not more than 78 days in any period of 12 months and thereafter sick absence on half pay, subject to a maximum of 156 days' sick absence in any period of 4 years or less.

### **Staff Working Non-standard Hours: Calculation of Sickness Absence Period**

**9.26** If you do not work the normal standard hours, for example part-time, shifts, compressed hours etc you will have the sickness absence period calculated to reflect your working pattern.

**9.27** If you work non-standard hours sick pay will be based on your normal rate of pay either for the hours you have undertaken to work as regular non-standard hours or, where the hours are irregular, on the average weekly hours over the immediately preceding quarter (13 weeks) or the immediately preceding 4 weeks if you are employed on a casual basis.

## **10. CIVIL SERVANTS RELEASED TO HM FORCES**

**10.1** Service with the Forces may be ignored for sickness absence purposes, i.e. employment in the Civil Service before and after service in the Forces may be treated as continuous. If it would be more favourable to you, account will be taken of Civil Service sickness absence granted during the actual immediately previous period of 12 months or 4 years as the case may be (even if that period was wholly spent in the Forces when, of course, no Civil Service sickness absence will have been granted). If you are prevented by sickness from resuming normal Civil Service duty immediately on discharge from the Forces sickness absence may be granted on normal conditions and within normal limits.

## **11. RE-EMPLOYED PENSIONERS**

**11.1** If you:

- a. retire on age or ill-health grounds with a pension and/or lump sum payment;
- or
- b. are prematurely retired with a continuing annual compensation payment;

and are re-employed with or without a break in service you will be eligible for the sickness absence terms applicable to your status on re-employment. All sickness absences will be counted against sickness absence allowances irrespective of whether sick pay and/or pension is paid.

**11.2** To avoid the need for the rate of pension in payment to be adjusted if you are on sickness absence, the payments to you will be as shown in the table at Annex 4. Employing Departments should where possible obtain pension details from Civil Service Pensions, Department of Finance and Personnel, in sufficient time to put the correct rate of sick pay into payment on the appropriate date.

**11.3** References to pension include the continuing annual compensation payment awarded in cases of early retirement other than on ill-health grounds.

## **12. PHASED RETURN ON MEDICAL GROUNDS**

### **Introduction**

**12.1** There is provision for you to work reduced hours on a phased return for a period of up to 3 months. This will be approved only if the application is accompanied by a note from your GP (unless OHS has been involved in the case already and has recommended a phased return). This must:

- a.** support the need for a temporary reduction in hours to facilitate your return to work; and
- b.** give a clear indication of your ability to return to your original working pattern.

**12.2** The aim throughout the period of working reduced hours should be to increase progressively, the hours being worked to help you become fit to work your normal working pattern. If you have provided a note from your GP it is unlikely that the Occupational Health Service will need to be consulted. However if further advice is needed, OHS will provide this.

**12.3** Reduced hours on medical grounds is regarded strictly as an alternative to sickness absence. In advance of any phased return arrangement being agreed, DHR will make clear, in writing, to you, both the purpose of the phased return and the fact that your normal contracted hours are not being changed.

### **Management of the Phased Return**

**12.4** Line managers, DHR, Occupational Health Service, Welfare Service, you and TUS, if applicable, all have key roles to play in the following procedures.

**12.5** Where a phased return to work has been recommended, there must be initial contact between you and your the line manager, in advance of the

your return to work. The purpose of this is to draw up an agreed phased return plan between you, your line manager and, if appropriate, the Welfare Officer and DHR. This plan, which will record what has been agreed, should be copied to HR Connect and DHR, and should include;

- proposed duration of the reduced hours arrangement (up to a maximum 3 months);
- number of hours to be worked each week/each day of each week;
- the scope and range of duties involved;
- procedures for reviewing the phased return plan including agreement of any changes.

**12.6** The effectiveness of the phased return will be closely monitored by your line manager and DHR, in consultation with you to ensure that all parties are adhering to the agreed phased return plan and due account is being taken of any OHS/GP guidance.

#### **Outcomes of the Phased Return**

**12.7** Should difficulties arise during the phased return period (e.g. you are unable to complete the agreed number of hours or fulfil the agreed duties), your line manager will notify DHR and HR Connect immediately and if necessary the details of the phased return plan may be revised. It should be noted that the revised arrangement normally must not extend beyond the original maximum 3 month period.

**12.8** If you are still having health difficulties complying with the phased return plan, even after any adjustments are made, a referral will be made to the OHS. The OHS will provide further advice including the likelihood of you being able to satisfactorily complete the phased return within the initial 3 month period or whether exceptionally this period should be extended.

**12.9** If found fit by the OHS to complete the agreed number of hours and fulfil the agreed duties, your Department will advise you of the OHS decision. If you do not comply with this, your Department will treat this as an appeal against the OHS decision. Where the appeal is not upheld and you still do not comply with the OHS decision, your department will proceed to the inefficiency procedures, continuing to withhold sick pay. Further details can be found in the Inefficiency Sickness Absence section of the Handbook (paragraphs 7.15-7.25).

**12.10** If the OHS finds you not medically fit to comply with the phased return agreement you may be offered a permanent reduction in contracted hours if a suitable post can be found.

If a suitable post cannot be found, or you do not accept a permanent reduction in hours, you will revert to full time sickness absence. Having taken into consideration the particular circumstances of the case and any legal advice, your Department may move to the inefficiency or ill-health procedures.

### **Annual Leave during Phased Return**

**12.11** During the period of reduced hours working, you may take annual leave but there will be no extension to the phased return period as a result.

### **Sickness Absence**

**12.12** During periods of reduced hours working on medical grounds, the normal hours not worked will be treated as sickness absence and will count towards your overall sickness absence.

**12.13** The normal sick pay rules will apply for the hours treated as sickness absence. Sick pay will not be paid after the 3 month limit unless full-time sickness absence has resumed under 12.10.

**12.14** The pay of those attending on reduced hours on medical grounds should be calculated on the basis of proportionate pay for the (net) hours worked, plus proportionate sick pay at the appropriate rate (including sick pay at pension rate) for the (net) hours not worked.

Example:

Conditioned hours	37 (net) a week	
Attendance	25 (net) a week	(i.e. 5 hours net a day)

You would receive:-

$$\frac{25}{37} \times \text{full pay} \quad \text{plus} \quad \frac{12}{37} \times \text{appropriate sick pay}$$

As Social Security benefits are not payable for less than a full day's absence notional benefit must not be taken into account in the calculation of sick pay when you are absent for part days only. The Social Security Agency can advise on any benefits payable for any full days not worked.

**12.15** The (net) hours not worked, which occur during a period of phased return, will be recorded as sickness absence, including those occurring directly before a phased return.

For example, if sick pay is  $\frac{12}{37}$  of the appropriate rate, then the sick absence to be recorded is  $\frac{12}{37} \times 5 = 1.62$  days' sick absence each week.

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**Retirement during Phased Return**

**12.16** Should you be retired while working reduced hours on medical grounds, the pension award (operative from a current date) will be based on pay and service in the normal way including those provisions governing adjustment of service and pensionable pay.

**SICK ABSENCE****ANNEX 1****Paragraph 9.1****STATUTORY SICK PAY (SSP)**

1. For the first 28 weeks of sickness absence, SSP replaces the employee's entitlement to Social Security sickness benefit and is treated like pay in that it is subject to deduction of income tax and National Insurance contributions. There should be no difference between normal pay (excluding overtime and intermittent allowances) and sick pay which will include SSP.
2. Those officers who have exceeded the limit of 6 months sickness absence in any period of 12 months (and subject to a maximum of 12 months' sickness absence in any period of 4 years or less) and who are entitled to SSP, may receive SSP in addition to half pay, sick pay at pension rate or nil pay. Periods of incapacity for work (PIW) which are separated by 8 weeks or less are linked for the purpose of assessing the 28 week SSP entitlement.
3. SSP can only be paid for qualifying days which are usually the days of the week an employee normally works. There must be at least one qualifying day each week running from Sunday to Saturday. SSP is not payable for the first three qualifying days ('waiting days') in a period of incapacity for work which is a period of sickness lasting at least four days in a row
4. If it should be claimed that the full entitlement to SSP has not been covered, a Department may recalculate the individual SSP entitlement for the relevant period of sickness absence. If this exceeds the amount which was paid for the same period, the Department can arrange to pay any balance of SSP if there has clearly been an underpayment.
5. There is a right of appeal to HM Revenue and Customs if an employee disagrees with an employer's decision on SSP payments. In the first instance the civil servant should ask the employing Department for a statement of SSP liability before making an approach to HM Revenue and Customs for a formal decision.
6. Special care must be taken to ensure that a civil servant receives the full SSP entitlement where 6 months' full pay in the 12 months/4 years has been exceeded, with the overriding provision that sick pay plus SSP must never exceed full pay. SSP is taxable and there is no increase for dependants.

7. SSP is assessable for income tax and NIC and should be treated as pay for the purposes of assessing periodical contributions deductible under the PCSPS(NI) When paid with sick pay at pension rate (see paragraphs 9.6 and 9.7) SSP will not be subject to PCSPS(NI) periodical deductions.

### **Exclusions from SSP**

8. Officers who fall within one or more of the following categories are excluded from SSP if they:

- a. earn on average less than the lower weekly earnings level for National Insurance contribution liability;
- b. report sick within 57 days of a previous claim for a Social Security benefit such as sickness or Employment and Support Allowance or maternity allowance;
- c. are entitled to Statutory Maternity Pay or Maternity Allowance;
- d. have already had their maximum entitlement to SSP;
- e. serve in the Isle of Man, Channel Islands or outside the European community;
- f. are in legal custody;
- g. are sick during a stoppage of work due to a trade dispute unless they have not taken part and have no direct involvement in it;
- h. have done no work under the contract of service;
- i. do not produce medical evidence; and
- j. if there is justifiable reason to believe the illness is not genuine.

**SICK ABSENCE****ANNEX 1 (Cont'd)****Paragraph 9.1****Qualifying Days**

9. Qualifying days are the only days for which SSP is payable. Qualifying days do not necessarily need to be days on which work is performed but for Civil Servants the 5 working days from Monday to Friday are regarded as qualifying days. Shift workers whose conditioned hours are allocated to 5 shifts may have the same 5 qualifying days as their conditioned shifts.

**Waiting Days**

10. Before SSP becomes payable there must be 4 consecutive calendar days of incapacity for work (a PIW) but SSP is not paid for the first 3 qualifying days in such a PIW; these days are known as 'waiting days'. Two or more PIWs which are separated by 56 calendar days or less are linked and count as one PIW; where all 3 waiting days have been served in the earlier PIW, SSP may be paid for all qualifying days in the linking PIW.

11. SSP is not payable if the Civil Servant's transition from full pay to half pay occurs during a period of continuous illness which has already exceeded 28 weeks. If, at the commencement of a PIW for which the obligation to pay SSP has not been fulfilled, the officer would normally only qualify for either half pay or sick pay at pension rate (or no pay), that qualification will also apply to the first 3 qualifying days where these are 'waiting days'. For the remainder of the sickness absence where there is an entitlement to SSP, the relevant rate of sick pay (half pay, sick pay at pension rate or nil pay) if it exceeds SSP will augment SSP up to the limit of full pay.

**Maximum Entitlement**

12. The maximum entitlement to SSP is 28 times the appropriate weekly rate in respect of any period of incapacity. The daily rate of SSP is the appropriate weekly rate divided by the number of qualifying days in that week. Not more than 28 weeks SSP is payable in any one PIW and once the maximum entitlement to SSP has been paid, the Civil Servant will revert to the appropriate rate of contractual sick pay.

**SICK ABSENCE****ANNEX 1 (Cont'd)****Paragraph 9.1****Maternity Pay**

**13.** SSP cannot be paid once a Maternity Pay Period (MPP) or a Maternity Allowance Period (MAP) has begun. The MPP or MAP:-

- a.** can start at any time from the 11th week before the expected week of childbirth (EWC); or
- b.** a start from the date specified by the officer (see paragraph 5.1 Maternity Leave Policy).

**14.** An officer who qualifies for paid maternity leave will be excluded from SSP in the same way. It is important that Departments are notified of the expected week of childbirth and the intended date of leaving work no later than the end of the 15<sup>th</sup> week before the week her baby is due in order that arrangements can be made for the relevant 39-weeks to be excluded for SSP purposes.

**Action after Payment of Full SSP Entitlement**

**15.** On the expiry of the full statutory entitlement to SSP, the rules covering the adjustment of sick pay to take account of Social Security benefits come into effect (see paragraphs 16-19 below).

**Adjustment of Sick Pay to take account of Social Security Benefit**

**16.** Civil Servants who are not in receipt of SSP (either because they are ineligible or have exhausted their maximum entitlement) are free to claim Social Security benefit from SSA. In this event their Civil Service sick pay will be adjusted so as to ensure that the sum of Social Security Benefit plus sick pay does not exceed ordinary pay. For these purposes, 'Social Security Benefit' is defined as Employment and Support Allowance for the Civil Servant's own incapacity (including allowances for adult and child dependants).

**SICK ABSENCE****ANNEX 1 (Cont'd)****Paragraph 9.1**

**17.** Women who qualify for paid maternity leave but are not entitled to Statutory Maternity Pay are excluded from SSP (see paragraphs 13 and 14) and they are free to claim any entitlement to Maternity Allowance from SSA. In this event, the pay of officers who are on paid maternity leave will be adjusted in accordance with paragraph 4.4. However, women who are disallowed from Maternity Allowance may qualify for Employment and Support Allowance and their pay during maternity leave will be adjusted by the amount of Employment and Support Allowance they received from SSA.

**18.** A married woman or widow who before 6 April 1978 elected to be exempt from liability to pay National Insurance contributions, will have her sick pay adjusted for any Severe Disablement Allowance to which she may be entitled and any Incapacity Benefits for which she may be eligible by previous insurance contributions or for Employment and Support Allowance when the incapacity is due to an industrial accident or a prescribed disease.

**19.** No adjustments will be made:

- i.** if the Civil Servant is a re-employed pensioner reverting to pension during sickness absence; or
- ii.** if there is not entitlement to benefit; or
- iii.** for Disablement Benefit, Reduced Earnings Allowance, Employment and Support Allowance for the incapacity of a Civil Servant's spouse or dependants, Maternity Payment or Widows Payment.

**Calculation of Sick Pay**

**20.** In order that actual deductions in respect of Social Security Benefit may be made from the pay of staff ineligible for SSP, it will be necessary for officers to produce the appropriate benefit notification statements from the SSA. These are:

- i.** Employment and Support Allowance;
- ii.** Maternity Allowance.

**SICK ABSENCE****ANNEX 1 (Cont'd)****Paragraph 9.1**

**21.** If officers have refrained from claiming the full benefit to which they are entitled, the full deduction will nevertheless be made unless the Department is satisfied with the explanation given. If a Department is in doubt about the exact entitlement, a provisional deduction will be made.

**22.** The method of adjusting pay is summarised in the following table. The Social Security Benefits which must be taken into account in computing the balance of pay are listed in column A and the pay elements and SSP are described in column B. As the total sum represented by the Social Security benefits increases or decreases, the balance of payment is adjusted down or up as necessary, to keep the total payment within the amount of ordinary full pay.

**SICK ABSENCE****ANNEX 1(Cont'd)****Paragraph 9.1****PAY ADJUSTMENT IN RESPECT OF SOCIAL SECURITY BENEFIT**

<b>A. TAX FREE ELEMENT</b>	<b>B. TAXABLE ELEMENT ALL CIVIL SERVANTS</b>
<p>Social Security Benefits (see notes below) including allowances for adult and child dependants.</p> <p><b>a.</b> Employment and Support Allowance for the civil servant's own incapacity;</p> <p><b>b.</b> Maternity Allowance.</p> <p><b>NOTES</b></p> <p><b>1.</b> The benefits are payable on the basis of a 7 day week. For staff working a 5 day week, a deduction should therefore be made for Saturdays and Sundays falling within a period of sickness absence, but unless benefit is payable, no deduction should be made for Saturdays and Sundays at the beginning or the end of a period of sickness absence.</p> <p><b>2.</b> If the period of absence includes a broken week, the aggregate of all weekly benefits to which the officer is entitled should be divided by 7 and the result multiplied by the number of days for which benefit is payable. (A fraction of a penny should be rounded to the nearest penny, a half penny being rounded up.) This applies to all staff who are eligible for sick pay</p>	<p>Statutory Sick Pay (SSP) is payable for up to 28 weeks' sickness absence in a tax year and is taxable.</p> <p>Officer on sickness absence on full pay</p> <p>Difference between total of actual benefits in Column A paid by IBB and full pay.</p> <p>Any benefit payable for a Saturday or Sunday occurring at the end of a period of sickness absence which is not covered by the final doctor's statement will be deducted from pay.</p> <p>Officer on sickness absence on half pay or sick pay at pension rate.</p> <p>Half pay or sick pay at pension rate adjusted if necessary to ensure that the sum of actual benefits received from IBB plus sick pay remains within the amount of full pay (but see also paragraph 11.2 and Col 3 of the table in Annex 4).</p>

**SICK ABSENCE****ANNEX 1 (Cont'd)****Paragraph 9.1****PAY ADJUSTMENT IN RESPECT OF SOCIAL SECURITY BENEFIT**

<b>A. TAX FREE ELEMENT</b>	<b>B. TAXABLE ELEMENT ALL CIVIL SERVANTS</b>
<p><b>3.</b> Note that these benefits vary in the following circumstances:-</p> <p><b>a.</b> No allowance in respect of a dependent spouse or other adult dependant is paid in addition to Employment and Support Allowance if the dependant earns more than an amount specified by IBB. There are also earnings limits in respect of the increase of Employment and Support Allowance payable in respect of a dependent spouse of an incapacity pensioner, above which:-</p> <p><b>(i)</b> no increase is payable if he/ she does not reside with him/her; or</p> <p><b>(ii)</b> the increase is reduced if he/she does reside with him/her.</p>	<p>NOTE: SSP may be payable in certain circumstances.</p>

**SICK ABSENCE****ANNEX 2****Paragraph 9.3****OCCUPATIONAL SICK PAY (OSP)**

<b>Status and Type of Employment</b>	Maximum Period for Full Pay, Half Pay, Pension Rate of Pay or Statutory Sick Pay
<b>Permanent staff</b>	<ul style="list-style-type: none"> <li>- Statutory Sick Pay as appropriate within the limit of full pay.</li> <li>- Not more than 6 months (183 days) full pay during any 12 month period. Thereafter on half pay. This is subject to a maximum of 12 months (365 days) paid sickness absence, at full pay or mixture of full/half pay, in any period of 4 years or less.</li> <li>- Not more than 12 months pension rate of pay in any period of 4 years or less. (Only applicable where the officer has accrued a minimum of 2 years reckonable service)</li> <li>- If absence is due to industrial injury or disease, see paragraph 5.3.3.</li> </ul>
<b>Temporary employees employed for up to 51 weeks</b>	<ul style="list-style-type: none"> <li>- Not more than one week on full pay for every completed 4 weeks of effective service.</li> <li>- Each period of temporary employment will be treated separately and a previous period may not be aggregated with a current period for determining sickness absence allowable.</li> <li>- The 39 week ordinary maternity leave period will count as service for the purpose of calculating entitlement to paid sickness absence.</li> </ul>

**SICK ABSENCE****ANNEX 3****Paragraph 9.11****EXTENSION OF OCCUPATIONAL SICK ABSENCE PAY BEYOND THE PRESCRIBED MAXIMA**

1. An extension of Occupational Sick Pay may be allowed to an officer who has exhausted entitlement to full pay and half pay due to a long illness or injury and then falls sick again after return to duty.
2. Up to 40 days' paid sick absence at full pay will be allowed for:-
  - i. continuance of the original illness or injury;
  - ii. continuing treatment or debilitating side effects of the original illness or injury; and/or
  - iii. minor ailments unrelated to the original illness or injury

Absences for both unrelated ailments and treatment of the original illness will contribute towards reaching the allocation of 40 days.

3. In addition to the 40 days, up to a further 20 days' paid sick absence may be allowed for the continuance of the original illness or injury, where it is necessary to be away from work to receive treatment or to recover from its side-effects.
4. As the concession is designed to deter people from attending work when they are not fit to do so, it follows that there is no case for a retrospective conversion of unpaid sick absence into sick absence on full pay.

**SICK ABSENCE****ANNEX 4****Paragraph 11.2****PAYMENTS TO RE-EMPLOYED PENSIONERS**

RATE OF SICK PAY	PAYMENTS TO BE MADE BY:	
	PENSION PAYING DEPARTMENT	EMPLOYING DEPARTMENT
Full pay	Pension at rate already in issue, i.e. full, abated or nil.*	Full re-employment pay (as abated), less a deduction for Employment Support Allowance if there is no entitlement to SSP.
Half pay	Pension at rate already in issue, i.e. full, abated or nil.*	<ol style="list-style-type: none"> <li>1. Half re-employment pay (as abated), adjusted if necessary to ensure that sick pay plus SSP (when appropriate) or sick pay plus Social Security Employment and Support Allowance does not exceed full re-employment pay;</li> <li>2. Additional sick pay as necessary to bring total payments excluding Social Security Employment and Support Allowance to the full pension level including Pensions Increase where applicable.</li> </ol>
None	Pension at rate already in issue, i.e. full, abated or nil.*	<ol style="list-style-type: none"> <li>1. Special sick pay to bring payments excluding Social Security Employment and Support Allowance to the full pension level including Pensions Increase where applicable.</li> <li>2. Additional sick pay as necessary to bring total payments (excluding Social Security Benefit) to the amount the officer would have received from a re-assessment of his/her award had he/she ceased work on medical grounds on the last day of paid sickness absence determined as in paragraph 9.8.</li> </ol>

\*A "NIL" pension applies if re-employment pay is equal to or greater than retiring pay, in which case nothing is paid by the pension paying Department.