

Why are statutory sick leave days increasing from 3 to 5 days per year?

The statutory entitlement to employer-funded sick leave is being rolled out as part of a 4-year plan. The minimum was set at 3 days per year for 2023 and this increase to 5 days is the second stage of this plan. As part of the plan, the number of statutory sick leave days will reach 10 days in 2026. This phased approach gives employers time to adjust and to plan.

What does the increase mean for employers & employees?

The increase to 5 days from 1 January 2024 means that employees will have an entitlement to a minimum of 5 days employer-paid sick leave for 2024.

It should be noted that if an employer offers an overall more favourable sick leave scheme, the statutory sick leave scheme does not impact this.

What about a small business who cannot afford to pay the increased days?

It is recognised that this is an increase in costs to business at a time of already increased costs. The Increased Cost of Business Scheme, announced in the Budget, is designed to provide financial support to enterprises most affected by such increases through grants to help with the additional costs of doing business. This scheme will be available in early 2024.

Under [section 10](#) of the Sick Leave Act, an exemption can be sought from the sick pay requirement for businesses that can demonstrate to the Labour Court that they cannot genuinely afford to make the payment.

Will part time employees also be entitled to 5 days?

The Act does not differentiate between full and part time employees. However, the rate of pay (70% of gross earnings, capped at €110) is calculated depending on the average earnings of an individual employee in the preceding reference period. See Sick Leave Act 2022 (Prescribed daily rate of payment) Regulations 2022 ([S.I. No. 607 of 2022](#)). This indirectly reflects the relative earnings of a full time and part time employee.

Do sick leave absences require a medical certificate?

Yes, a valid medical certificate declaring an employee is unfit for work is required from a registered medical practitioner to qualify for the scheme.

It is recognised that there is often a cost associated with attending a doctor to receive a medical certificate. In 2023, the Government increased the eligibility thresholds for GP visit cards, increasing access to these for many low paid workers.

It should also be considered that the purpose of a visit to a GP is not merely to obtain a medical certificate for work. It is often required to receive treatment, prescriptions, advice, referrals for further medical interventions etc.

How will statutory sick leave interact with Illness/Injury Benefit after the increase in statutory sick leave days?

Illness and injury benefit are operated by the Department of Social Protection. From 1 January 2024, an employee who is entitled to 5 days of employer-paid statutory sick leave will not have an entitlement to illness or injury benefit for those corresponding days. Once an employee has

exhausted those 5 days of sick leave they can move on to illness or injury benefit, if eligible under the conditions of that scheme. The requirement to serve 3 waiting days prior to commencement of payment of illness/injury benefit remains in place but will run concurrently with an employee's statutory sick leave days.

Employees who benefit from a more favourable employer sick leave scheme (in place of the statutory sick leave scheme), will not be entitled to illness or injury benefit for the equivalent five days of sick leave they would have been entitled to under the statutory scheme. In practice, this means that in 2024, an employee whose employer operates a more favourable sick leave scheme will not have an entitlement to illness or injury benefit for the first 5 days of their absence, in line with the statutory sick leave entitlement.

It should be noted that illness and injury benefit are not paid on days for which statutory sick pay is paid by the employer.

If an employee's first period of illness is less than 5 days, their remaining statutory sick leave days will be applied to any subsequent instance(s) of illness.

If an employee qualifies for both statutory sick leave and illness/injury benefit, and their first instance of illness in 2024 exceeds their 5-day statutory sick leave entitlement, the illness/injury benefit payment will start from day 6. If their period of illness does not exceed their 5-day statutory sick leave entitlement, there is no requirement to apply for illness benefit.

When an employee has exhausted their 5-day statutory sick leave entitlement in 2024 and have any subsequent instances of illness within the calendar year, payment of illness/injury Benefit will commence on day 4 of their illness (i.e. after 3 waiting days have been served).

What if someone does not have the required service of 13 weeks to access statutory sick leave?

An employee who has not completed 13 weeks service with their current employer and is not entitled to statutory sick leave, but does qualify for illness/injury benefit, will still be required to serve 3 waiting days before payment commences.

Can unused sick leave days be carried over into the following year?

Unused sick leave days cannot be carried over into the following year and will expire at the end of the year.

Where an employee is on statutory sick leave at the end of a calendar year, they should move onto illness/injury benefit if they remain unfit to work. However, should the employee return to work at any time in the following calendar year, they will have full access to their statutory sick leave entitlement for that year.

Is there any change to the rate payable under the scheme?

There are no changes to the calculation of the rate payable under the scheme. It remains at 70% of gross earnings, capped at €110, based on the reference period. See Sick Leave Act 2022 (Prescribed daily rate of payment) Regulations 2022 ([S.I. No. 607 of 2022](#)).