Whitings
Chartered Accountants LLP

Payroll Updates

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Sick Pay: Just What Are The Rules?

Legal Obligations

First and foremost, an employer is under no legal obligation to pay an employee when they are off sick. In general, it has been found that employers offer between one and five days per annum as paid sick leave, but ultimately it is down to the terms and conditions written in the employment contract.

Sick Days

In the UK there is no legal definition as to how many sick days are too many sick days. Pre COVID-19, the Office for National Statistics (ONS) stated that the average number of sick days per employee was 4.4 days. Post COVID-19 this figure has risen to 4.9 days, with certain industries suffering more absenteeism than others.

Most sick periods tend to be short-term and employees only need to complete a self-certification form. Self-certification covers a period of absence for up to seven days. Beyond that time a doctor's "fit note" is required. Again, terms and conditions in the employment contract can override the basic rules.

Period In Waiting & Statutory Sick Pay

The first three days an employee is off is termed as the Period in Waiting (PIW). Whether or not a company pays sick to its staff, the PIW begins on the first day of sickness. Statutory Sick Pay (SSP) becomes payable on the fourth full day of sickness, it is not payable for half days. If, during a period of paid sickness, SSP is also payable, the employer can reduce the amount of company sick pay to take into account the total SSP the employee receives.

Employees are entitled to 28 weeks of SSP. The current rate is £116.75 per week and this is subjected to normal PAYE regulations. If the employee exceeds the 28 weeks of SSP, then the employer needs to send them a SSP1 form. By law the form should be sent to the employee after 23 weeks so that the employee can apply to the Director of Work and Pensions (DWP) for Universal Credit or Employment Support Allowance.

Since April 2014, employers can no longer reclaim any monies paid to employees under SSP. However, the Work and Pensions Committee recently reported and recommended that SSP reclaim be re-introduced for small and medium sized businesses.

Further recommendations included the following:

- Increase in SSP to align it with Statutory Maternity Pay.
- The removal of the lower earnings threshold so all employees would be eligible to claim.

Pension Contributions & Statutory Payments

Different pension schemes attract different rules when it comes to making statutory payments to employees.

The first thing to ascertain is what type of pension it is your scheme administrator is running, which could be:

- **Net Pay Arrangement**
  Pension deducted from gross before tax is taken (for example Smart).
- **Relief At Source (Gross Pay Arrangement)**
  The scheme administrator claims the basic rate of tax from HMRC and adds it to the pension pot (for example standard Nest scheme).
- **Salary Sacrifice**
  Employee gives up part of their salary in exchange for additional employer pension contributions. All contributions under salary sacrifice are considered employer contributions.

Net pay and relief at source pension schemes are regulated by the same guidance. However, salary sacrifice schemes have different rules when it comes to pension contributions.

For net pay and relief at source schemes - during the first 26 weeks of leave, also known as Ordinary Maternity Leave (OML), an employee has full employer pension rights based on the salary they enjoyed prior to going on leave. This means that, even though employee contributions are now based on a percentage of their maternity leave, employer contributions remain constant with their annual salary.

During the last 26 weeks, also known as Additional Maternity Leave (AML), for net and relief at source pensions, full employer contributions must continue whilst the employee is receiving pay (weeks 27-39). Employee contributions continue to be raised against the SMP paid. No contributions are mandatory during the final unpaid 13 weeks of leave.

If the scheme is salary sacrifice, the employer must pay full pension for the entire 52 weeks, as all pension contributions under salary sacrifice rules are classed as employer contributions.

This third point is crucial as it means that any employer operating a salary sacrifice scheme, must continue to pay the full amount of contributions throughout the maternity period, since you cannot make a salary sacrifice deduction from statutory parental pay.

Paternity Leave (Bereavement) Act

The Paternity Leave (Bereavement) Act became law earlier this year, in May 2024. However, due to the dissolution of Parliament, no date has been set for its implementation. The Bill grants the right for automatic Paternity Leave in cases where the mother (or in cases of adoption, the registered main carer) passes away.

This Act is not to be confused with Parental Bereavement Pay, which has been law for some time. Parental Bereavement Pay is payable and is due when a baby passes away.

About The Paternity Leave (Bereavement) Act
It is not payable (employer discretion) and is due when the mother/main adopter etc. passes away within 12 months of the childbirth/adoption. Leave can be taken from day one of employment. In general, it follows same rules as normal parental pay, but without the pay.

Neonatal Care Pay & Leave

Neonatal Care Pay and Leave is due to come into force in April 2025, so we have shared a quick summary of this below for you. However, if you would like more information or advice on the matter, our Whitings Payroll Bureau team will be more than happy to help you.

Who Is Neonatal Care Pay and Leave For?

This is for Parents who have a child requiring neonatal care in the first 28 days following birth.

What will Parents Be Eligible To Receive?

Parents will be eligible to receive up to 12 weeks Statutory Neonatal Pay and Leave.

What Will The Regulations Be?

Regulations will be the same as those surrounding existing statutory payments and reclaimed by the employer in the usual way.

Keep In Mind...

The law will not be applied in Northern Ireland.

Apprentice Levy: Changes Afoot

Approximately 25% of vocational learning and training in the UK is currently funded through the Apprentice Levy, so what exactly is the Apprentice Levy and what is the new government proposing to replace it with?

The Apprentice Levy

Currently the levy is raised against those companies, or groups of companies, who have an annual payroll more than £3m. The levy is charged at 0.5% of the amount above the £3m threshold and is paid to HMRC as part of the monthly PAYE return. It must also be noted that companies approaching the £3m mark should also pay the levy and claim a rebate at the end of the tax year if they have not crossed the threshold. The money raised by the levy is then made available to smaller businesses to invest in their workforce.

The levy was introduced in April 2017 and the parameters have not changed over the intervening years. It was set up to encourage 600,000 new apprenticeships each year. The average has been approximately half that number, with somewhere in the region of £3.3 billion of funding unused. A second area of concern has arisen in where the funding has been spent. It was envisaged that most of the funding would be spent on entry-level workers. In reality, a large amount is going towards higher-level and degree type apprenticeships.

New Government Proposal

The new government plans to turn the apprenticeship scheme into a growth and skills levy, allowing businesses to use 50% of their contributions on non-apprenticeship training. Taking this one step further, at a cost of £1.6 billion, would see apprenticeships for 16–19 year olds fully funded by the Department for Education (DfE) as we see under the current system with school and college peers.

To pay for the increase in costs, it has been suggested that a grading system be introduced in both the way the levy is raised and to how the funds can be spent. For example, the current rate of 0.5% can be charged against companies with a payroll bill more than £1m rising to 2% for those over £3m. This would see an appreciable increase in funds going someway to meeting the cost of the government's 50-50 model. With the DfE funding entry level apprenticeships, companies would be able to use 50% of their fund to finance degree apprenticeships for over 25's and the remainder for short course provisions for all employees.

Fuel Rates From September 2024

It's that time of year, the new Fuel Rates are in place from September 2024.

Below we share what these are for Petrol, LPG, Diesel, Hybrid and Electric cars:

Engine Size	Petrol Rate Per Mile	LPG Rate Per Mile
1400cc or less	13p	11p
1401cc to 2000cc	15p	13p
Over 2000cc	24p	21p

Engine Size	Diesel Rate Per Mile
1600cc or less	12p
1601cc to 2000cc	14p
Over 2000cc	18p

Hybrid cars are assessed under the same rules as normally aspirated cars.

From June 24, HMRC will be reviewing the rates for electric vehicles on a quarterly basis along with other advisory fuel rates. From September 24 the new rate for electric cars is to be 7 pence per mile. Expect this to rise in December due to the increase in the electricity price cap.

Minimum Wage: Further Increases Expected

On 30th July the Low Pay Commission (LPC) set out its policy on future minimum wage rates.

It is expected that the new Labour Government will maintain the same policy as the last Conservative administration and maintain annual National Living Wage (NLW) increases in line with average earnings.

It is projected that the NLW will increase to £11.89 for employees over the age of 21. This is a 3.9% increase from April 2025 and reflects a slow down in the rate of increase seen since 2015. However, the LPC unveiled a new policy to achieve a single minimum wage rate for all workers.

There was no timeframe set out for the introduction of the new policy which could see large increases in wage cost for companies employing 18-20 year olds. The Chancellor's first Budget, set for 30th October, could provide an insight as to when these increases may start to be implemented.

Week 53: What To Look Out For

For some companies, not all, another week 53 or even week 54 will be in operation again this year.

HMRC instructs payroll software writers to operate a week one basis for week 53 so as not to penalise employees with a higher tax liability in their final payment for the tax year. However, as we have seen in the current tax year, this can lead to weekly paid employees being undertaxed. HMRC will then issue the worker with a tax demand for the shortfall or issue a decreased tax code notification. It is recommended that all employers who have a week 53/54 pay run, that they advise their workers with regards to this potential shortfall in tax.

Payrolling Of Benefits In Kind (BIKs) To Become Mandatory

Just a reminder to what may seem a long way off but will be with us sooner than a lot of companies realise. HMRC confirmed in March 2024 that it will mandate the reporting and paying of Income Tax and Class 1A National Insurance contributions (NICs) on BIKs via payroll software.

Under current rules, if a company wishes to payroll benefits it must register the benefits before the start of the tax year. A company cannot register for the current tax year during the current tax year. If HMRC stick to these rules, then all companies providing benefits, who have not already done so, will need to register their benefits during the 2025-26 tax year. The last date P11D's can be submitted will be 6th July 2026 to reflect benefits from the 25-26 tax year.

Employment Rights Bill 2024

During the King's Speech on July 17th, 2024, it was declared that a new Employment Rights Bill was to be introduced in the next 100 days.

The key points as far as payroll is concerned are as follows:

- Banning exploitative zero hours contracts and ensuring all jobs provide a baseline level of security and predictability. Contracts will have to provide for hours worked judged against a 12-week reference period.
- Ending "Fire & Rehire" and "Fire & Replace" usage by employers where it cannot be justified.
- Make parental leave, sick leave and protection from unfair dismissal a day 1 right for all workers.
- Strengthen sick pay regulations.
- Allow flexible working to be a default from day one for all workers.
- Strengthening protections for new mothers by making it unlawful to dismiss a woman who has had a baby within six months of her return to work.
- A Race and Disability bill will be introduced ensuring the right to equal pay for ethnic minorities and disabled people. Employers with more than 250 employees will be mandated to report ethnicity and disability pay.

Although the bill will be introduced by no later than the end of November 2024, due to Parliamentary processes, it is unlikely to become law before 2025.

Steven Denton - Payroll Manager
Telephone: 01353 662595
Email: stevendenton@whitingsllp.co.uk

Liz Simpson - Assistant Payroll Manager
Telephone: 01353 662595
Email: elizabethsimpson@whitingsllp.co.uk

Ruth Pearson - Assistant Payroll Manager
Telephone: 01638 712267
Email: ruthpearson@whitingsllp.co.uk

www.whitingsllp.co.uk