SICK LEAVE BILL 2021 REGULATORY IMPACT ASSESSMENT

Department of Enterprise, Trade and Employment

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1. Executive Summary

Summary of Regulatory Impact Assessment (RIA)	
Department: Enterprise, Trade and Employment	**Title of Legislation:** Sick Leave Bill 2021
Stage: Drafting	**Date:** May 2021
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Policy options considered

1. Do nothing

2. Legislate for a new framework.

Preferred option:

Option 2, to legislate for the introduction of a Statutory Sick Pay (SSP) scheme, is the preferred option.

The following 6 **payment durations were considered**:

A replacement rate of 70% of gross salary for a duration of:

a) 3 working days in a calendar year,
b) 5 working days in a calendar year,
c) 7 working days in a calendar year,
d) 10 working days in a calendar year,
e) 15 working days in a calendar year,
f) 30 working days in a calendar year,

Costings for all of these options are presented in the analysis. However, provision for options e) 15 days and f) 30 days will not be included in the Sick Leave Bill, due to the relatively high costs involved. While there will be some additional costs for business, the scheme is not intended to impose significant new costs on employers, and it is considered that neither of those options meet this objective.

The rate of 70% of gross pay is set to ensure excessive costs are not placed on employers, who in certain sectors may also have to deal with the cost of immediately replacing staff to cover the absence. However, after applying the 70% rate of pay, it is clear from the analysis that the potential cost for businesses remains high and also increases disproportionately at higher incomes.

A daily earnings threshold figure of €110 will be applied which is based on 2019 mean weekly earnings of €786.33 which equates to an annual salary of €40,889.16. Imposing the cap at this level ensures that €110 is the maximum cost for any employer per day (weekly salary of €786.33 divided by 5 days multiplied by 70% = €110.08).

It should be noted that while the earnings threshold has been set using the 2019 CSO quarterly earnings data, the Wage Distribution tables setting out the costings throughout the RIA use the 2018 data. This is because the RIA needed income data broken down at a more granular income level, which resulted in the need to use slightly older data (2018 is the latest available administrative earnings data from the CSO[1]) for all wage examples to ensure they were consistent with one another.

Statutory entitlement to sick pay will be rolled out as part of a 4-year plan and will initially be for 3 days per annum in 2022, rising incrementally to 10 days in 2025. The 4-year plan will achieve a balanced approach to plug a well acknowledged gap in sick pay particularly for lower earners, while also responding to the cost concerns of industry in the current economic environment.

Options

Costs		***Benefits***	***Impacts***
a	Direct and Indirect costs. **Direct costs** – Option 2a, 3 days SSP cost for employers ranges from €171.36 per employee to €330.12 per employee per annum across salary distribution points. **Indirect costs** – administrative costs and impact on labour market.	SSP scheme will provide a new framework for a balanced statutory sick pay rate that is fair, with one that is sustainable, and which allows employers to continue to create quality jobs.	The proposals are expected to result in beneficial impacts on low-paid and vulnerable groups with minimum adverse impact on employment and competitiveness. SSP scheme will have a positive impact on socially excluded and vulnerable groups

[1] CSO (2018), Earnings Analysis using Administrative Data Sources 2018 - CSO - Central Statistics Office.

b	**Direct costs** – Option 2b, 5 days SSP, the cost for employers ranges from €285.60 per employee to €550.20 per employee per annum across salary distribution points. **Indirect costs** – administrative costs and impact on labour market.	SSP scheme will reduce presenteeism and the cost associated with it SSP scheme will help to manage control over absenteeism resulting in the potential reduction in absenteeism	SSP scheme will have no impact on the environment SSP scheme will have no impact on whether there is a significant policy change in an economic market, including consumer and competition impacts – no impact
C	**Direct costs** – Option 2c, 7 days SSP, the costs for employers ranges from €399.84 per employee to €770.28 per employee per annum across salary distribution points. **Indirect costs** – administrative costs and impact on labour market.	SSP scheme will reduced employee turnover SSP scheme will lead to a safer work environment Better quality of life Reduced spread of infectious illness/diseases	SSP scheme will have a positive impact on the rights of citizens – SSP scheme may have some negative impact on the burden of compliance by stakeholders. SSP scheme will have no impact on North-South and East-West Relations- no impact
d	**Direct costs** – Option 2d, 10 days SSP, the costs for employers ranges from €525.50 to €1,100.40 per employee per annum across salary distribution points. **Indirect costs** – administrative costs and impact on labour market.		
e	**Direct costs** – Option 2e, 15 days SSP, the costs for employers ranges from €525.50 per employee to €1,650.60 per employee per annum across salary distribution points.	(Option 2e will not be included in the Sick Leave Bill, due to the relatively high costs involved)	

f	**Direct costs** – Option 2f, 30 days SSP, the costs for employers ranges from €525.50 to €3,301.20 per employee per employee per annum across salary distribution points.	(Option 2f will not be included in the Sick Leave Bill, due to the relatively high costs involved)

Sick Pay Bill 2021
Regulatory Impact Analysis

2. Description of policy context and objectives

2.1 Policy Context

The Tánaiste and Minister for Enterprise, Trade and Employment, Leo Varadkar, T.D. committed to publish a General Scheme of a Bill in 2021 for a statutory entitlement to sick pay. This will build on the improved social protections for workers over the last five years, including paternity benefit, parental leave benefit, and the extension of social insurance benefits to the self-employed and those in the gig economy. The intention is to develop a scheme that is fair and affordable with the minimum complexity and administrative burden, for both the employers and the State.

2.2 Purpose of the Scheme

The introduction of a statutory sick pay scheme (SSP) is intended as a progressive measure that will bring Ireland in line with many other wealthy OECD countries. The primary policy objectives and considerations in designing the scheme are set out below:

- SSP will ensure that all employees are entitled to a minimum level of financial compensation if they are unable to work due to illness or injury. The scheme is primarily intended to provide a level of sick pay coverage to those employees, often in low paid roles, that currently receive no sick pay/or are not entitled to illness benefit.

- SSP will become an employment right and as is the case with existing employment rights, employers will be required to administer and comply with the terms of the scheme.

- The scheme will be as simple and straightforward as possible to reduce the administrative burden and costs on employers.

- The scheme is intended to offer a floor level of protection, and legislation will not interfere with existing, more favourable, sick pay schemes that are in place.

- The scheme is not intended to impose significant new costs on employers. However, SSP represents a fundamental change in how payment for illness related absences is dealt with in Ireland and some additional costs for employers are inevitable.

2.3 Scheme design

Statutory entitlement to sick pay will be rolled out as part of a 4-year plan and will initially be for 3 days per annum in 2022. This will effectively fill the gap in coverage caused by Illness Benefit waiting days. This takes account of the current economic climate and the existing financial pressures on businesses. The number of days will increase incrementally with the goal that employers will eventually cover the cost of 10 sick days per annum in year four. The operation of the plan will be reviewed at regular intervals, beginning after the first 12 months of operation. The initial plan is as follows–

i. 2022 – 3 days covered

ii. 2023 – 5 days covered

iii. 2024 – 7 days covered

iv. 2025 – 10 days covered.

SSP will be paid by employers at a rate of 70% of an employee's wage, subject to a daily threshold of €110, (see explanatory note below at section 6.3.3). Setting a percentage of the gross wage is in line with the calculation method used in the majority of EU Member States that have SSP schemes, where the percentage used varies from 25% to 100% of the employee's gross wage. The rate of 70% is set to ensure excessive costs are not placed on employers, who in certain sectors may also have to deal with the cost of replacing staff who are out sick at short notice.

The daily earnings threshold cut-off point will also ensure that employers do not face excessive costs in relation to employees who are on high salaries. The Bill is primarily intended to provide a minimum level of protection to low paid employees, who may have no entitlement to company sick pay schemes.

Importantly, employers can offer more favourable terms and conditions, and many employers already do.

Other features of the scheme are that:

- There will be no top up of salary from the State.
- The employer will deduct taxes in the normal manner.
- There will be no compensation scheme introduced for employers to assist them with costs of sick pay.
- An employee will have to be medically certified as unfit to work to avail of statutory sick pay,
- the entitlement for payment of sick pay is subject to the employee having worked for their employer for a minimum of six months.

The scheme design achieves a good balance for the cost sharing model – workers receive 70% pay for the 3 days; costs are capped for employers; and it should provide for a seamless transition to state supported Illness Benefit, if the worker applies for it on day four.

Closing the gap of current waiting days before being able to access Illness Benefit will eliminate the affordability issue and minimise the numbers of genuinely sick employees presenting for work.

The 4-year plan will achieve a balanced approach to plug a well acknowledged gap in sick pay particularly for lower earners, while also responding to the cost concerns of industry in the current economic environment, as many companies will be recovering from the impacts of the COVID-19 pandemic. This phased approach gives employers time to adjust and plan for the new responsibility.

2.4 Current Supports

There is no statutory sick pay (SSP) in Ireland, however many employers provide sick pay during illness without any statutory obligation to do so. Illness benefit is a short-term payment from the State made to insured contributors who are unable to work due to illness. Current arrangements provide that payment of illness benefit begins from the fourth day of the illness. No payment is made for the first three days, known as “waiting days” (reduced from six days as part of measures introduced under Budget 2021). Waiting days have been a long-standing feature of the social insurance system and are a feature of social security schemes in other countries also.

Illness Benefit entitlement continues while a person is unfit for work, subject to a maximum of two years, provided they have at least 260 weeks’ PRSI contributions paid since first starting work. Illness Benefit is paid for a maximum of one year if a person has between 104 and 259 weeks of PRSI contributions paid. If a worker is receiving sick pay from an employer, he or she may be required by the employer to sign over their illness benefit to the employer.

The Illness Benefit scheme was temporarily enhanced to deal with the circumstances presented by the Covid-19 pandemic. The goal is to support people to not attend work by protecting their income and addressing their financial concerns when they are in isolation. Significantly, there are no waiting days associated with the enhanced illness benefit, so the payment from the first day of illness allows them to comply with medical advice to self-isolate to mitigate the spread of the disease, while having their income protected. The payment is made for a maximum period of 2 weeks where a person is a probable source of infection of Covid-19 and up to 10 weeks where a person has been diagnosed with Covid-19.

The rate of the enhanced Illness Benefit payment for Covid-19 is €350 per week, with additional payments possible in respect of a qualified adult and qualified children. However, even the enhanced Illness Benefit payment is less than many people earn in work and there can be a reduction in income while absent due to illness.

3. Immediate Objectives

In line with Government Decision S180/20/10/0229V, the legislation will provide for the creation of an entirely new employment right, legally enforceable through the Workplace Relations Commission and the Courts. The introduction of a SSP scheme will provide a level of protection to employees who are genuinely unable to work due to illness or injury particularly those who are outside the illness benefit system and/or are not provided with a company sick pay scheme. This would mainly target people in low-paid and precarious employments who are less likely to have a sick pay scheme provided by their employer.

4. Identification and Description of Policy Options

4.1 Option 1 "Do Nothing"

The "do nothing" principle would fail to address the commitment by the Government to establish a statutory sick pay scheme to bring Ireland in line with many other OECD countries. Under the present framework, employers have discretion on whether to pay their employees who are absent from work due to illness. In the event of being unable to attend work due to illness:

i. employees of enterprises currently operating a sick pay scheme would receive payments from their employer under the terms of that scheme.
ii. employees of enterprises not currently operating a sick pay scheme would avail of illness benefit[2] paid through the social welfare system, if they are eligible and following the 'waiting days' period, currently 3 days.

As official statistics on an enterprise's sick pay arrangements are not collected, it is difficult to estimate the proportion of employers offering sick pay schemes. There is some evidence from certain sectors, with an IBEC survey[3] of over 600 companies in 2011 finding 66% of companies in Ireland to have a sick pay scheme in place. More recently, it is reported that 80% of workers in meat processing factories lack sick pay schemes at work according to Meat Industry Ireland, and 79% of early years professionals lack sick pay according to research by the SIPTU Big Start campaign[4].

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[2] Illness Benefit (IB) is a support scheme who are unable to work due to sickness or illness and it is not linked to the employer's policy on pay for sick leave. The payments are made by the Department of Social Protection after the 3 waiting days and are graduated according to the average weekly earnings in the relevant tax year. In 2020, the weekly personal rate of IB for someone on average weekly earnings of €300 or more was €203 per week (before tax). The duration of IB payment is dependent on the social insurance contributions. For example, a person with at least 260 weeks of social insurance contributions paid since they first started working can claim IB for a maximum of 2 years (624 payment days) whereas a person who has between 104 and 259 weeks of social insurance contributions paid since they first started work can only avail of IB for 1 year (312 payment days).

[3] Ibec (2011): Employee absenteeism: a guide to managing absence.

[4] https://www.oireachtas.ie/en/debates/debate/seanad/2020-10-07/23/

4.2 Option 2 "Legislate for the new framework"

To implement the Government Decision and achieve the policy objectives set out earlier, the proposed introduction of the Sick Leave Bill 2021 is required to establish the SSP Scheme on a statutory basis. Under this framework, all employers will have a statutory obligation to pay their employees who are absent from work due to illness, certified by a medical doctor as unfit to attend work.

As part of the development of the scheme the Department of Enterprise, Trade and Employment examined SSP internationally to see how schemes operate in other countries and to get a sense of what might work well in an Irish context. While SSP is a common entitlement in wealthy OECD countries, the form that it takes varies considerably and there is no consensus around an ideal model or system. The duration of payment can range from a few days to up to two years with many countries providing for short term coverage in the range of one to two weeks. The means of payment can be either a percentage of the gross wage, a flat rate of payment for all employees, a salary top up of State illness benefit or an accrual system whereby hours of sick leave are earned per hours worked. A range of eligibility requirements are applied across different schemes with a required period of service, medical certification and waiting days relatively common. Certain schemes are unique to a particular legislative or industrial relations environment and not easily replicated in other contexts.

4.3 Conclusion on options

For the reasons set out above, Option 2 – "legislate for the new framework" with the introduction of statutory sick pay is the appropriate course to take. The introduction of legislation will ensure that all employees are entitled to a minimum level of financial compensation if they are unable to work due to illness or injury. This will achieve the policy objective of providing a level of sick pay coverage to those employees, often in low paid roles, who currently receive no sick pay from their employer/or are not entitled to illness benefit.

While there will be no impact on those employers who already provide occupational sick leave pay, it will impose an additional cost on those who currently do not operate a sick pay scheme. These additional costs will be dependent on several factors (including the 'replacement rate', the proportion of employee's pay being paid during periods of illness and the duration covered by the SSP scheme).

A percentage rate of 70% of gross wage has been set. Setting a percentage of the gross wage is in line with the calculation method used in the majority of EU Member States that have SSP schemes, where the percentage used varies from 25% to 100% of the employee's gross wage. The rate of 70% is set to ensure excessive costs are not placed on employers, who in certain sectors may also have to deal with the cost of replacing staff who are out sick at short notice. This rate of compensation will put Ireland among the EU Member States with the highest rates of compensation.

To estimate the associated cost at various durations, 6 options are analysed at section 6 below, with a replacement rate of 70% of gross salary for a duration of:

a) 3 working days in a calendar year,
b) 5 working days in a calendar year,
c) 7 working days in a calendar year,
d) 10 working days in a calendar year,
e) 15 working days in a calendar year,
f) 30 working days in a calendar year.

5. Consultation

Statutory sick pay is being developed in consultation with all relevant stakeholders, including unions, employers, employees and other Government Departments and bodies. The Tánaiste convened the Labour Employer Economic Forum (LEEF) Sub-Group on Employment Legislation/Regulation on Wednesday 30th September 2020 to commence a consultation process. IBEC, ICTU, Construction Industry Federation and Chambers were present. The Tánaiste presented a draft '*Issues Paper on Statutory Sick Pay*' and requested that the social partners consider the range of issues and policy options set out in the paper and submit their views by 14th October 2020.

A full public consultation to complement the unions and employer groups input was launched in November 2020 with a closing date of 18 December 2020. A total of 118 submissions were received from a diverse range of stakeholders including trade unions, employer representative bodies, individual employers and employees and political parties.

Overall, employers expressed concerns particularly in light of costs on employers associated with other legislative measures and the difficulties faced by business in the current economic environment. Some were concerned about paying sick pay in addition to bringing in a replacement person to cover the work.

Employees welcomed the initiative with comments such as "the last thing a person needs when they are sick is to have to worry about money and bills as well as the added cost of medicines and a doctor's bill. The cost of living does not go down when you're sick."

The following summarises the feedback received from stakeholders and interest groups arising from the consultative process.

- On a suitable minimum rate of sick pay, 77% favoured a rate of at least 75% of an employee's weekly earnings initially but that this should go down over a period of time to reduce the burden of cost on the employer. 59% suggested that sick pay should be 100% of weekly pay.

- On duration of coverage, only 37% of respondents gave a figure of between 1 and 4 weeks. Others had suggestions ranging from 0 weeks to 104 weeks. of those that chose to respond with a specific figure the majority chose 2 weeks paid sick leave. Of those that chose 2 weeks there was some suggestions that this would be 2 weeks at full pay and then some scaling down if it were decided on a longer period of absence.

- 85% of respondents stated that the number of waiting days should be a period of 3 days or less. Of those, 43% advised against any waiting period as it forced lower paid staff to come in whilst sick, which can lead to other staff getting sick, which in turn can lead to more staff off on paid sick leave.

- Respondents were asked to indicate whether illnesses should be certified by a medical professional. 54% said yes, 30% said no and 16% were undecided. Of those that responded in favour of this, some went on to say that a cert should only be required after a few days.

- On the length of service an employee must complete to be eligible for paid sick leave, 73% of respondents gave specific periods of time as follows:

    - 6 months 22 (19%)
    - 12 months 21 (18%)
    - Company probation 15 (13%)
    - 0 Months 19 (16%)
    - Other 9 (7%)
    - Undecided 32 (27%)

- On whether an employee should have to satisfy a minimum earnings threshold to avail of statutory sick pay? 53% said that there should be no income threshold and no other eligibility requirements.

- Respondents were also asked whether there should be financial supports in place for employers who genuinely can't afford to pay the rates of SSP. 67% said yes, 10% said no and 23% were undecided.

- Finally, respondents were asked to indicate whether they favoured providing supports targeted toward employees who were on long term sick leave to help them reintegrate with the workforce. 50% said yes, 25% said no and 25% were undecided. Some respondents answered no to this question as they did not want more costs to fall on the employer. Others who did not offer an answer or opinion would like to know how such supports would work and who would be paying for them.

6. Analysis of Costs and Benefits

The introduction of an SSP scheme will have implications for employers, employees, and the wider Irish economy. A cost-benefit analysis allows us to estimate the impact of the scheme on various stakeholders. However, there is a lack of data concerning the incidence of Illness Benefits (IB) claims in Ireland which makes the task of conducting such analysis difficult. One of the methods which provides a systematic way to test how policy alternatives would work under varied, but possible, circumstances in the absence of the hard data is scenario-based analysis. The cost-benefit analysis of a SSP scheme in Ireland is conducted following a similar approach.

The base line status quo is compared with the six possible scenarios to estimate the potential financial cost to employers of a SSP scheme in Ireland. The gross weekly earning is converted to the daily rate (assuming 40 hours a week) for the simplicity of the analysis.

The scenarios and the cost for employer per employee per annum at various income distribution points under each scenario are presented below.

6.1 Costs

This analysis identifies two primary costs associated with a statutory sick pay regime:

- **Monetary cost:** when an employee is unable to attend work due to illness, the employer will face the cost of paying that employee a portion of their wages for a fixed amount of time less illness benefit payments.

- **Administration costs:** employers will be required to have a system in place to administer this new statutory entitlement.

6.2 Assumptions

6.2.1 Wage levels assumptions

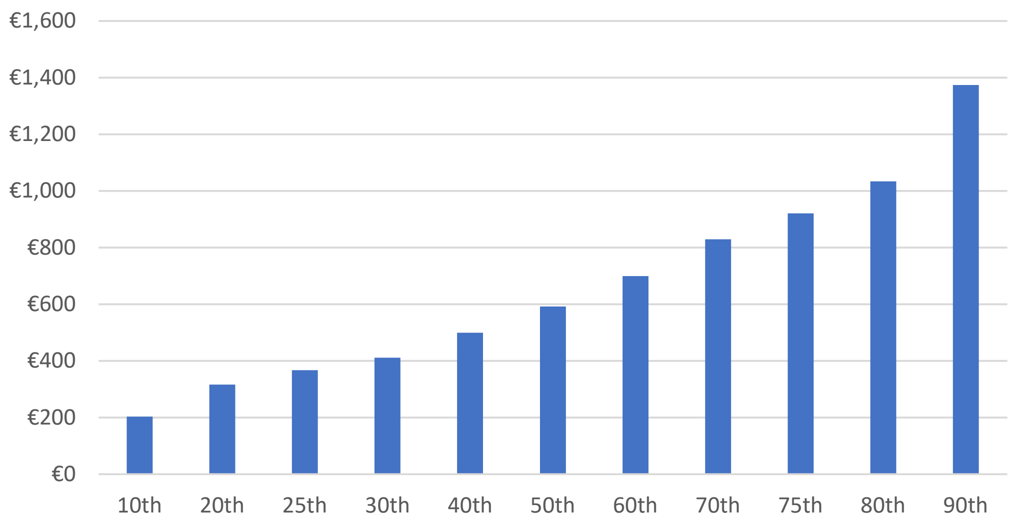
Since there is no granular data available on the distribution of sick pay schemes already in place, it is not possible to focus the analysis exclusively on the wage levels and wage distribution of those firms that currently do not have a sick pay scheme in place. Given the centrality of wage levels to the potential costs faced by employers, the analysis presents the indicative cost per employee at specified wage levels, using data from the CSO. This approach was favoured over making assumptions about the wage levels of these firms, to which the results would have been highly sensitive.

In terms of minimum wage, the current minimum wage rate of €10.20/ hour is used. With regards to wage distribution, the latest available administrative earnings data from the CSO[5] is used for the wage distribution points at 50th percentile and 75th percentile. The data excludes the employees who worked for less than 50 weeks in the year. The distribution of weekly earnings by percentile in 2018 is illustrated in Chart 1 below.

Assuming a 40-hour work week, the weekly wage levels used are from 2018:

- The minimum wage of €408 per week
- The median wage of €592.60 per week
- The mean wage of €741 per week
- The wage level at the 75th percentile of €921 per week.

Chart 1 - distribution of weekly earnings by percentile, 2018



Source: CSO

[5] CSO (2018), Earnings Analysis using Administrative Data Sources 2018 - CSO - Central Statistics Office.

6.2.2 Average number of sick days assumptions

The second key factor determining the monetary cost of a SSP scheme is the average number of days that an employee is ill (that qualify for SSP). There is no source of data on the incidence of sick leave on an economy wide basis, and another proxy had to be used. The Department of Public Expenditure and Reform (DPER)[6] publish Public Sector Sick Leave statistics, which sets out that, in 2018, the incidence of sick leave in the public service was 9.2 days per employee.

The Public Sector Sick Leave statistics are the best available alternative for estimating the incidence of sick leave and are used as an estimate of the economy-wide incidence of sick leave. However, as it is not possible to disaggregate the DPER data by length of illness period, the results should be interpreted as a cautious estimate of the monetary cost of the SSP scheme.

It likely overstates the average number of days that an employee is ill, as this figure is the simple average of all sick days taken, including:

- shorter incidents of illness; and
- longer periods of illness where an ill employee would transition from the SSP onto illness benefit if eligible.

6.2.3 Employee entitlement per year

The number of SSP days an employee will be entitled to is cumulative in a calendar year.

6.2.4 Taxation treatment

Finally, to note that this analysis does not consider: (i) any potential PRSI implications of the scheme, which would impact on the cost to employers; or (ii) any potential corporation or personal tax implications which would offset the cost to employers.

The rationale for ignoring the implications of tax is that its impact is difficult if not impossible to quantify unless more granular data on the number of employees covered by an employer illness scheme was available and the level of salary such workers were earning.

[6] DPER (2018): Public Service Sick Leave Statistics and Trends 2013 – 2018.

6.3 Monetary costs

The primary cost of the introduction of a SSP scheme is the cost that it imposes on employers. The two main factors determining the monetary cost to employers are:

- an employee's wage (in this analysis, all SSP schemes examined calculate the SSP with reference to an employee's wages); and
- the average number of days that an employee is ill (that qualify for SSP).

Given the uncertainty due to the lack of available data, the analysis presents a range of monetary costs:

(i) the lower end of the range uses the incidence of illness in the Public Sector (average 9.2 days) as a proxy for the incidence of illness (where employers would be liable to pay SSP), and

(ii) the maximum cost that employers would face (which assumes that employees receive SSP for the maximum number of days allowed by the scheme). 6 options are presented.

These figures represent the additional monetary cost to an employer per employee.

The results are summarised in the table below at 6.3.1 and show the cost of the SSP scheme per employee at particular wage levels, which is inherently limited given the data limitations.

The second table at 6.3.2 considers the cost of these SSP schemes relative to the annual wage bill per employee in percentage terms.

6.3.1 Summary Table. Net cost (per employee) before any max. earnings threshold is applied

Net cost (per employee per annum) (no max earnings threshold applied)								
Option	**Wage Distribution CSO 2018**							
	Minimum Wage €408pw		**Median €593pw**		**Mean €741pw**		**75th Percentile €921 pw**	
	Civil Service Proxy 9.2 days	**Maximum payable**	**Civil Service Proxy 9.2 days**	**Maximum payable**	**Civil Service Proxy 9.2 days**	**Maximum payable**	**Civil Service Proxy 9.2 days**	**Maximum payable**
1 (status quo)	Nil		Nil		Nil		Nil	
2a (RR 70%, 3 days/ annum	171.36		249.06		311.22		386.82	
2b (RR 70%, 5 days/ annum	285.60		415.10		518.70		644.70	
2c (RR 70%, 7 days/ annum	399.84		581.14		726.18		902.58	
2d (RR 70%, 10 days / annum	525.50	571.20	763.78	830.20	954.41	1037.40	1186.25	1289.40
2e (RR 70%, 15 days/ annum	525.50	856.80	763.78	1245.30	954.41	1556.10	1186.25	1934.10
2f (RR 70%, 30 days/ annum	525.50	1713.60	763.78	2490.60	954.41	3112.20	1186.25	3868.20

6.3.2 Cost of SSP scheme as proportion of employee annual wages

Net cost (per employee per annum) as a proportion of employee's annual wages (no max earnings threshold applied)								
Option	**Wage Distribution CSO 2018**							
	Minimum Wage €408pw		**Median €593pw**		**Mean €741pw**		**75th Percentile €921 pw**	
	Civil Service Proxy 9.2 days	**Maximum**	**Civil Service Proxy 9.2 days**	**Maximum**	**Civil Service Proxy 9.2 days**	**Maximum**	**Civil Service Proxy 9.2 days**	**Maximum**
1 (status quo)	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
2a (RR 70%, 3 days/ annum	0.8%		0.8%		0.8%		0.8%	
2b (RR 70%, 5 days/ annum)	1.3%		1.3%		1.3%		1.3%	
2c (RR 70%, 7 days/ annum)	1.9%		1.9%		1.9%		1.9%	
2d (RR 70%, 10 days/ annum)	2.5%	2.7%	2.5%	2.7%	2.5%	2.7%	2.5%	2.7%
2e (RR 70%, 15 days/ annum)	2.5%	4.0%	2.5%	4.0%	2.5%	4.0%	2.5%	4.0%
2f (RR 70%, 30 days/ annum)	2.5%	8.1%	2.5%	8.1%	2.5%	8.1%	2.5%	8.1%

- Under Option 1, there is no additional monetary cost for employers as this is the current status quo.

- For **Option 2a**, 3 days SSP, the monetary cost for employers ranges from €171.36 per employee (for employees on the minimum wage) to €386.82 per employee (for the employee earning at the 75th percentile). This would equate to, in percentage terms, an additional cost for employers of a maximum of 0.8% of a worker's annual wage.

- Under **Option 2b**, 5 days SSP, the monetary cost for employers ranges from €285.60 per employee (for employees on the minimum wage) to €644.70 per employee (for employees earning at the 75th percentile). This would equate to, in percentage terms, an additional cost for employers of a maximum of 1.3% of a worker's annual wage.

- Under **Option 2c**, 7 days SSP, the monetary costs for employers ranges from €399.84 per employee (for employees on the minimum wage) to €902.58 per employee (for employees earning at the 75th percentile). This would equate to, in percentage terms, an additional cost for employers of a maximum of 1.9% of a worker's annual wage.

- Under **Option** 2d, 10 days SSP, the monetary costs for employers ranges from €525.50 to €571.20 per employee (for employees on the minimum wage) to €1186.25 up to €1,289.40 per employee (for employees earning at the 75th percentile). This would equate to, in percentage terms, an additional cost for employers of a minimum of 2.5% with a maximum of 2.7% of a worker's annual wage.

- Under **Option** 2e, 15 days SSP, the monetary costs for employers ranges from €525.50 to €856.80 per employee (for employees on the minimum wage) to €1186.25 up to €1,934.10 per employee (for employees earning at the 75th percentile). This would equate to, in percentage terms, an additional cost for employers of a minimum of 2.5% with a maximum of 4% of a worker's annual wage.

- Under **Option** 2f, 30 days SSP, the monetary costs for employers ranges from €525.50 to €1713.60 per employee (for employees on the minimum wage) to €1186.25 up to €3,868.20 per employee (for employees earning at the 75th percentile). This would equate to, in percentage terms, an additional cost for employers of a minimum of 2.5% with a maximum of 8.1% of a worker's annual wage.

In relation to the significance of SSP replacement rate and duration, a higher replacement rate or longer duration could potentially encourage higher level absenteeism. However, evidence[7] [8] on the relationship between these factors remains inconclusive and dependent on factors such as level of salary, working hours, nature of the job and return to work programmes.

6.3.3 Application of an earnings threshold

The rate of 70% of gross pay is set to ensure excessive costs are not placed on employers, who in certain sectors may also have to deal with the cost of immediately replacing staff to cover the absence, even when it is a one-day absence. However, after applying the 70% rate of pay, it is clear from the tables above that the potential cost for businesses remains high and also increases disproportionately at higher incomes. The application of a daily earnings cut-off point will ensure that employers do not face excessive costs in relation to employees who are on high salaries. Statutory sick pay is primarily intended to provide a minimum level of protection to low paid employees, who may have no entitlement to company sick pay schemes. Therefore, a daily earnings threshold is also being applied.

[7] Chatterji M, Tilley C (2002): Sickness, absenteeism, presenteeism, and sick pay. Oxford Economic Papers 52:669-687.

[8] Bryson A, Dale-Olsen H (2017): Does Sick Pay Affect Workplace Absence? Institute of Labor Economics (IZA).

From an economic theory perspective, there is no specific income level that is easily arrived at for setting a cut-off point. As there is no data available on the profile of workers broken down by whether they are already covered by a sick pay scheme (or not), it is not possible to base a number around those figures either. However, it is assumed that the very highly paid are generally covered by an employer's sick pay scheme. Using the average income seems to be the most appropriate approach.

The Q4 2019 CSO quarterly earnings data will be used as the reference point. A daily earnings threshold figure of €110 will be applied which is based on 2019 mean weekly earnings of €786.33 which equates to an annual salary of €40,889.16. Imposing the cap at this level ensures that €110 is the maximum cost for any employer per day (weekly salary of €786.33 divided by 5 days multiplied by 70% = €110.08).

The 2019 average weekly earnings are being used because the CSO has noted that the COVID-19 pandemic has had a significant impact on the 2020 data. Specifically – the first EWSS refunds were paid in October 2020, which resulted in enterprises receiving four months of subsidies during the three months of Q4 2020.

Compounding this, the response rate to the CSO survey for Q4 2020 was lower than normal, and the Q4 figures are based on a different employment composition compared to Q4 2019 (i.e., there were significantly fewer people employed in certain sectors in Q4 2020 and a significant number of employees being supported by EWSS). As low earners were more likely to lose their jobs during the pandemic – the average earnings of the population still in employment in Q4 2020 are higher than the average earnings of the population as a whole.

For these reasons it is appropriate to use the 2019 average earnings figure.

It should be noted that while the earnings threshold has been set using the 2019 CSO quarterly earnings data, the Wage Distribution tables setting out the costings throughout the RIA use the 2018 data. This is because the RIA needed income data broken down at a more granular income level, which resulted in the need to use slightly older data (2018 is the latest available administrative earnings data from the CSO[9]) for all wage examples to ensure they were consistent with one another.

The table below at 6.3.4 shows the cost of the SSP scheme per employee at particular wage levels, after the daily earnings threshold of €110.08 has been applied.

The second table at 6.3.5 considers the cost of these SSP schemes relative to the annual wage bill per employee in percentage terms after the daily earnings threshold of €110.08 has been applied.

[9] CSO (2018), Earnings Analysis using Administrative Data Sources 2018 - CSO - Central Statistics Office.

6.3.4 Costings with an earnings threshold applied

Net cost (per employee per annum) with max earnings threshold of €110.08 per day applied								
Option	Wage Distribution CSO 2018							
	Minimum Wage €408pw		Median €593pw		Mean €741pw		75th Percentile €921 pw	
	Civil Service Proxy 9.2 days	Maximum payable	Civil Service Proxy 9.2 days	Maximum payable	Civil Service Proxy 9.2 days	Maximum payable	Civil Service Proxy 9.2 days	Maximum payable
1 (status quo)	Nil		Nil		Nil		Nil	
2a (RR 70%, 3 days/ annum, with cap)	171.36		249.06		311.22		330.12	
2b (RR 70%, 5 days/ annum, with cap)	285.60		415.10		518.70		550.20	
2c (RR 70%, 7 days/ annum, with cap)	399.84		581.14		726.18		770.28	
2d (RR 70%, 10 days/ annum, with cap)	525.50	571.20	763.78	830.20	954.41	1037.40	1012.37	1100.40
2e (RR 70%, 15 days/ annum, with cap)	525.50	856.80	763.78	1245.30	954.41	1556.10	1012.37	1650.60
2f (RR 70%, 30 days/annum, with cap	525.50	1713.60	763.78	2490.60	954.41	3112.20	1012.37	3301.20

6.3.5 Costings with earnings threshold applied as proportion of annual wages

Net cost (per employee per annum) as a proportion of employee's annual wages (with max earnings threshold of €110.08 per day applied)

Option	Wage Distribution CSO 2018							
	Minimum Wage		Median		Mean		75th Percentile	
	Civil Service Proxy 9.2 days	Maximum	Civil Service Proxy 9.2 days	Maximum	Civil Service Proxy 9.2 days	Maximum	Civil Service Proxy 9.2 days	Maximum
1 (status quo)	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
2a (RR 70%, 3 days/ annum	0.8%		0.8%		0.8%		0.7%	
2b (RR 70%, 5 days/ annum)	1.3%		1.3%		1.3%		1.1%	
2c (RR 70%, 7 days/ annum)	1.9%		1.9%		1.9%		1.6%	
2d (RR 70%, 10 days/ annum)	2.5%	2.7%	2.5%	2.7%	2.5%	2.7%	2.1%	2.7%
2e (RR 70%, 15 days/ annum)	2.5%	4.0%	2.5%	4.0%	2.5%	4.0%	2.1%	4.0%
2f (RR 70%, 30 days/ annum)	2.5%	8.1%	2.5%	8.1%	2.5%	8.1%	2.1%	8.1%

6.3.6 Conclusion on financial costs

As can be seen in the tables above, the costs related to option 2)e for 15 days duration, and option 2)f for 30 days duration, remain high even after the 70% replacement rate and the maximum earnings threshold of €110.08 per day are applied. The scheme is not intended to impose significant new costs on employers, and it is considered that neither of these options meet this objective.

Therefore, the maximum duration of sick pay that will ultimately be payable by employers is 10 days. Over a 4-year plan, the number of days will increase incrementally with the goal that employers will eventually cover the cost of 10 sick days per annum in year four.

The initial plan is as follows–

i. 2022 – 3 days covered

ii. 2023 – 5 days covered

iii. 2024 – 7 days covered

iv. 2025 – 10 days covered.

The legislation will initially provide for 3 days to be covered by employers in 2022. It will also provide the Minister with the power to amend by regulation, the number of days sick leave entitlement and the percentage rate of payment provided, having due regard to the economic situation at the time and potential impacts on employers and employees.

The legislation will further provide the Minister with the power to amend by regulation, the daily earnings threshold, while having due regard to the economic situation at the time, the CSO annual and quarterly data on earnings and labour costs and potential impacts on employers and employees.

6.4 Employer administrative cost

It is also important to note that while it is assumed that there will be no material cost for employers to implement the scheme, employers will likely incur additional indirect costs. For example, operating the SSP scheme will add administrative responsibilities on employers including ensuring that the new system is clearly understood by employees, governing the notification of sickness, determining the entitlement for the employee (eligibility, linked spells), and keeping records for tax purposes. These additional administrative costs come on top of the administrative costs that certain businesses face when an employee is unable to attend work due to illness (such as rostering costs).

While it is evident that a SSP would impose additional administrative costs on employers, in the absence of qualified data especially with regard to the types of businesses that don't offer illness benefit, it is difficult to quantify these amounts.

In terms of employees taking sick leave, employers in certain sectors could incur the cost of a replacement worker, salary of the replacement worker and potential production loss during the friction period. Many companies, particularly in various service industries must arrange for a replacement immediately to cover the work of an absent employee. However, these costs for replacing an employee already exist and are not additional.

As regards the impact across businesses, the additional administrative cost combined with more complexity in the regulatory environment means the impact of a SSP scheme could be disproportionate with the extra cost burden more pronounced particularly for SMEs, many of whom operate on low margins and are already trying to manage the twin impacts of COVID-19 and Brexit.

6.5 Indirect Effects

As a SSP scheme would represent an additional pre-employee cost on businesses, it may introduce a level of rigidity into the labour market, as employers will need to factor in the cost of the SSP when hiring a new employee.

6.6 Benefits

While the SSP will impose costs to the employers, particularly to those who do not provide an occupational sick pay scheme, there is also strong evidence to suggest that it is also beneficial to them. This analysis identifies the following benefits associated with adopting a SSP scheme:

1. Reducing presenteeism
2. Management control over absenteeism
3. Reduced employee turnover
4. Safer work environment
5. Reduced spread of infectious diseases

6.6.1 Presenteeism

Evidence suggests SSP scheme could help reduce presenteeism, defined as being present at the job but performing at a reduced capacity due to illness or injury[10]. Studies have indicated that presenteeism could lead to a reduction in the output of ill workers, and a reduction in the output of co-workers[11] [12]. Moreover, ill workers are estimated to be over 30 per cent less productive than when they are well.

[10] HASSINK W (2018): How to reduce workplace absenteeism.
[11] Greenberg PE, Finkelstein SN, Berndt ER (1995): Economic consequences of illness in the workplace. Sloan Management Review. Vol.36, Issue 4.
[12] Hemp P (2004): Presenteeism: at work-but out of it. Harvard Business Review.

Presenteeism at firm level can have a significant knock-on effect on the wider economy. In 2011, a KPMG report[13] stated, "*Presenteeism causes direct labour productivity losses to employers. These direct impacts then filter through the economy, causing changes to capital investment and other impacts to upstream and downstream industries. These other impacts are the indirect impacts of presenteeism*".

The report on the macro economic impact of presenteeism on the Australian workforce and the wider economy estimated that the overall cost of presenteeism to the Australian economy in 2009/10 to be at $34.1 billion, which equated to a 2.7% decrease in 2010 Australian GDP. Furthermore, it estimated that on average, 6.5 working days of productivity were lost per employee because of presenteeism in Australia annually.

In terms of SSP replacement rate and duration on presenteeism, on the surface, providing higher replacement rate for the longer duration could help employers reduce presenteeism as it allows workers time for recovery without worrying about the financial cost of not being at work.

6.6.2 Management control over Absenteeism

According to the OECD[14], increasing the role of employers in relation to sick pay can stimulate a greater focus within companies on absentee management, with a resulting drop in absentee rates. They reported the drop in absenteeism from 10% to 40% since the introduction of SSP in Netherlands.

6.6.3 Employee Turnover

There is also evidence to suggest that SSP could reduce employee turnover which is an extra financial burden for employers[15]. Studies have indicated that employee turnover could cost employers between 25% and 200% of the annual salary of departing workers[16].

6.6.4 Safer Work Environment

A SSP scheme could lead to a safer work environment for all employees and reduce the incidence of workplace injury. Sickness could impair the ability of workers to follow safety instructions or to make sound decisions, and this could increase their risk of suffering workplace injuries.

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[13] KPMG Econtech (2011) Sick at Work, The Cost of Presenteeism to Your Business and the Economy and its update Economic Modelling of the Cost of Presenteeism in Australia.

[14] OECD (2020): SICKNESS AND DISABILITY SYSTEMS: COMPARING OUTCOMES AND POLICIES IN NORWAY WITH THOSE IN SWEDEN, THE NETHERLANDS AND SWITZERLAND.

[15] Cooper PF, Monheit AC (1993): Does employment-related health insurance inhibit job mobility?

[16] Boushey H, Glynn SJ (2012): There are Significant Business Costs to Replacing Employees. Available at: http://www.americanprogress.org/wp-content/uploads/2012/11/CostofTurnover.pdf.

Studies have shown that that workers with paid sick leave are 28% less likely than workers without access to paid sick leave to be injured at work[17]. The safer work environment will help increase the attractiveness of the employer among perspective employees.

6.6.5 Reduced spread of infectious diseases

A SSP scheme could help reduce the spread of contagious diseases (such as COVID-19).

7. Impacts

The Department of Public Expenditure and Reform Guidance on Regulatory Impact Assessments requires an analysis of the following factors:

1. National Competitiveness
2. Socially excluded and vulnerable groups
3. The environment
4. Whether there is a significant policy change in an economic market, including consumer and competition impacts
5. The rights of citizens
6. Compliance burden
7. North-South and East-West Relations

7.1. Jobs, Competitiveness, and Industry Costs

From a competitiveness perspective, there are benefits from removing an implicit incentive for a sick person to work to ensure that they continue to be paid. Labour market policies like this would likely improve healthcare outcomes and make Ireland a more attractive place to live and work, facilitating Irish businesses in attracting international talent.

Ireland is one of the few OECD wealthy countries that does not have a statutory sick pay scheme and, given that we operate in a global economy, we should have schemes commensurate with our peer group. On the other hand, SSP imposes a new cost on Irish businesses placing pressure on our cost competitiveness in relation to international competitors. It could also introduce more complexity in the regulatory environment for businesses. However, Statutory Sick Pay would support the ill employee, their colleagues and their customers and would share the burden with the State in ensuring that people who are ill do not come to work and put others at risk. Many larger employers do have sick pay schemes in place.

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[17] Asfaw A, Pana-Cryan R, Rosa R (2012): Paid sick leave and nonfatal occupational injuries. American Journal of Public Health.

7.2. Socially excluded and vulnerable groups

People with disabilities face many barriers in employment. Rates of employment among people with disabilities are much lower than rates of employment among the general population. There is a misperception that people with disabilities take more sick leave than non-disabled people. It would be important that the introduction of a SSP scheme would not act as a deterrent for employers to employ people with disabilities due to a fear that their costs would increase. Also, the existence of a statutory sick pay scheme would be positive encouragement for people with disabilities to enter employment in the knowledge that they would not be left without income if they become ill.

7.3. Poverty

The introduction of a SSP scheme would have a positive impact on people in low-paid and precarious employments who are less likely to have a sick pay scheme provided by their employer.

7.4. Gender Equality

As women are more likely than men to be in lower-paid, precarious employments without employer sick pay schemes, the introduction of a SSP scheme would be positive for gender equality.

7.5. Environment

There are no impacts of a SSP scheme on the environment.

7.6. Whether there is a significant policy change in an economic market, including consumer and competition impacts

There are no impacts on market competition.

7.7. The rights of citizens

A SSP scheme would positively impact the rights of citizens. It would give statutory rights to sick pay for those citizens in vulnerable and precarious employment who are not currently entitled to occupational sick leave in their workplace.

7.8. Compliance burden

The administration of a SSP scheme will impose administrative costs on employers (that currently do not have sick pay schemes in place) to ensure they comply with the legislation.

7.9 North-South and East-West Relations

There are no impacts of a SSP scheme on North-South and East-West relations.