



Template for application of the SME Test

Sick Leave Bill 2022

Screening question

Q. To what extent is the proposed legislation relevant for SMEs?

Not relevant Relevant Highly relevant

The following questions are relevant to consideration of the above question:

- Are SMEs within the scope of the legislative initiative?
- Does the initiative specifically target SMEs?
- Will SMEs be impacted directly or indirectly by the initiative?
- Are SME impacts likely to be more substantial than on other companies, for example, in terms of adverse effects?

If 'Relevant' or 'Highly Relevant', please proceed to complete Sections 1-5.

1. Identification of affected businesses

Q1a: Please identify the types of SMEs that will be directly affected by the proposed legislation.

Micro (1-9 employees)

Small (10-49 employees)

Medium (50-249) employees

N/A



Q1b: Please identify the types of SMEs that will be indirectly affected by proposed legislation (i.e. SMEs not in scope, but potentially affected indirectly, for instance through impacts on supply chain)

Micro (1-9 employees)

Small (10-49 employees)

Medium (50-249) employees

N/A

Q1c: Has an estimate been carried out of the numbers of micro, small and medium companies affected directly or indirectly by the legislation?

Yes No N/A

There is no data available as to the number of companies that currently provide a sick pay scheme in Ireland.

Q1d: Will the proposed legislation have a greater impact on SMEs in any particular economic sector?

Yes No

If Yes, please specify.

The Sick Leave Bill 2022 will have a greater impact on SMEs in sectors that have to deal with the additional cost of providing immediate replacements. This is particularly relevant for SMEs in the hospitality, retail, childcare and nursing / personal care sector (in the childcare sector, for example, there are minimum required ratios so staff need to be replaced).

Q1e: Will the proposed legislation have a greater impact on SMEs in any particular region?

Yes No

If Yes, please specify.



2. Consultation

2.1 What consultation will take or has taken place to capture input from the SME community, particularly those potentially most impacted by this initiative?

Public consultation

Other (e.g. stakeholder meetings, targeted consultation)

N/A

If Other, please provide details:



3. Assessment of the impacts on SMEs

Q3a What are the expected positive impacts of the legislation on SMEs (e.g. improved regulatory framework or working conditions, cost savings)?

Impacts of the scheme are universal for all businesses, not specifically SMEs.

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 injury¹. 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^{2 3}. Moreover, ill workers are estimated to be over 30 per cent less productive than when they are well.

Presenteeism at firm level can have a significant knock-on effect on the wider economy. In 2011, a KPMG report⁴ 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.

¹ HASSINK W (2018): [How to reduce workplace absenteeism](#).

² Greenberg PE, Finkelstein SN, Berndt ER (1995): [Economic consequences of illness in the workplace](#). Sloan Management Review. Vol.36, Issue 4.

³ Hemp P (2004): [Presenteeism: at work-but out of it](#). Harvard Business Review.

⁴ 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](#).



Employee Turnover - There is also evidence to suggest that SSP could reduce employee turnover which is an extra financial burden for employers⁵. Studies have indicated that employee turnover could cost employers between 25% and 200% of the annual salary of departing workers⁶.

Safer Work Environment

A SSP scheme will 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.

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 work⁷. The safer work environment will help increase the attractiveness of the employer among perspective employees.

Reduced spread of infectious diseases

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

Q3b Will the proposed legislation result in any of the following impacts for SMEs?

- Administrative costs, including the obligation to provide information on the activities or products of the company, including one-off and recurring administrative cost
- Other compliance costs, including the obligation to pay fees or duties; and costs created by the obligation to adapt the nature of the product/service and/or production/service delivery process to meet economic, social or environmental standards.
- Other impacts, including on business entry and exit; competition and competitiveness, whether proposed regulations might discourage, entrepreneurship or innovation; potential impact of any proposed exemption thresholds on business growth; impacts on SME population composition and location.

Yes No

Q3c If yes, please describe impacts, including whether any impacts will affect particular cohorts of SMEs differently, for example based on size (micro, small and medium), age of the business (e.g. start-up costs for new companies), economic sector and geographic location.

⁵ Cooper PF, Monheit AC (1993): [Does employment-related health insurance inhibit job mobility?](#)

⁶ 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>.

⁷ Asfaw A, Pana-Cryan R, Rosa R (2012): [Paid sick leave and nonfatal occupational injuries](#). American Journal of Public Health.



The Sick Leave Bill 2022 will add administrative responsibilities on employers including ensuring that the new system is clearly understood by employees, governing the notification of sickness and determining the entitlement for the employee (eligibility, linked spells). 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 currently offer sick pay, it is difficult to quantify these amounts.

4. Assessment of alternative options and mitigating measures

4a If the analysis above has shown that the draft legislation will result in impacts on SMEs, has there been consideration of any measures to mitigate against these impacts, such as less onerous reporting requirements, exemptions for certain cohorts of SME, simplified language etc? (See list of examples of potential mitigating measures on page 5 above)

Yes No N/A

Please provide details.

The Sick leave Bill will provide for an inability to pay clause, whereby a business may apply to the labour court for an exemption from their obligation to pay sick leave, for not less than three months and not more than twelve months. Such an exemption will only be granted if the business is in dire financial condition. This exemption is open to all businesses and is not specific to SMEs.

5. Post-completion of SME Test



5a Do you intend to summarise the outcome of the SME Test, including identified impacts and provision for mitigating measures, under the Impacts section of any Memorandum for Government proposing the legislation?

Yes No N/A

A Regulatory Impact Assessment has already been carried out on the Sick Leave Bill 2022 and was included as part of the initial Memorandum for Government that requested permission to draft the Bill.

5b Do you intend to make this form available publicly on your Department's website?

Yes No

The Regulatory Impact Assessment on the Sick Leave Bill has been published on the Department of Enterprise, Trade and Employment website and covers costs and impacts on businesses. The Sick Leave Bill is not SME specific and covers all businesses.