



Sustaining employment and the implications of statutory sick pay for Ireland

March 2012

Introduction – the Action Plan for Jobs

On 13 February 2012 the Government launched its 'Action Plan for Jobs'. This was welcomed by IBEC and we supported the need for coordinated and swift implementation across all departments.

We support An Taoiseach Enda Kenny in striving to achieve the number one goal of his Government to get Ireland working again. While businesses will create jobs, the Government has in its action plan acknowledged that *"Governments don't create jobs, successful businesses and entrepreneurs do."* Accordingly, Government has a major role to play in putting in place the right environment to support those businesses and entrepreneurs. Structural labour market reform is an essential element in this regard, however the proposal to place additional social welfare costs onto employers flies in the face of the aims and objectives of Government in its 'Action Plan for Jobs' including the commitment to reduce costs and red tape for business:

"We will radically improve the way the government and business interact by cutting both costs and red tape."
An Taoiseach Enda Kenny T.D., 13 February 2012

Forcing employers to pay additional employment costs to cover the cost of statutory sick pay would equate to the cost of employing 2500 people in this economy (based on the cost of four weeks statutory sick pay by reference to the average industrial wage). This is on top of the damage to our international reputation as a place to do business, as rising employment costs will make Ireland a less attractive destination for investment and will erode some of the hard won competitiveness gains in recent years.

IBEC welcomes the opportunity to have a proper debate on the need for integrated structures and support for those out of work due to illness to get back to work, and to examine how the level and costs of absenteeism in the Irish economy can be reduced. We do not accept however that this requires the introduction of a statutory sick pay scheme to be borne by employers or to increase the cost of PRSI on employers. A number of options have been proposed by the Minister for Social Protection, namely increased PRSI contributions, reduced benefits or to introduce statutory sick pay. The Government is mistaken in believing that private sector employers need to be incentivised to manage the cost of absence as it is already seen as a cost to business. With over 60% of companies indicating to IBEC that they pay some element of sick pay, there is already a high commitment to managing the issue at enterprise level. Reducing costs emerged as the number one business priority for CEOs in the IBEC business sentiment survey last year.

Absence levels

IBEC research shows a reduced rate of absenteeism since 2004 across Irish business, from 3.4% to 2.6% in 2011 and there is scope to further reduce the rate. The 2011 IBEC Guide to Managing Absence is based on data provided by 635 companies employing in excess of 110,000 employees and found that:

- over 11 million days are lost to absence every year, costing business €1.5 billion or €818 per employee;
- employees missed 5.98 days on average, an absence rate of 2.6%, compared to 3.4% in the last comprehensive survey in 2004;
- absence levels were higher in large organisations, 3.6% for companies employing over 500 employees, versus 2.2% for companies with less than 50 employees;
- the main cause of short-term absence is minor illness.

The reduction in the rate of absence in the IBEC Guide to Managing Absence to 2.6% is evidence of employers giving it more attention. A third of employers said they put greater attention on managing absence in the previous 12 months (IBEC Guide to HR Practices in Ireland, 2011).

By comparison, however there is no evidence of a similar general approach in the public sector. Whilst it should be acknowledged that progress is being made in respect of some public service categories, according to the Secretary General, Department of Public Expenditure and Reform to the Public Accounts Committee on 8 December 2011, absence in the Civil Service was 4.9%, an average of 11.3 days a year. This cost the State between €400 million and €500 million in terms of payroll costs only. Similar absence levels are reported by the local authorities and by the HSE.

A policy change will have serious cost implications for employment

- For over 40% of employers in Ireland – mainly smaller employers who currently have no sick pay cost – statutory sick pay would represent a significant additional cost. This new cost burden will be seen as a tax on jobs and will have most effect on smaller, more vulnerable employers, operating in low-margin businesses. Typically these will include employers operating in the domestic economy and in the services sector who are already worst affected by the economic crisis. The 2010 Forfas report, *‘Cost of doing business in Ireland’* showed that for sectors like retail and hospitality, labour costs already account for about 60% of domestic input costs whilst for the services sector as a whole, labour costs account for 84% of location sensitive costs and need to be reduced.
- For the majority of employers (60%) with a sick pay scheme in place, the additional cost implication of each week’s sick pay could be €188 (based on the current social welfare flat rate) per person, on top of the current high cost burden of company sick pay. Many of these employers will have to realign their scheme benefits to cover any additional cost, giving rise to potentially difficult employee relations issues. We know that at least one in four companies have reduced basic pay since 2008 and in 2012, IBEC research shows that 74% of employers will either be freezing or reducing basic pay.
- The consequences of an additional tax on jobs will be to reduce investment and inhibit decisions on recruitment, particularly in small companies who will be unsure of what their potential liabilities could be. Employers would face paying statutory sick

pay, an increased PRSI charge associated with that, along with paying the wages of a replacement worker if he/she wishes to minimise the impact on service provision. Employers will incur additional costs owing to a greater need to have medicals as part of their recruitment process. Up to now, an employer has had the choice of paying replacement staff for the duration of a person's illness or cope with revenue or productivity loss due to that person being absent.

- The main expenditure in the Social Insurance fund is on pensions, and a long term strategy to secure future pension funding is required, not an increase of employment costs for employers. The options put forward will not address the problem. At present both employers and employees contribute to the Social Insurance Fund, payments from which include illness benefit and disability benefits when eligible employees are certified unfit for work. A total of €6,709M was paid into the social insurance fund in 2010, 74.5% by employers.
- This current proposal to further increase employment costs does not take account of the cumulative effect which a range of other Government decisions have had increased costs on employment. Over the past year employers have had to cope with the elimination of the 50% relief of employer PRSI on pension contributions (amounting to €90m in a full year) and the increase in restructuring costs due to the reduction in the redundancy rebate scheme from 60% to 15% (costing €100m in a full year). Employers also face significant increases in medical insurance costs due to the Government's changes to health insurance levy and hospital services prices.
- Whereas a number of OECD countries have a statutory sick pay scheme to which employers contribute, there are also those that do not. The Department's table on *Statutory Sick Pay Arrangements in Other Countries*, gave a selective presentation of the facts and neglected to include additional countries listed in the OECD analysis where in the main, statutory sick pay is not paid by employers, for example Canada, Greece, Denmark (except under certain collective agreements) Korea, (except under certain collective agreements), Mexico, Portugal, Turkey, and the United States.
- One of the main policy objectives of the OECD is to curb inflow into the disability benefit system, which would have a range of economic and social benefits. In practice few people leave long term disability benefit for employment. The Government's proposals will not address this fundamental issue. OECD Director John Martin, invited by the Department to address the consultation forum on 20 February, identified a number of areas for reform, which the Department has not acted on:
 - allow for a partial return to work*
 - activate employers by introducing clear roles and timeline for employers, possibly supported by financial incentives
 - activate doctors and the benefit authority - move from sick notes to fit notes and define a clear process of follow-up and intervention by the public authorities
 - aim at early intervention, explore early return to work and break the link from sickness to disability.

*(*Note: The new Partial Capacity Benefit announced on 13 February 2012 provides for an income support payment for people with disabilities who are in receipt of an Invalidity Pension or Illness Benefit for more than six months. However, it will not be accessible to support a partial return to work by those out of work for less than six months.)*

- The introduction of statutory sick pay would involve a major change in employment law, placing the issue firmly in the employment rights agenda and would force all

employers to reassess their sick pay policies. Those employers, who already provide sick pay schemes, may decide that a new State minimum requirement for sick pay should replace their existing schemes. This will have a direct impact on workers and is likely to lead to potential employee relations problems.

- The costs associated with supporting sick pay rates of €188 per employee week are unsustainable in Ireland. Comparable rates in the UK are £81.60 (€97.19), half the Irish rate, and importantly a rebate scheme is also in operation. Indeed this is yet another example of where the employer is competing against the Irish social welfare system where the rates payable undermine employment and need to be reviewed. Employment costs in Ireland are already 20% higher than the UK.
- At the consultative forum hosted by the Department of Social Protection on 20th February 2012, Dame Black underlined the importance of a healthy workforce and that the strategy on payment of sick pay should be part of a journey to keep people both in work and well. She argued the need for an integrated approach to maximise job retention for those capable of work. The Department has failed to address this key issue. Dame Black, National Director of Health and Work in the UK, has stated that in the UK, the cost of sick pay and associated costs to employers is £9 billion a year (plus indirect costs), with company occupational sick pay schemes costing £6.9 billion of this. The economic cost of sickness absence was £15 billion. A comparable thorough analysis of costs in Ireland should be carried out.
- The proposed cost transfers to employers do not take account of the high additional administrative cost which employers would bear if such a scheme were introduced. Government policy aims to make Ireland the ‘best small country to do business in’ and the complexity of such schemes is very high. The Government also wishes to achieve a 25% reduction in the regulatory burden on business set by the EU. It has been acknowledged that the statutory sick pay scheme in the UK brings with it a very high administrative burden on employers. A guidance note for Employers in the UK from HM Revenue and Customs ‘*Employer Help book for Statutory Sick Pay*’ (Use from 6 April 2011 to 5 April 2012) extends to over 40 pages for this year alone.
- IBEC does not believe that the proposed change would result in any reduction in absenteeism or long-term illness rates. Interestingly, the UK experience as attested to by Dame Black, shows that the UK scheme “*does not really drive the behaviour of larger and public sector firms...*” but “*...does influence the behaviour of smaller firms with many passing their responsibilities straight to the State and shedding people before paying any sick pay*”. Most employers already bear considerable costs as a result of both short-term and long-term absenteeism from work and do not need to be incentivised to seek a speedy return to work by a valued employee who is absent. Private sector employers endeavour to manage absenteeism in a manner which minimises these costs. Once absenteeism extends beyond the 26 week period, typically in larger companies the remunerative costs are more typically borne by insurance companies which are vigilant in minimising the cost of claims and regularly assessing the individual’s fitness or otherwise to return to work.
- The Department of Social Protection reported that:

“the number of people claiming illness benefit and other disability payments has increased greatly in the past 11 years – a 40% increase from about 173,000 to about 242,000 between 2001 and 2011. During that period, exchequer spending on illness benefit alone has risen from c €330m to c €876m”.

This masks the real reason as to why the exchequer spending on illness benefit increased by 160%, four times the increase in the number of claimants. According to the DSP's Statistical information on Social Welfare Services 2010, the rates of short-term payment have increased by 80.5% in 2010 on a baseline of 2001. This compares very dramatically to an increase of 21.7% in the consumer price index over the same period. This is one of the key drivers of the increased cost of illness benefit payments, and the hole in the Social Insurance Fund, not the lack of absence management by employers.

- The administration of illness benefit is an example of how poor procedures cause problems for employers. Many electronic payments of illness benefit are being sent to employers with inadequate identifiers for employers to know what employee or which period the payments relate to. The payment process is not employer friendly and there is no published guidance available to assist employers interpret payment data. This unhelpful approach shows the lack of consideration given by DSP to the consequences of procedures for employers and workers at the level of the enterprise, causing unnecessary additional administrative costs to employers.
- Dame Black has urged careful consideration of any proposal and to “beware of unintended consequences”. One such example is that the Department has failed to acknowledge the potential effect on occupational pension contribution. Where employers make a pension contribution, payments under statutory sick pay may become eligible for pension contribution, and push the cost of pensions significantly higher.
- While the Minister for Social Protection may position this as transfer of costs from the State to employers, this would be one of the most complex and fraught pieces of employment and welfare legislation. There could be a large number of employees who do not meet the PRSI contribution for illness benefit who would claim statutory sick pay. Just some of the issues that would arise include:
 - Who is entitled – duration of service, pay rates, number of hours worked, employee status?
 - For how long – consider effects of annual leave and public holiday, full week, part week, partial capacity?
 - Illness – broken periods of absence, different or progressive illnesses?
 - Benefits – treatment of payment for tax purposes, effect on benefits, overtime and pensions?
 - Equality – interaction with reasonable accommodation and protection against discrimination laid down in the Employment Equality Acts
 - Social insurance qualifying criteria – employers are not in the business of administering the social insurance scheme on behalf of the State and confirming the social insurance status of employees.
 - Beneficiaries – only the employee as claimant can be addressed in an employer scheme and entitlements for beneficiaries have to be processed in parallel by the State
 - Litigation – complex guidelines fuel misinformation and a sense of entitlement, which can lead to an increase in grievances and third party claims.
- Should the Government bring forward any specific proposal, this has to be first subject to a rigorous and independent ‘*regulatory impact analysis*’ to assess the impact on employment costs, jobs and competitiveness. Consideration of proposals and options have no shared analysis in relation to:
 - The effect on Ireland’s cost competitiveness;

- The balance of public and private sector claims to social welfare and the risk of transferring the cost in the case of Government as employer from one Government department to another e.g. from the Department of Social Protection to the HSE in the case of all health service workers.
- Where is the evidence that statutory sick pay will drive behaviour change in this area to reduce the inflow of people into disability payments?
- What would be the effect on PRSI costs?
- A wider independent review of absence management, sickness and disability, as carried out in the UK, is needed to inform policy development and only then decision-making.

Public sector absence levels

According to the Secretary General, Department of Public Expenditure and Reform to the Public Accounts Committee on 8 Dec 2011, absence in the Civil Service was 4.9%, an average of 11.3 days a year. This cost the State between €400 million and €500 million (based on payroll costs). Meanwhile the local authorities reported an average of 5% absence in 2010 (4.4% certified, 0.6% uncertified).

In 2011 the HSE reported national figures for absenteeism for 2010 at 4.7% overall - down from 5% in 2009. The HSE estimates that the annual payroll cost of absenteeism are approximately €300 million, or almost €60 million for each 1% of absenteeism. A reduction of HSE absence to 3% could reduce costs by €120M, a significantly higher amount than the introduction of statutory sick pay.

While acknowledging that wide variation is likely to exist in absence levels and management practice across the public sector and from one organisation to another, with 5% as an accurate approximation for public sector absence levels, it is self-evident that in halving the rate from 5% to 2.5% to bring it in line with private sector norms could result in significant savings for the Government.

While every Government department submitted a Comprehensive Review of Expenditure report prior to the budget of December 2011, the only reference made to absenteeism as a potential cost saving measure was in relation to the HSE. This highlights the presence of an entitlement culture which needs to be urgently addressed, along with the active measurement and reporting on the incidence and cost of absence and revisions of sick leave policy across all sectors. It is acknowledged that this is a current priority for the Department of Public Expenditure and Reform under the Public Service Reform Plan and is currently the subject of discussion at sector level with a view to introducing a new policy on sick leave in light of the “very generous sick pay regulations” for public-sector employees” (OECD report on *Sickness, Disability and Work*, 2008).

IBEC proposes that as an alternative to the promotion of a statutory sick pay scheme which will impact on all employers that the Government focus on reducing public sector absence by address the following.

- Ensuring senior management leadership and accountability on absence management and cost reduction
- Embedding a practice of reporting on all absences by addressing the gaps in absence reporting and removing the variation in how absence is measured and reported across the public sector. There is a need to report on the real cost of absence, not only payroll costs, taking account of replacement and substitution costs, overtime costs, the investment of management time in organising cover for absence, the cost of delays and reduced service delivery, etc.

- Put in place the structures and skills to manage absence and address the weaknesses in absence management procedures and their implementation.
- Revise public sector sick pay policies, not just sick pay entitlements but also introduce measures to tackle the the 'entitlement' culture concerning uncertified sick days as a key element of reform.
- Put in place mechanisms to minimise the risk of additional costs resulting from the accrual of annual leave by public sector workers while on they are on sick leave, arising from recent European Court of Justice Rulings on the accrual of annual leave while on sick leave.

Lack of national labour market figures and costs

In August 2011, IBEC reported that at least 11 million days are lost to absence every year, costing business €1.5 billion. Currently there is no adequate source of national information on the number of days of absence from work, its cost (even in terms of payroll), and the effect on the economy or how illness benefit claims are distributed. Realigning current systems and structures to provide adequate figures on levels and costs of absence should be a priority so the Government and business can set cost saving targets and track progress.

Employer provided sick pay schemes in Ireland

IBEC research shows that the majority of IBEC members (71%) operate an occupational sick pay scheme in their company. This compares to a representative survey in the UK of over 2,000 employers which found that 43 per cent of all firms pay occupational sick pay to all of their employees, with large firms, public sector employers and those in the financial and public administration/education sectors more likely to do so. Almost 90% of large firms had a scheme in place for some or all employees compared with only 47% of small firms.

In Ireland not all employees are covered by the schemes that do exist, and the duration for which payment is made varies. The IBEC 2011 sick pay report shows that it is more common for employees in large companies to get sick pay. It found 95% of the companies with more than 250 employees had a sick pay scheme in operation, compared to only 53% of those in small companies with less than 50 employees. The report found that 63% of employers pay full pay for the period covered by sick pay, and for another 14% full pay is followed by a period of proportionate pay.

Incidence of sick-pay schemes is likely to be lower in non-IBEC member companies (due to size and sector characteristics). We estimate that national coverage of sick-pay schemes for the private sector workforce is between 50% and 60%.

In general, those employers providing a wide range of employee benefits, including a pension, will commonly also have an insurance funded income protection scheme provided through the pension scheme. This will typically provide up to 60% of income for an employee who is out of work due to long-term illness or disability. However, such income protection schemes, generally only kick-in after 26 weeks. Those employers operating sick pay schemes will generally therefore bear the cost of providing sick pay, net of disability pay to the employee, prior to the 26 week point.

Employers generally do not have any insurance for sick pay costs associated with illness periods of less than 26 weeks and any requirement to meet the cost of illness benefit for any part thereof would represent a significant cost to businesses.

Cost competitiveness

Comparisons with other countries do not take full account of high costs of employment in Ireland and the high Illness Benefit rates.

There is a general claim that employers' PRSI in Ireland is lower than similar employer social security charges in other developed countries. Data from the OECD Taxing Wages database, however, show that this is not the case. The headline rate of employers' PRSI at 10.75% is relatively low in international terms but the Irish system disadvantages employers in two main ways. Firstly, unlike many other countries, there is no cap on the employers' contribution and secondly, the flat rate applies to all income, whereas in many other countries a reduced rate applies at higher income levels. The Irish system of employers' social security therefore becomes less competitive at higher wage levels (see Table 1).

Table 1. Employers' social security charges at different income levels, 2009

	<u>€36,000¹</u>	<u>€60,000</u>	<u>€80,000</u>	<u>€100,000</u>	<u>€120,000</u>
Ireland	3,870	6,450	8,600	10,750	12,900
Austria	6,704	12,173	12,173	12,173	12,173
Germany	7,042	10,431	10,977	10,977	10,977
Netherlands ²	4,277	4,996	4,996	4,996	4,996
UK	3,185	6,765	9,325	11,885	14,445
US	2,754	5,001	6,455	6,745	7,035

Source: OECD. Taxing Wages, 2009.

¹Average economy-wide earnings in Ireland in 2010.

²Netherlands applies a maximum contribution amount of €2,155 on earnings up to €31,231.

Table 1 shows that the employers' social security charge is the second lowest in the selected countries at a gross wage of €60,000 but rises to the second highest at a gross wage of €120,000. At average earnings (€36,000 for Ireland in 2010) Ireland has lower costs than much of mainland Europe but employer contributions are higher than in the US or the UK. A number of countries also operate reduced rates and caps for those on lower incomes. In the Netherlands for example, the employer contribution for workers earning up to about €31,000 is restricted to an effective employer charge of less than 7%.

For those businesses employing higher skilled employees in sectors such as financial services, pharmaceuticals, medical devices and ICT, it is clear that Ireland has become a relatively high cost location for total labour costs. A number of other countries have reduced employers' social charges in recent years and Ireland has become a less attractive location for investment. The employers' social security contributions for an employee earning €120,000 is now nearly double that in the US, two and a half times that in the Netherlands and about 20% higher than that in Germany.

When these figures are grossed up to a plant level for a company's total workforce the cost disadvantage of an Irish site can run to many millions. This should involve either the reintroduction of a cap on contributions or a tiered system with greatly reduced rates applying at about €60,000 and again stepping down at about €100,000.

The cost of employment in Ireland is already high. When compensation per employee plus employer's PRSI are considered, Ireland is the 5th most expensive among the EU 27 and is 20% more expensive than our main trading partners in the Euro area for 2010. A proposal to increase the cost of employment will have a detrimental effect on our capacity to retain and create jobs and on our ability to attract foreign investment.

A national integrated response

Ireland requires a more integrated approach to encourage the better management of illness and absence, involving employers, the medical profession and the State. By looking in isolation at the issue of statutory sick pay, the Department neglects to address the wider policy issue of maintaining a healthy workforce and minimising the number entering long term dependence on State support through ill health or disability. As an alternative, consideration should be given to joint initiatives with employers to promote wellbeing and healthy lifestyles while at work, through developing life and workplace wellbeing campaigns and incentivising employers to roll out wellbeing initiatives. This can be achieved **without** recourse to increased PRSI costs on employers or a statutory sick pay scheme by addressing the following issues.

- There is scope to move from the philosophy of 'sick note' to 'fitness and capability to work' along with an estimated return to work timeframe. However there are concerns over the feasibility of the medical profession to embrace this change at this time. The Department needs to set up an engagement with the stakeholders including employers, occupational health physicians and health specialists to see how an independent health assessment mechanism could be developed to encourage early return to work. It is worth noting that in the UK, where a 'fit note' has been introduced, GPs are reported as lacking the confidence and knowledge to make judgments about what work the person might be capable of and do not know enough about the workplace and has not led to better advice from doctors on how to rehabilitate employees back to work.
- The role of the medical profession is key to ensuring employees get back to fitness and work as soon as feasible. Any revision of the current system has to reflect the importance of an occupational assessment mechanism to support GPs and employers to refer patients and get reports to deliberate outcomes and guide interventions at an earlier stage. All too often, employers are concerned that a 'light touch' is taken by the medical profession to how certification of an absence is initially provided. At present the structure for occupational health diagnosis and reintegration in Ireland is weak, and the costs associated with its use (carried by employers) are unacceptably high.
- An independent health assessment mechanism is central to an integrated national approach to absence management. It would support both the State and employers understand the capability to work for those out of work and help to reduce the risks and costs of long-term absence. This would have to be matched by more flexible social welfare structures to permit a phased return to work where it would be appropriate.

Conclusion

Consideration of increasing employers' cost in relation to sick pay will inevitably lead to employers reducing employment costs in other ways, as they are not in a position to absorb any new taxes on employment or increase prices of goods or services provided. Employers in Ireland have been forced to use a range of cost cutting mechanisms in the

last three years to reduce payroll costs, namely headcount reductions, cuts in base pay and working hours, lay off and short-time working as well as reductions in allowances and benefits.

We know that at least one in four companies have reduced basic pay since 2008 and in 2012, IBEC research shows that 74% of employers will either be freezing or reducing basic pay. We remain about 15% higher than the EU15 in 2011 in terms of annual nominal compensation costs per employee. The transfer of what are in effect social welfare costs supporting those who are out of work due to illness onto employers in the current environment will force many employers to implement further cost-cutting measures or to reduce employment and would equate to the cost of employing 2500 people. Such a move will have a negative effect on domestic confidence which is most reliant on the capacity of the small business sector and those operating in the domestic services economy to create and sustain jobs. It will also have direct consequences for those who currently operate company sick pay schemes.

"I want Ireland to be the best small country in the world in which to do business by 2016"
An Taoiseach Enda Kenny T.D. Invest in Ireland forum, New York, 9 Feb 2012

The commitment to tackle red tape and make Ireland a more competitive place to do business is being promoted by Government as part of a national vision for Ireland on both the national and international stage. This is a powerful and symbolic message and recognises that the potential to resolve our economic difficulties will require investment by international and indigenous companies, large and small in order to create jobs and grow the economy. The introduction of a statutory sick pay scheme has no place in this vision around which all of Government is supposed to be aligned. Irish business remains highly sensitive to increases in employment costs. We need to help employers to reduce these costs, to get them back in line so that they can sustain and create jobs in support of that vision so that we can return to investment and growth.

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