



**Joint Committee on Enterprise, Trade and Employment**

**Sick Leave Bill 2021**

**Wednesday 10 November at 9.30am**

**Opening Address by Clare Dunne Assistant Secretary**

Chairperson, members, I want to thank you for your invitation to attend the Committee today to discuss the Sick Leave Bill 2021. I welcome the opportunity to do so and thank the Committee for facilitating pre-legislative scrutiny on this important matter. I am the Assistant Secretary with responsibility for the Workplace Relations and Economic Migration Division in the Department. Joining me today is Wendy Gray, Principal Officer with responsibility for Employment Rights Policy and Paul Norris, Assistant Principal, also from the Employment Rights Policy Unit.

**Background to this Bill**

In June of this year the Tánaiste and Minister for Enterprise, Trade and Employment, Leo Varadkar, T.D., obtained cabinet approval for the priority drafting of the Sick Leave Bill 2021.

Ireland is currently one of the few advanced countries in Europe to not provide for a mandatory employer sick pay scheme, although many employers do provide sick pay through company or sectoral level agreements.

The Tánaiste has said many times recently that he believes one of the legacies of the pandemic must be better terms and conditions for all employees. This Bill will ensure that every worker, especially lower paid workers in the private sector, have the security and peace of mind of knowing that if they fall ill and miss work, they won't lose out on a day's pay.

The Government introduced an enhanced Illness Benefit of €350 a week for anyone who was off sick as a consequence of Covid-19 but the Tánaiste is determined now to make sure all workers have a safety net, regardless of the illness in question, once it is certified by a medical doctor.

Prior to seeking cabinet approval to draft the Bill, the Department of Enterprise, Trade and Employment undertook a full public consultation that sought the views of relevant stakeholders and members of the public on key policy questions around the design of the scheme. In total, 118 submissions were received with a good mix of views from business and employee representative bodies and from individual workers and employers.

In addition to the public consultation the Department also undertook an international review to get a better understanding of how Sick Leave schemes

operate elsewhere. What we learned from that is there is no one-size-fits-all model, and there are significant variations in the models in use across the world.

### **Key design parameters**

- In relation to the key parameters - The Sick Leave Bill 2021 will introduce a right, initially, to three paid sick leave days per annum for all employees. The scheme will increase incrementally over time so that all employees will eventually be entitled to ten days, or two weeks, of sick pay per year. 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–

- Year 1 – 3 days covered
- Year 2 – 5 days covered
- Year 3 – 7 days covered
- Year 4 – 10 days covered.

This will be in addition to any other leave such as annual leave, parental leave, or maternity or paternity leave. It will be for both full and part time employees and no waiting days will apply.

While the initial entitlement of three days per annum is relatively modest, it is important to recognise the cost that this scheme will place on employers,

particularly small employers with very few staff members. It's being phased in to help employers, particularly those small businesses, to plan ahead and manage the additional cost.

Some businesses in the service sectors will have to cover not only the cost of sick pay but may also have the cost of paying for a replacement while the person is out sick. Many businesses are struggling to get back on their feet at the moment and we need to get the balance right and make sure that we don't go too far too fast and cause companies to reduce staff or cut hours to help with costs.

We have taken a balanced approach, to support both workers and employers.

Setting the number at three days has been chosen as a starting point to plug the existing gap in coverage due to the current "waiting days" not covered by the State's existing Illness Benefit scheme. As it stands an eligible employee cannot claim illness benefit from the State until they have completed three waiting days. By providing for three statutory sick pay days, we will address the issue of people going to work while sick because of concerns about affordability.

In terms of the amount of pay, statutory sick pay will initially be paid at 70% of regular earnings up to €110 per day, from the first day of illness, and this can be varied by ministerial order. This cap of €110 has been designed to give

employers certainty around the costs involved at the outset, while also being fair to employees and ensuring that they receive an appropriate level of compensation if unable to work due to illness or injury. For businesses who genuinely can't afford to pay we have included an 'inability to pay' provision which provides for an exemption to be given to a business by the Labour Court.

In relation to entitlement to a payment, any day taken as sick leave under the Act will require a medical cert from a registered medical practitioner. While this may impose an additional cost on some employees, many low-paid workers, particularly those with children, are entitled to a medical card or GP visit card and will not have to pay to see their doctor. More than 2 million people have access to a GP without fees in Ireland.

Regarding eligibility, an employee will be required to have worked for their employer for a period of three months before they are eligible to avail of paid sick leave under the Bill. This is to allow time for an employment relationship to develop between the employer and employee and is a common requirement in other forms of statutory leave, such as Carers or Parental leave and in existing company level sick pay agreements. It is also a common requirement in other jurisdictions who have statutory sick pay in place.

Many companies already offer their own sick pay schemes as part of their terms and conditions and this Bill is not intended to undermine existing sick pay agreements that may offer more favourable terms overall. It is primarily

intended to act as a floor level protection and ensure that all employees, particularly those employees who currently have no access to a company level scheme, will have an entitlement to paid sick leave when unable to work due to genuine illness or injury.

As with other statutory employment rights, where an individual believes they are being deprived of rights to which they are entitled under the Sick Leave Bill they will be able to refer a complaint to the Workplace Relations Commission (WRC). There the matter can be dealt with by way of mediation or adjudication leading to a decision that is enforceable through the District Court. WRC inspectors can also be asked to investigate certain breaches of the provisions of the Bill, once enacted.

## **Conclusion**

The Government has taken a balanced approach in bringing forward the Sick Leave Bill 2021. The introduction of a statutory entitlement to paid sick leave, with no waiting days, is a progressive measure that will bring Ireland in line with its European and other developed country peers. We have given a lot of consideration to the pressures on business at the current time, and the design parameters and the incremental approach to be taken over 4 years are in recognition of this.

The scheme design achieves a good balance for the cost sharing model – workers receive 70% pay for the 3 days; it is a relatively low cost for employers; and it should provide for a seamless transition to state supported illness benefit, when appropriate, when the worker applies for it on day four.

While the initial period of three days that an employer is asked to cover is modest, this has been done to close the existing gap in coverage brought about by illness benefit waiting days and in recognition of the unique economic challenges that many employers, particularly microenterprises, and small businesses, have faced in the last 18 months and continue to face as we move out of the pandemic.

I must emphasise that the scheme is a first step in the development of a model which can be built on and refined over time as it is rolled out. The draft legislation has been designed with flexibility in mind.

Thank you for your attention and we would be happy to answer any questions you might have.