



## **SICK LEAVE AND SICK PAY AFTER AN ACCIDENT\***

### **I have had an accident and am on sick leave from work because of my injuries. Am I entitled to be paid?**

There is no requirement in law for your employer to pay your wages while you are on sick leave. Whether or not you will be paid your wages in full will depend on the contents of your contract of employment and/or the policies in your workplace. If your employer has a sick pay policy, you may be in a position to receive your usual pay in full. However, your employer will more than likely require that you sign over any Illness Benefit payment from the Department of Social Protection to him/her for as long as your sick leave continues.

### **Will I still have the benefit of my public holidays and annual leave?**

Provided certain requirements are met, you may be entitled to the benefit of public holidays if your sick leave falls on a public holiday. The Organisation of Working Time Act 1997 will also cover the following scenarios in relation to your absence from work immediately before a public holiday and your entitlement to the benefit of that public holiday: -

1. An absence from work, in excess of 52 consecutive weeks, by reason of an injury sustained by you in an occupational accident, i.e. an accident at work.
2. An absence from work, in excess of 26 consecutive weeks, by reason of an injury sustained by you in any accident.
3. An absence from work, in excess of 13 consecutive weeks, caused by any reason not referred to at 1 and 2 above but being an absence authorised by the employer.

If you are ill during your annual leave and can produce a medical certificate to this effect, these sick days will not be counted as annual leave days. Subject to certain conditions, you can also accumulate annual leave during a period of certified sick leave.



### **What if my employer does not have a sick pay policy?**

If you have enough social insurance contributions, you can apply for a social welfare payment known as injury benefit. This is a weekly benefit from the Department of Social Protection. If you do not have enough social insurance contributions, you should speak with your local social welfare office who can offer you advice in this regard.

### **What should I be doing while on sick leave?**

It is important that you attend with your doctor for treatment. You have a duty to mitigate your loss when bringing a claim for your injuries. What this means is that you need to attend your doctors and follow all advices in relation to attending for physiotherapy treatments, scans and any other matters.

It is important that you continue to submit medical certificates to your employer while on sick leave from work due to injuries suffered in an accident. It is also important that you are certified as fit to return to work by your medical practitioner before you return to work after your accident.

If your employer wishes for you to be assessed by occupational health during your absence from work while on sick leave or before you return to work after having been on sick leave, you should attend.

### **Can I claim loss of earnings and loss of employment opportunity after having been injured in an accident?**

You can claim for your loss of earnings and/or loss of employment opportunity in addition to claiming compensation for your injuries. If you are successful with your claim, you should recover the difference between your net earnings and the social welfare contributions received during your sick leave. If you incur loss of employment opportunity because of your injuries, this is a more serious and complex claim. A report from a vocational assessor will be required who will assess your ability to take up suitable alternative employment. A report from a consultant actuary will also be required who will quantify your loss to date and going into the future.



If you have any questions in relation to sick leave and sick pay following an accident at work, road traffic accident or a slip and fall, you can telephone Michelle Loughnane, Solicitor, of Richard Grogan & Associates, 9 Herbert Place, Dublin 2 on 01 9695781.

***\*Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.***

***\*\*In contentious cases, a solicitor may not charge fees as a proportion or percentage of any award or settlement.***