



EMPLOYMENTGUIDE

A GUIDE TO **STATUTORY** PATERNITY LEAVE AND PAY

The Right to Paternity Leave

Employees may take up to two weeks' paid statutory paternity leave (SPL).

Leave may be taken in respect of a natural or adopted child. In the case of an adopted child the adoptive parents can choose which one of them takes adoption leave. The other one can take SPL.

Eligibility for SPL

The right only applies to employees.

The employee must have at least 26 weeks' continuous service with the same employer by the 15th week before the expected week of birth or, in the case of adoption, by the week in which the adopter is notified of having been matched with a child.

The employee must:

- be the child's biological father and have or expect to have responsibility for the child's upbringing;
- be the husband, civil partner or partner of the mother but not be the child's biological father and have or expect to have the main responsibility for the child's upbringing (apart from that of the mother); or

- be married to, the civil partner or partner of the child's adopter and have or expect to have the main responsibility for the child's upbringing (apart from that of the adopter).

The leave must be to care for the child and to support the mother/adopter.

Period of Leave

The employee can choose to take either one week's or two consecutive weeks' SPL.

Only one period of leave can be taken per pregnancy or adoption regardless of the number of children born as a result of that pregnancy or adopted under the same adoption agreement.

The employee cannot take SPL until the baby is born/placed with the adopter, but otherwise the employee is free to select when to start the leave, provided it is taken within a period of 56 days of the date of the birth/adoption placement.

Notification

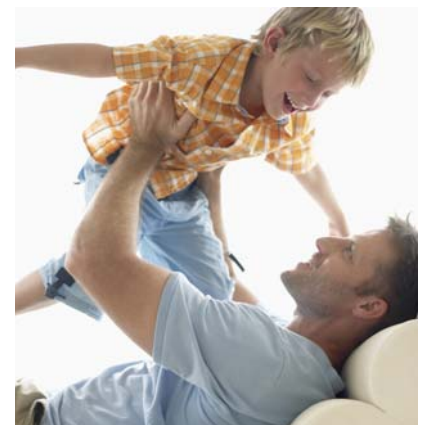
The employee must notify his employer that he intends to take SPL by the end of the 15th week before the child is due to be born or, in the case of adoption, no more than seven days after being notified of a match. If he cannot do it by then, he must do so as soon as reasonably practicable.

The notification should include the following details:

- the expected week of the child's birth (or, in the case of adoption, the date the adopter was notified of a match and the expected date of adoption placement);
- whether the employee intends to take one or two weeks' leave; and
- when he wants to start his leave.

The employee may specify that his leave will commence on the date of birth rather than giving a specific date.

If the employee wishes to change the notified start date he should give 28 days' notice. If he cannot do it by then, he must do so as soon as reasonably practicable.



Rights during SPL

During SPL an employee has a statutory right to continue to benefit from all the terms and conditions of employment which would have applied to him had he been at work, except for the terms relating to wages or salary. The employee is also entitled to benefit from any general improvements to the rate of pay or other terms and conditions introduced while he was away. The employee will also continue to accrue annual leave while on SPL.

The employee is protected against being dismissed or being subjected to any detriment due to the fact that he has taken, or sought to take, SPL.

If there is a redundancy situation at the same time as an employee's SPL, an employer must treat him the same as any other employee. This would involve consulting him about the redundancy or considering him for any other suitable job vacancies.

Statutory Paternity Pay

To qualify the employee must have average weekly earnings at or above the lower earnings limit for National Insurance.

Statutory Paternity Pay is payable at 90% of the employee's average weekly earnings, or a statutory rate equivalent to Statutory Maternity Pay, whichever is lower.

Returning to Work

An employee has a right to return to the same job on the same terms and conditions of employment as if he had not been absent on SPL. However, if he takes more than four weeks' parental leave straight after SPL, he is entitled to return to the same job and terms unless there is some reason why this is not reasonably practicable. In this case, he should be offered a suitable, similar job on terms which are no less favourable than his original job.

This is intended to be a general guide to statutory paternity rights and is not a substitute for taking advice before reaching a decision on individual circumstances. If you would like any further information on this issue please contact a member of the Employment and Pensions Group.

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