

Paternity / Partner Leave and Pay

Current situation

Paternal leave

Fathers and partners with 26 weeks' service at the end of the 15th week before the expected week of confinement (EWC) are entitled to receive two weeks' paternity leave.

Companies may provide more if they wish.

Statutory provisions are for this leave to be taken in one block of up to two weeks, not in single week blocks, although employers may choose to be flexible on this.

In addition, some good practice employers allow fathers to attend ante-natal care along with their partner on a paid basis (although this could be unpaid). This time is used to attend ultrasound scans, hospital consultant visits and parent-craft classes.

The employee must notify their employer at least 15 weeks before the expected date of birth (or on being told of an adoption placement) when they expect to take their leave, i.e. on a specific date or from the day the baby is born.

Leave must be taken within 56 days of the actual birth or adoption placement.

Leave does not change based on a multiple birth or placement.

Paternal pay

For the duration of the statutory leave period, employees are entitled to receive either 90% of average earnings or £123.06 a week whichever is the lesser.

Example: If an employee usually earns £100 a week, their statutory paternity pay is £90 per week. If the employee usually earns £500 a week, their statutory paternity pay is £123.06.

Employers can pay company paternity pay for one or both of these weeks' leave at a higher rate, eg at two-thirds of pay or even at full pay.

Employees are only entitled to one paternity payment, even if they work for multiple employers.

Future situation

Paternity leave

For babies born after 3rd April 2011, fathers will be able to take additional paternity leave of up to 26 weeks. The proposal is that the father/partner of the mother would be able to take up to six months of the mother's remaining statutory maternity leave if the mother returned to work before her maternity leave has been used.

The father / partner will be required to give at least 8 weeks notice before they take additional paternity leave.

Paternity Pay

If the mother has not used up all of her entitlement to statutory maternity pay or statutory adoption pay (39 weeks of SMP or SAP) this may be transferred to the father.

As leave is currently 52 weeks and pay entitlement is currently 39 weeks, if the father / partner takes six months leave, 13 weeks would be paid at SPP and 13 weeks would be unpaid.

Notes

- In a single sex relationship, a partner is also entitled to paternity leave and pay as detailed above.
- In the case of adoption, the same rules apply.
- Families may choose to transfer leave if the mother's job is higher earning or if the father's job is at risk.
- It is possible that the statutory pay period is extended from 39 weeks to 52 weeks in line with the statutory leave period.
- The weekly amounts of SMP / SAP / SPP are reviewed each year
- The new legislation will be approved in April 2010
- There is a significant amount of administration required for this scheme to work and HMRC will be playing a role in ensuring compliance with the legislation.

Next Steps and getting help

If you want to discuss any aspect of this article or get some support with updating your policies and procedures, you can call us on 01923 504100 for a free, no obligations chat. Alternatively, email us or fill in the form on the 'contact us' page of our website and someone will give you a call.