

Work and Childcare Toolkits

An Introduction to Maternity, Paternity and Adoption Rights

Introduction

When you are expecting a baby, you and your partner have parental rights and may well be entitled to maternity, paternity or adoption leave, pay and rights.

Maternity rights

All pregnant employees are entitled to 12 months of maternity leave. This may be paid or unpaid.

If you have worked for your current employer for a minimum of 26 weeks and by the fifteenth week before the baby is due, your average weekly income is above the government threshold (£123 per week), you will be entitled to Statutory Maternity Pay for the first 39 weeks of your maternity leave. Throughout your maternity leave, you will be paid at two different rates. For the first six weeks, you will receive 90% of your average salary. For the next 33 weeks, you will receive £156.66 per week, or continue to receive 90% of your weekly salary, whichever is the lower amount.

If your average earnings are below the lower earnings limit for National Insurance contributions, you may not qualify for Statutory Maternity Pay, but you can apply for Maternity Allowance.

Please see the following site for information on your maternity leave rights:

<https://www.citizensadvice.org.uk/work/rights-at-work/parental-rights/maternity-leave-what-youre-entitled-to-and-how-to-get-it/>

Pregnant at work and your rights

If you are entitled to maternity leave, you can take paid time off work for antenatal appointments that your doctor, nurse or midwife recommends that you do. This might include parenting or relaxation classes as well as medical appointments. It doesn't matter how long you've been working for your employer or what hours you work; your employer cannot ask you to make the time up.

You're entitled to sick pay if you get sick when pregnant. Getting sick pay could affect your entitlement to maternity pay.

You will need to notify your employer in writing that you are pregnant and they will then need to carry out a health and safety assessment.

For more information on your rights when you're pregnant at work, visit the following link:

<https://www.citizensadvice.org.uk/work/rights-at-work/parental-rights/rights-while-youre-pregnant-at-work/>

Paternity entitlement

If your partner is having a baby, a baby through a surrogacy or adopting a child, you may be eligible for:

One or two weeks of paid paternity leave;

Paternity pay;

Shared Parental Leave and pay.

You may not get both leave and pay but you may be eligible if you are:

The father;

The husband or partner of the mother (or adopter) – including same sex partners;

The child's adopter;

The intended parent through a surrogacy arrangement.

If you are not eligible, your employer should notify you within 28 days explaining why, using a SSP1 form.

To be entitled to paternity leave, you must fulfil the following criteria:

You must be employed and been in continuous employment for at least 26 weeks up to the qualifying week.

You must give your employer the correct notice - usually 15 weeks.

You need to give your employer a SC3 form.

Leave must not start before the birth.

Leave must end within 56 days of the birth.

You can take either one or two weeks of leave.

You must take all the leave in one go.

The leave is not increased for multiple births.

When on paternity leave, your paternity pay will be as detailed below:

The statutory weekly rate of paternity pay is £156.66 or 90% of your average weekly earnings, whichever is lower.

Tax and National Insurance will be deducted.

You must earn at least £123 a week before tax.

Some companies offer a company paternity scheme and you may be entitled to a higher rate.

Give correct notice to your employer, to receive your pay.

If you lose your baby, you are entitled to paternity leave and/or pay if the baby is born alive at any point during the pregnancy or is stillborn from 24 weeks of the pregnancy.

Please see below some useful links on your rights with paternity leave and pay:

www.gov.uk/paternity-pay-leave/eligibility

www.gov.uk/paternity-pay-leave/leave

Adoption and surrogacy leave and rights

You are entitled to adoption rights if you have used an official adoption agency or received official notification from an overseas adoption agency. You are not entitled to adoption leave if you use a private adoption agency. When adopting in the United Kingdom, there is no minimum amount of time that you must have worked for your employer to be eligible for adoption leave. In cases of overseas adoption, you must have worked for your employer for a minimum of 26 weeks when you receive official notification that you have been matched with a child. Either you or your partner are entitled to 52 weeks of adoption leave, but not both of you. The other parent can take paternity leave. Leave may be taken by either partner if a couple are adopting and you must inform your employer within seven days of hearing that you have been matched with a child for adoption or as soon as is feasibly possible. To claim paternity leave or pay when adopting or becoming parents through a surrogacy, you must complete the SC4 form here: <https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-an-adoptive-parent-sc4>

To receive Statutory Adoption Pay, your rights are as follows:

At time of official notification, you need to have worked for your employer for at least 26 weeks.

Statutory Adoption Pay is paid for 39 weeks.

For the first six weeks, you will receive 90% of your average weekly earnings. For the remainder, you will either receive 90% of your weekly pay or £156.66, whichever is lower.

Parents through a surrogacy will be entitled to adoption rights, provided that they meet the normal eligibility criteria.

Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP)

SPL and ShPP are only available in England, Scotland and Wales.

If you and/or your partner are having a baby, adopting a child or becoming parents through a surrogacy, you may be able to change maternity or adoption leave and pay into shared leave and pay. Your rights would be as follows:

You can share up to 50 weeks of leave and up to 37 weeks of pay.

Employees can take SPL in up to three separate blocks.

You can either share the leave and pay between you, or one parent can take all of the shared leave and pay.

SPL and ShPP must be taken between the baby's birth and first birthday (or within one year of adoption).

An employed mother must take the initial two weeks of maternity leave following the child's birth, but they share all or part of the remaining 50 weeks.

You can both take SPL at the same time or take it in turns.

To be eligible, you must be employed by the same employer for at least 26 weeks by the fifteenth week before the due date or when you are matched with a child.

The 66 weeks prior to when the baby is due or when the child is matched with you, your partner must have been working for at least 26 weeks. This includes if you are self-employed. You must also have earned at least £390 in total across any 13 of the 66 weeks.

You can get Statutory Shared Parental Pay if you are employed and one of the following applies:

You are eligible for [Statutory Maternity Pay](#) or [Statutory Adoption Pay](#).

You are eligible for [Statutory Paternity Pay](#) and your partner is eligible for Statutory Maternity Pay, [Maternity Allowance](#) or Statutory Adoption Pay.

Please see a useful website for information on Statutory Shared Parental Pay here:

<https://www.gov.uk/shared-parental-leave-and-pay-employer-guide/starting-shared-parental-leave>