

## Fact Sheet

# Paternity Pay

The attached document "Statutory Paternity Pay and Leave : employer guide" details the main points that employers need to be aware of when they deal with requests to take Paternity Leave.

ECIA members should take note that the Paternity Leave (Amendment) Regulations 2024, took effect from 8 March 2024. This will impact on the Paternity leave entitlement of fathers and partners of babies born on or after 7 April 2024. The amending regulations allow the leave to be taken as two one-week non-consecutive blocks, rather than the previous position of only one block. Paternity leave can now be taken at any point in the first year after the birth, rather than the previous position of within 8 weeks of the birth.

Employees are still required to have been continuously employed, by their current employer, for at least 26 weeks at the 'qualifying week' (15 weeks before the week in which the baby is due to be born) in order to qualify for Paternity Leave. No leave can be taken before the baby is born although eligible employees still qualify for paternity leave and pay if the baby is either stillborn from 24 weeks of pregnancy or is born alive at any point in the pregnancy but later dies.

**From 7 April 2024, Statutory Paternity Pay/ Statutory Adoption Pay, increased from £172.48 to £184.03 per week.**

ECIA members should note that NAECL provides additional top-up provisions around Paternity Pay. Provided that the eligibility criteria in NAECL 11.6a are met, the NAECL requires employers to supplement Statutory Paternity pay so that the employee receives gross pay (i.e. before deductions for tax, national insurance, employee pensions contributions, etc.) equivalent to the appropriate basic hourly rate payable for normal working hours for the week(s) in question. Employees are required to give 15 weeks' notice of their entitlement/intention to take leave, however from 7 April 2024 they now only need to provide 28 days' notice of the exact dates that they wish to take Paternity Leave.



Given that the Government gave quite short notice of the recent changes, many members may find themselves under pressure to update policies, and train staff where necessary. Policies will need to be updated and employers should check that any enhanced paternity pay policy includes the new right to split the two weeks' leave.

The shorter notice period for confirming the exact dates of when the leave will be taken means employers will need have to be more flexible. This could result in other members of staff having to work additional hours, particularly if the person taking leave works in shifts. Members should note that a request to take paternity leave cannot be refused or postponed.

For further assistance with Paternity Leave and Pay or other family-friendly matters, please consult your local ECIA Regional Manager.

Part of

[Get your business ready to employ staff: step by step \(/get-ready-to-employ-someone\)](#)

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# Statutory Paternity Pay and Leave: employer guide

## 1. Entitlement

Employees may be [eligible for Statutory Paternity Leave and Pay \(/employers-paternity-pay-leave/eligibility\)](#) if they and their partner are:

- having a baby
- adopting a child
- having a baby through a surrogacy arrangement

This guide is also available [in Welsh \(Cymraeg\) \(/cyflogwyr-tal-absenoldeb-tadolaeth\)](#).

## Statutory Paternity Leave

**If the baby is due before or on 6 April 2024, or before 6 April 2024 for adoptions**

Employees can choose to take either 1 week or 2 consecutive weeks' leave. The amount of time is the same even if they have more than one child (for example twins).

Leave cannot start before the birth. The start date must be one of the following:

- the actual date of birth
- an agreed number of days after the birth
- an agreed number of days after the expected week of childbirth

Leave must finish within 56 days of the birth (or due date, if the baby is early).

The start and end dates are different [if the employee is adopting \(/employers-paternity-pay-leave/adoption\)](#).

### **If the baby is due after 6 April 2024, or on or after 6 April for adoptions**

Employees can take either 1 or 2 weeks' leave. If the employee is taking 2 weeks they can either be taken consecutively or separately. The amount of time is the same even if they have more than one child (for example twins).

Leave cannot start before the birth. The start date must be one of the following:

- the actual date of birth
- a specified number of days after the birth
- a set date which is after the date of birth

Leave must finish within 52 weeks of the birth (or due date, if the baby is early).

The start and end dates are different [if the employee is adopting \(/employers-paternity-pay-leave/adoption\)](#).

There are different rules [if you're in Northern Ireland \(https://www.nidirect.gov.uk/articles/paternity-leave\)](#).

## **Statutory Paternity Pay**

Statutory Paternity Pay for eligible employees is either £184.03 a week or 90% of their average weekly earnings (whichever is lower). Tax and National Insurance need to be deducted.

Calculate an employee's paternity leave and pay using the [maternity and paternity calculator \(/maternity-paternity-calculator\)](/maternity-paternity-calculator).

Some employment types, like agency workers, directors and educational workers, have [different rules for entitlement \(/statutory-paternity-pay-employment-types-that-affect-payment\)](/statutory-paternity-pay-employment-types-that-affect-payment).

## Extra leave or pay

Employees can get more leave or pay if:

- their partner returns to work and they qualify for [Shared Parental Leave and Pay \(/shared-parental-leave-and-pay-employer-guide\)](/shared-parental-leave-and-pay-employer-guide)
- your company scheme offers more

You must make sure your paternity leave and pay policies are clear and easily accessible to staff.

## Reclaiming payments

Even if you pay an employee more than the statutory amount, you can usually only reclaim 92% of that amount. You may be able to reclaim 103% if you qualify for Small Employers' Relief. Read more about [reclaiming statutory pay \(/recover-statutory-payments\)](/recover-statutory-payments).

## Leave for antenatal appointments

Employees can take unpaid leave to [accompany a pregnant woman to antenatal appointments \(/paternity-pay-leave/leave\)](/paternity-pay-leave/leave) if they are:

- the baby's father
- the expectant mother's spouse or civil partner
- in a long term relationship with the expectant mother
- the intended parent (if they're having a baby through a surrogacy arrangement)

They can accompany the woman to 2 appointments of up to 6 and a half hours each.

## If the baby dies

Employees still qualify for paternity leave and pay if the baby is either:

- stillborn from 24 weeks of pregnancy
- born alive at any point in the pregnancy but later dies

## Employment rights

An employee's [employment rights \(/employee-rights-when-on-leave\)](#) (like the right to pay, holidays and returning to a job) are protected during paternity leave. You still have to pay Statutory Paternity Pay even if you stop trading.

## 2. Eligibility

Employees must be one of the following, the:

- father
- husband or partner of the mother (or adopter)
- child's adopter
- intended parent (if they're having a baby through a surrogacy arrangement)

Employees must also:

- be [classed as an employee \(/employment-status\)](#) (paternity leave only)
- be employed by you up to the date the child is born (or placed with the adopter) (paternity pay only)
- be on your payroll and earn at least £123 a week (gross) in an 8 week 'relevant period' (paternity pay only)
- give you the [correct notice \(/paternity-leave-pay-employees/notice-period\)](#)
- be taking time off to look after the child or their partner
- be responsible for the child's upbringing

- have been [continuously employed by you \(/continuous-employment-what-it-is\)](#) for at least 26 weeks up to any day in the ‘qualifying week’

The qualifying week is the 15th week before the baby is due. This is different [if the employee is adopting \(/paternity-leave-pay-employees/adoption\)](#).

Use the [paternity pay calculator \(/maternity-paternity-calculator\)](#) to check an employee’s eligibility and work out their relevant period, notice period and paternity pay.

There are [special rules \(/statutory-paternity-pay-employee-circumstances-that-affect-payment\)](#) for some employee situations, for example if they leave or become sick.

## If the child is born early

If the child is born early, the employee is still eligible if they would have worked for you continuously for at least 26 weeks by the qualifying week.

For very premature births, you’ll need to calculate SMP using your payroll software (if it has this feature) or [work it out manually \(/statutory-maternity-pay-manually-calculate-your-employees-payments\)](#). A very premature birth is where the child is born 15 weeks or more before the due date.

## Employees in surrogacy arrangements

Parents intending to have a child through a surrogacy arrangement may be eligible for Statutory Paternity Pay and Leave.

If you ask, they must give you a written statement to confirm that they’ve applied or intend to apply for a [parental order \(/become-a-childs-legal-parent\)](#) in the 6 months after the baby’s birth.

### 3. Notice period

The notice periods and forms are different [if the employee is adopting \(/paternity-leave-pay-employees/adoption\)](#).

## Statutory Paternity Leave

For babies expected before or on 6 April 2024, employees must tell you at least 15 weeks before the baby is expected:

- the due date
- when they want their leave to start
- how much leave they want

For babies expected after 6 April 2024, employees must tell you the due date at least 15 weeks before the baby is expected. They must tell you when they want their leave to start, and how much leave they want to take, at least 28 days before.

Notice does not have to be in writing unless you request it.

Employees can ask for leave and pay in writing using [the online form](#) (<https://www.tax.service.gov.uk/apply-for-statutory-paternity-pay>). This replaces form SC3. Employees will need to download or print the form after completing it and give you a copy.

## Statutory Paternity Pay

Employees must claim paternity pay at least 15 weeks before the week the baby is expected.

Notice does not have to be in writing unless you request it.

Employees can ask for leave and pay in writing using [the online form](#) (<https://www.tax.service.gov.uk/apply-for-statutory-paternity-pay>). Employees will need to



download or print the form after completing it and give you a copy.

Employees having a baby through a surrogacy arrangement can use [form SC4](#) ([/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-an-adoptive-parent-sc4](#)) to request leave and pay.

## Late notice

You can delay the leave or pay start date if the employee does not have a reasonable excuse for giving you the wrong amount of notice. To delay it, write to them within 28 days of their leave request.

## 4. Adoption

Eligible employees are [entitled to paternity leave and pay](#) ([/paternity-leave-pay-employees/entitlement](#)) if they're adopting a child.

Calculate an employee's paternity leave and pay using the [maternity and paternity calculator](#) ([/maternity-paternity-calculator](#)). For overseas adoptions you'll need to use your payroll software (if it has this feature) or [work it out manually](#) ([/statutory-paternity-pay-manually-calculate-your-employees-payments](#)).

## Eligibility

An employee adopting a child must:

- have been [continuously employed by you](#) ([/continuous-employment-what-it-is](#)) for at least 26 weeks up to any day in the week they were matched with a child (UK adoptions)
- have been continuously employed by you for at least 26 weeks by either the date the child arrives in the UK or when they want their pay to start (overseas adoptions)



- confirm that their partner is getting Statutory Adoption Pay in writing or by giving you a copy of their partner's [form SC6](https://www.gov.uk/government/publications/statutory-adoption-pay-and-leave-adopting-a-child-from-abroad-sc6) (<https://www.gov.uk/government/publications/statutory-adoption-pay-and-leave-adopting-a-child-from-abroad-sc6>)
- meet the other [eligibility conditions](https://www.gov.uk/government/publications/statutory-paternity-pay-and-leave-employees/eligibility) ([/paternity-leave-pay-employees/eligibility](https://www.gov.uk/government/publications/statutory-paternity-pay-and-leave-employees/eligibility)) for paternity leave or pay

## Notice period

An employee adopting a child can send you [form SC4](https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-an-adoptive-parent-sc4) ([/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-an-adoptive-parent-sc4](https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-an-adoptive-parent-sc4)) (or your own version) for:

- leave - no later than 7 days of their co-adopter or partner being matched with a child
- pay - 28 days, or as soon as they're reasonably able, before they want their pay to start

For overseas adoptions the form and notice period is different. The process is explained on [form SC5](https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-adopting-a-child-from-abroad-sc5) ([/government/publications/ordinary-statutory-paternity-pay-and-leave-adopting-a-child-from-abroad-sc5](https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-adopting-a-child-from-abroad-sc5)).

## Leave start date

An employee taking paternity leave because they're adopting can start their leave:

- on the date of placement
- an agreed number of days after the date of placement
- on the date the child arrives in the UK or an agreed number of days after this (overseas adoptions)

Leave must be taken within:

- 56 days of the date of placement or the child's arrival in the UK (for overseas adoptions) - for children who are placed or arrive before 6 April 2024

- 52 weeks of the date of placement or arrival - for children who are placed or arrive on or after 6 April 2024

## Proof of adoption

Employees must give you proof of adoption to qualify for paternity pay. Proof is not needed for paternity leave unless you request it. Proof can be a letter from their adoption agency or their matching certificate.

You must [keep records \(/employers-paternity-pay-leave/records\)](#) of the proof.

## 5. Refuse pay form SPP1

You can refuse Statutory Paternity Pay if the employee does not qualify. To do this send them [form SPP1 \(/government/publications/ordinary-statutory-paternity-pay-non-payment-explanation-ospp1\)](#) within 28 days of their pay request. You must keep a copy.

The employee can ask you for a written statement explaining your decision. You have to give this to them within a reasonable time, for example 7 working days.

## 6. Record keeping

You must keep records for HM Revenue and Customs (HMRC), including:

- the date Statutory Paternity Pay started
- the paternity payments you've made (including dates)
- the [payments you've reclaimed \(/recover-statutory-payments\)](#)
- any weeks you did not pay and why
- if adopting, a letter from the adoption agency or a matching certificate

You must keep records for 3 years from the end of the tax year they relate to (for example by using [form SPP2 \(/government/publications/statutory-paternity-pay-record-sheet-spp2\)](#) or keeping your own records).

## 7. Help with statutory pay

For [financial help with statutory pay \(/recover-statutory-payments\)](#), you can:

- reclaim payments (usually 92%)
  - apply for an advance if you cannot afford payments
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