

Preparing for the New Shared Parental Leave and Pay Regime

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International Employment

Earlier this year, following the release of draft regulations by the UK government, we circulated an [E-Alert](#) setting out the key aspects of the new shared parental leave (“**SPL**”) regime and explaining how statutory shared parental pay (“**SSPP**”) would be calculated under the new regime.

The draft regulations were subsequently laid before Parliament and the new SPL regime will now apply to all parents who meet the eligibility criteria and where the expected week of childbirth begins on or after April 5, 2015 (or who are placed for adoption from this date). Parents will be able to share all but the first two weeks of the maternity leave currently available to new mothers, subject to the relevant eligibility and notification requirements.

The entitlement to two weeks’ ordinary paternity leave remains unchanged, but the additional paternity leave regime will be abolished and replaced with SPL.

What to do?

Parents expecting children now may qualify for SPL, depending on the child’s due date. For this reason, many employers have already implemented, or are currently in the process of implementing, amended parental leave policies in order to accommodate the new SPL and SSPP regimes.

Employers should also ensure that they are familiar with the qualifying conditions for both SPL and SSPP so that requests from employees can be promptly and properly dealt with.

SPL - Qualifying Conditions

To qualify for SPL, the mother and father must both have:

- caring responsibility for the child throughout SPL but starting at the child’s birth or placement for adoption;
- given notice to their employer of their entitlement to SPL;
- complied with their respective employer’s request for evidence; and
- given the required notice.

There is a two-stage eligibility test for SPL:

Stage 1: Economic activity test for the employee's partner

An individual's partner must have:

- worked for any 26 out of the 66 weeks before the expected week of childbirth; and
- earned at least £30 gross salary per week for any 13 of those weeks.

It is important to remember that eligibility for SPL for one parent is dependent on the other parent passing the economic activity test.

Stage 2: Individual test for the employee

The parent must be employed and:

- have at least 26 weeks' continuous service with the employer at the 15th week before the expected week of childbirth (or adoption date); and
- still be working for the same employer when they take SPL.

Both parents must qualify for SPL in their own right. For the mother to qualify for SPL, she must be entitled to statutory maternity leave and have curtailed that leave. For the father to qualify for SPL, the mother must be entitled to either maternity leave or pay (or maternity allowance) **and** she must have curtailed her maternity leave or, if she is not entitled to maternity leave, she must have curtailed her maternity pay/allowance.

SSPP - Qualifying Conditions

The employee's average salary for the eight weeks prior to the 15th week before the expected week of childbirth (or adoption date) must be at least the lower earnings limit as set by the government at the beginning of each tax year (currently £111 per week for the 2014/2015 tax year).

The employee must have 26 weeks' continuous employment with the employer prior to the 15th week before the expected week of childbirth.

As with SPL, both parents must qualify for SSPP in their own right.

Some issues to consider when drafting new - or revising existing - parental leave policies

- Whether or not to provide enhanced shared parental pay - and, if so, will this be at the same level as enhanced maternity pay? Several large companies, including Deloitte, PricewaterhouseCoopers and Shell (who between them employ nearly 100,000 individuals in the UK), have already announced that they intend to offer enhanced paternity packages to all employees.

- How will any enhanced shared parental pay link in with return-to-work bonuses (if currently provided)?
- What systems are needed to verify proof of eligibility and/or monitor leave taken in order to minimise abuse and ensure correct pay and leave is given?
- How to ensure fair treatment of requests to take leave in more than one block so as to adequately protect the business?

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