

Legal UPDATE

Government Gives Go Ahead for Additional Paternity Leave for New Fathers

The Government has announced that the Additional Paternity Leave Regulations 2010 will be introduced according to the timetable proposed by the previous Government. The Regulations will allow new parents greater flexibility as to how they make use of the statutory period of maternity leave.

Currently, fathers who are employees are entitled to two weeks' paternity leave, provided they have worked for their employer for not less than 26 weeks ending with the week immediately preceding the 14th week before the child's expected week of birth.



New mothers are entitled to 52 weeks' maternity leave, of which up to 39 weeks are paid. The Regulations give new fathers the right to take additional paternity leave in the period between 20 weeks and one year after the birth of their child if the mother chooses to return to work with maternity leave outstanding and the father will have the main responsibility for caring for the child.

Some of the father's leave may be paid if it is taken during the mother's 39-week maternity pay period. The period of leave must be continuous; the minimum allowed will be two weeks and the maximum 26 weeks. The changes apply equally to spouses, partners and civil partners of a child's mother or of an adoptive parent who has elected to take adoption leave.

An employee wishing to take additional paternity leave must give notice to their employer not less than eight weeks before the start date chosen for the period of leave.

This notice must include:

- a declaration confirming that the employee is either the child's father, is married to or is the partner or civil partner of the mother or parent taking adoption leave

and that the reason for the leave is that the employee expects to have the main responsibility for caring for the child; and

- a declaration from the mother or parent taking adoption leave, which must include that person's name and address, the date on which they intend to return to work, their National Insurance number, confirmation of the information contained in the statement made by the employee requesting paternity leave and a statement that to the best of their knowledge the employee requesting leave is the only person exercising the entitlement to additional paternity leave in respect of the child and consenting to the employer processing the information given in the declaration.



Employers and HM Revenue and Customs will have the power to carry out checks on the information provided where necessary. However, business leaders have expressed fears that allowing new fathers to self-certify that they are eligible for leave increases the risk of fraudulent requests.

The new rights will apply to the parents of children due to be born or who are matched for adoption on or after 3 April 2011.



Contact Michael Davey for advice on any Contractual issues.

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