

1. Introduction

For children due on or after 5 April 2015, a new system of shared parental leave has been introduced. The change is designed to give working parents more choice as to how they spend time with their child in the first year after the birth. Detailed guidance is available on the government website (gov.uk), but the main points are summarised in the **Shared Parental Leave Policy** suite of documents.

2. What is Shared Parental Leave?

Shared parental leave (SPL) represents an additional 13 weeks of unpaid parental leave, running alongside (but not instead of) ordinary paternity leave, adoption leave, and 'normal' unpaid parental leave.

The amount of parental leave to which a parent is entitled will depend on when the mother ends her maternity leave. A mother can choose to return to work quickly and hand over her remaining entitlement to her partner, provided that they are also eligible for SPL. Qualifying parents can share 50 weeks' leave from the birth of the child until its first birthday.

By way of example:

A mother and her partner are both eligible for SPL. The mother ends her maternity leave after 12 weeks, leaving 40 weeks of entitlement available for SPL. She takes 30 weeks and her partner takes 10 weeks.

Parents can alternate leave or both can take leave in blocks of leave or use it in one go. Leave must be of a week's duration or more.

3. Who is eligible for SPL?

The following staff are eligible for SPL:

- A mother or father of a child born (or adopted) on or after 5 April 2015;
- their husband, wife, civil partner or spouse;
- the child's other parent; and
- their partner (if they live with the child).

One of the parents must also be entitled to Maternity Allowance or adoption pay or leave.

The employee must also:

- have worked for the employer for at least 26 weeks by the end of the 15th week before the due date (or the date they are matched with their adopted child);
- still be employed by the employer when SPL is due to start; and
- give the employer the correct notice (at least 8 weeks before the period of leave is due to start), including ensuring their partner meets the employment and income requirements when they want to get SPL.

4. How does SPL work?

A mother must take a minimum of 6 weeks of leave following the birth of the child (four weeks if she works in a factory or a mine).

If an employee is eligible for SPL, they must end maternity or adoption leave and pay (or Maternity Allowance) before they can start SPL.

- take the rest of the 52 weeks (or 39 weeks if they work in a factory or a mine) as Shared Parental Leave (SPL); and
- take the rest of the 39 weeks (or 26 weeks if they work in a factory or a mine) as Statutory Shared Parental Pay (ShPP).

Sometimes only one parent in a family can take SPL and Statutory Shared Parental Pay (ShPP). This means that the other parent must wait until the first parent has finished their leave before they can start theirs.

Shared Parental Pay is paid at the same rate as Maternity Pay or Maternity Allowance or at 90% of the employee's earnings if this figure is lower than the rate set by the Government for ShPP.

NOTE: Employers offering an enhanced maternity or adoption leave package on top of statutory entitlements should be mindful of the risk of shared parental leave if benefits are not also enhanced for those on shared parental leave.

5. Starting Shared Parental Leave

In order for Shared Parental Leave to be taken, the mother or adopter must do one of the following:

- end their maternity or adoption leave; or
- give the employer binding written notice (at least 8 weeks before the date on which they want to start SPL or adoption leave);
- end maternity pay or Maternity Allowance.

A mother cannot return to work before the end of her compulsory two weeks of maternity leave following the birth of the child (or four weeks if she works in a factory).

The mother must give the employer notice to end her maternity pay, or give the same notice to Jobcentre Plus to end Maternity Allowance. Adopters must give employers notice to end adoption leave.

SPL can start for the partner who is still on maternity or adoption leave, provided that she has given notice to end her maternity leave.

6. Employee's Duties

The employee must give the employer notice of their entitlement to SPL and ShPP (by means of a notice of entitlement).

- their partner's name;
- start and end dates for maternity leave; and
- the total amount of SPL and ShPP they intend to take; and
- the fact that they are sharing the responsibility with their partner.

It must also include a signed declaration stating:

- their name, address and contact details;
- that they satisfy the qualifications for SPL and ShPP; and
- that they agree to the employer's decision to grant SPL and ShPP.

After receiving this notice, the employer must:

- a copy of the child's birth certificate;
- the name and address of the child's father.

An employer has 14 days to ask for a copy of the birth certificate to provide it.

It is sensible for employers to discuss options regarding SPL early on, so that options and entitlements can be agreed. The earlier an employee informs the employer of their intentions, the more wishes can be accommodated, particularly if the employee wishes to take continuous leave.

7. Notice period

An employee must 'book' SPL (by giving eight weeks' notice of any leave they wish to take). This notice period can be shorter if the employee is born more than eight weeks early.

An employee has a statutory right to take SPL in separate blocks of leave, although employers can allow more if they wish. The notice can be for a pattern of 'discontinuous' leave. If a parent asks for discontinuous blocks of leave, the employer can refuse and require the employee to take the total weeks of leave in a continuous block. However, where the employee's notification is for a continuous block, the employer is required to agree.

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The mother or adopter may be asked to end maternity or adoption leave early if both:

- the planned end date has passed;
- they have not already returned to work.

One of the following must also apply:

- it is discovered during the leave period that neither partner is eligible for SPL or ShPP;
- the employee's partner has not given notice before the birth (or adoption) .
- it is less than six weeks after the birth (or adoption) .

9. Shared parental leave

Employees can work for up to 20 weeks without bringing it to an end. These are called 'shared parental leave in blocks'. These SPLIT days may be to discuss employees' plans for the future, to ease their return to work or to update them on developments at work. Any work undertaken and the amount paid is a matter for agreement between the employee and the employer.

These days are in addition to the 52 (SPLIT) days already available to those on maternity or adoption leave.

10. Blocks of Leave

Employees taking Shared Parental Leave can take their leave into up to three separate blocks instead of taking it all at once if they are not sharing the leave with their partner.

If both parents are taking SPL they can take their leave at the same time as each other or at different times.

11. Splitting blocks of leave

With the agreement of the employer, an employee can split a block of leave into shorter periods of at least a week.

By way of example:

Employees could work every other week block, using a total of six weeks of their SPL.

Employers cannot refuse a request for a split block if the employee is eligible and gives the correct notice. As stated above, employers must agree to the employee dividing the block of leave into shorter periods.

12. Rights during SPL

During SPL, all terms and conditions of employment except normal pay will continue.

13. Record keeping

Employers must keep the following records for at least 6 years from the end of the ShPP period for Revenue and Customs (HMRC):

- the evidence provided by the employer to demonstrate their eligibility for ShPP;
- the date ShPP began, the date it ended, and reclaimed; and
- any weeks of ShPP the employer was not eligible for, and the reasons for that.

Records must be kept for at least 6 years from the end of the ShPP period.

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