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1. Introduction

For children due on or after 5 April 2015, a new system of shared parental leave will be introduced. This change is designed to give working parents more choice as to how they take their child's birth. Detailed guidance is available on the government website (gov.uk), but the main points are set out in the **Shared Parental Leave Policy** suite of documents.

2. What is Shared Parental Leave?

Shared parental leave (SPL) represents a new type of unpaid parental leave (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 parent can choose to return to work quickly and hand over her share of leave to another parent, provided that they are also eligible for SPL. Qualifying parents can take up to 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' leave available for SPL. She takes 30 weeks and her partner takes 10 weeks.

Parents can alternate leave or both take leave in blocks of leave or use it in one go.

3. Who is eligible for SPL?

The following staff are eligible for SPL:

- A mother or father of a child (or adopter (or adoptive parent) 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 ordinary paternity leave or leave or Maternity Allowance or adoption pay or leave.

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For children due on or after 5 April 2015, a new system of shared parental leave will be introduced. This change is designed to give working parents more choice as to how they take their child in the first year after the birth. Detailed guidance is available on the government website and the government's Shared Parental Leave website. Please also see the Simply-Docs suite of documents in the Shared Parental Leave suite of documents.

Shared parental leave (SPL) represents a new type of unpaid parental leave, running alongside ordinary paternity leave, adoption leave, and 'normal' unpaid parental leave.

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One of the parents must also be entitled to ordinary paternity leave or leave or 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 the child is adopted if they are matched with their adopted child);
- still be employed by the employer when the leave 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 2 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 can take the rest of their end maternity or adoption leave and pay (or Maternity Allowance or Statutory Maternity Pay) as Shared Parental Leave.

- take the rest of the 52 weeks of leave (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 of leave (or 52 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 leave is shared between them.

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 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, either the mother or adopter must do one of the following:

- end their maternity or adoption leave; or
- give the employer binding notice (at least 8 weeks before the date on which they want to start Shared Parental Leave 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 her maternity leave.

6. Employee's Duties

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

- their partner's name;
- start and end dates for maternity leave; how much they and their partner 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 take SPL and ShPP.

After receiving this notice, the employer must provide:

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

An employer has 14 days to ask for a copy of the notice and provide it.

It is sensible for employers to discuss options regarding SPL early on, so that options and entitlements can be discussed. 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 child is born more than eight weeks early.

An employee has a statutory right to take separate blocks of leave, although employers can allow more if they agree. An employee can be for a block of leave or the notice period 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.

8. Cancelling the decision

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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 that neither partner is eligible for either SPL or ShPP;
- the employee's partner has not given notice before the birth (or other partner gave notice before the birth);
- it is less than six weeks after the birth.

9. Shared parental leave

Employees can work for up to 20 weeks of Shared Parental Leave (SPL) in total. These are called 'shared parental leave in blocks'. Employees should discuss employees' plans for the leave with their employer and update them on developments as they arise. The amount of leave and the amount paid is a matter for agreement between the employee and the employer.

These days are in addition to the 52 (or 56) 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, employees 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 Shared Parental Leave 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 the employee's contract except normal pay will continue.

13. Record keeping

Employers must keep the following records for at least 6 years for Revenue and Customs (HMRC):

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

Records must be kept for at least 6 years.

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