



Additional Paternity Leave

April 2010

The Additional Paternity Leave Regulations came into force on 6 April 2010 and will apply to parents of children due on or after 3 April 2011.

Additional Paternity Leave (APL) in essence allows a mother to transfer some of the last 6 months of her Additional Maternity Leave or Additional Adoption Leave to the father of her child so that she can return to work.

The key points

- The maximum duration of APL is 26 weeks.
- The minimum duration of APL is two consecutive weeks.
- APL must be taken in multiples of complete weeks and in a continuous block.
- The mother must have returned to work; a mother and father cannot take maternity leave and APL at the same time.
- Additional statutory paternity pay is typically paid at the rate of standard statutory maternity pay (currently £124.88 per week) during the mother's statutory maternity pay period.



Who has the right?

Does it only apply to fathers?

No, as with the current two weeks ordinary paternity leave arrangements, APL is not limited to fathers. It will also apply to fathers, partners and civil partners of mothers and adopters adopting from within the UK, where there is an entitlement to statutory adoption leave.

Who is eligible to take APL?

The father (civil partner, partner or adopter) must have been eligible for statutory paternity leave and employed continuously by the same employer for at least 26

weeks by the qualifying week (i.e. the 15th week before the baby is due, or in the case of adoption, the week the adopter is matched with the child for adoption). He must still be in the same employment when he starts APL.

What other conditions are attached?

The father must have responsibility for bringing up the child and the mother must also have been eligible for maternity leave, statutory maternity leave or maternity allowance AND must have returned to work with some of her statutory maternity leave untaken.

What type of leave?

How much leave can be taken?

A minimum of two weeks APL may be taken and a maximum of 26 consecutive weeks. It must be taken in multiples of complete weeks and in one continuous block.

When can leave be taken?

Leave can commence at any time from 20 weeks after the child is born (or adopted) and must end 12 months

after the child is born (or adopted). The mother must have returned to work but a gap between her return and the start of the father's APL is permitted.

Is the leave paid?

Yes, typically at the standard SMP rate (currently £124.88). If APL is taken after the end of the mother's statutory maternity pay period however, it must be taken as unpaid leave.

The leave notice

How much notice should my employee give to me?

The employee should give you a minimum of 8 weeks notice before the date chosen for APL to begin.

What else does he need to provide?

Not less than 8 weeks before the date chosen for additional paternity leave to begin, the employee must provide a number of pieces of additional evidence:

- **the leave notice** - details of the expected week of the child's birth, the actual date of birth and the dates he has chosen for the leave to begin and end;
- **an employee declaration** - confirmation that he is the child's father, or is married to (or the partner or civil partner) of the child's mother, and has responsibility for the upbringing of the child and will be taking leave for the purpose of caring for the child; and

- **a mother declaration** - a declaration from the mother confirming her name and address, the date she intends to return to work and her National Insurance number. The mother must also confirm that the employee is the child's father (or is married to her or her partner or civil partner); that to her knowledge he is the only person exercising the entitlement to APL in relation to the child and that she consents to you processing her information in the declaration. The declaration must be signed by the child's mother.

What should I do on receipt of an employee's notice?

You need to respond to the employee to confirm his entitlement to APL within 28 days of receiving his notice.

Checks

How will I ensure a father has the right to take leave?

The Government intends fathers to self-certify that they have the right to take leave. Employers may carry out certain additional checks to verify information.

What additional checks can employers carry out?

Within 28 days of receiving the notice you can request that the father supply a copy of the child's birth certificate and

the name and address of the mother's employer. He will need to provide this information within 28 days.

Do I have to comply?

HMRC will conduct compliance checks on employers and employees. There will be financial penalties for those that abuse the system.

Other rights

Will the employee's contract of employment continue?

Yes, fathers have a statutory right to benefit from the terms and conditions of employment which would have applied had they been at work (except for remuneration). Benefits such as company car, mobile phone or childcare vouchers will continue.

Do I have to keep the employee's job open?

A father taking APL will be entitled to the same right to return to work as a mother returning after ordinary maternity leave; that is to return to the same job on the same terms and conditions as before the APL began.

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