

Shared parental leave for new parents



Members of staff announcing that they are soon to be parents will be entitled to take shared parental leave. This applies to pregnancies with a due date on or after 5 April 2015.

Under this new right, expectant parents will be able to choose how they share time off work for the first year of their child's life so that they can both retain a link to their workplace. Gill Wilkinson, employment law expert at Ware & Kay Solicitors in York & Wetherby, explains how the new right will work in practice.

The new legislation will allow a woman to return to work early and share the remainder of her leave and pay with her partner, if she wishes. The current entitlement to 52 weeks' maternity pay and 39 weeks' maternity pay will remain the default position and the woman will still have to take two weeks of compulsory maternity leave after giving birth, or four weeks if she works in a factory.

Eligibility

The mother must be entitled to maternity leave and either statutory maternity pay or maternity allowance and her baby must be due on or after 5 April 2015. There are additional eligibility requirements regarding length of service and pay, which apply to both parents.

The new procedure

The woman must give at least eight weeks' notice of her intention to end maternity leave and pay and take shared parental leave instead. This can be given before the birth but she will have six weeks following the birth to change her mind. An employee must give eight weeks' notice of their intention to take shared parental leave. The employer and employee should then agree the pattern of leave within two weeks. If they cannot agree it, the leave will have to be taken in one block. An employee can give up to three notifications of intention to take leave, which includes the original request and two further changes, so can take up to three separate blocks of leave.

Shared parental leave in detail

Eligible employees will have up to 50 weeks' leave and 37 weeks' pay. They can decide to take the shared parental leave in turns or at the same

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time. The leave can be taken in a single period or in multiple blocks but must be taken in complete weeks. It all has to be taken before the child's first birthday. A father will be able to take one or two weeks of paid paternity leave, in addition to shared parental leave.

Parents will have a joint entitlement to shared parental leave and pay. The maximum amount that will be available will be the balance of the mother's untaken statutory maternity leave and pay. The rate of pay will be the same as statutory maternity pay.

Parents will be allowed to have up to 20 'in touch' days while on shared parental leave. These are days on which they can carry out work for their employer or attend training, without bringing their shared parental leave to an end.

Employees will be entitled to all contractual terms and benefits, except pay, during a period of shared parental leave. This will include pension contributions, annual leave and personal use of a company car, for example. They will accrue holiday entitlement while on shared parental leave and will be able to carry forward unused holiday into the next holiday year.

If an employee is dismissed for a reason based on their return from shared parental leave or you fail to provide the same job to an employee who is returning from a period of leave that totals 26 weeks or less, they will be able to claim automatic unfair dismissal in the employment tribunal.

A similar scheme will apply to adoptive parents and intended parents in surrogacy arrangements.

Guidance

Acas has published brief guidance on shared parental leave and pay and is preparing more in-depth guidance. The government has produced an employer guide and an employee guide.

Action points

You will need to update your family leave policies to set out the rules and procedure for applying for and taking shared parental leave. You should also consider what record-keeping procedures you will need to put in place.

If you have any queries on shared parental leave or you would like us to update any of your family leave policies, please contact Gill Wilkinson, Head of Employment.

Ware & Kay

Contact us

For a free, no obligation discussion call Gill Wilkinson on York **01904 716000** or Wetherby **01937 583210**.