

Shared Parental Leave and Statutory Parental Pay

UK law allows employees the right to use shared parental leave (SPL) and receive statutory shared parental pay (ShPP) to welcome a newly born or adopted child.

This document presents an overview of SPL and ShPP benefits and eligibility as well as the application process.

SPL AND SHPP BENEFITS

Currently, shared parental leave (SPL) or statutory shared parental pay (ShPP) is available for employees if their baby is due, or they adopt a child, on or after 5 April 2015.

Employees can use SPL or ShPP in up to three blocks of leave rather than all at once, even if they aren't sharing the leave with a partner. However, mothers must use their maternity leave, allowance or pay before SPL or SHPP can begin. Similarly, there must be an end to adoption leave or pay before SPL or ShPP can begin.

SPL regulations allow employees to take up to 52 weeks of leave (minus any weeks of maternity or adoption leave). ShPP regulations allow employees to receive up to 39 weeks of pay (minus any weeks of maternity pay, maternity allowance or adoption pay). ShPP is paid at the rate of £139.58 per week or 90 per cent of an individual's average weekly earnings, whichever is lower.

$$\text{SLP} = 52 \text{ weeks} - \text{Number of weeks used for maternity or adoption leave}$$

Finally, SPL and ShPP must be taken within the first year after birth or adoption. Parents must qualify individually for SPL and ShPP. Spouses may share the leave between them if they are both eligible.

SPL ELIGIBILITY

To qualify for SLP, an employee must share responsibility for the child with a spouse, civil partner or joint adopter, the child's other parent or a partner who lives with the employee and the child.

Employees must also:

- Have been employed continuously by the same employer for at least 26 weeks. The 26-week period is determined by looking at the employee's work history 15 weeks prior to the child's due date or adoption match date; and
- Remain with the same employer while taking SPL.

In addition, during the 66 weeks before the week the baby is due, or the week an employee is matched with his or her adopted child, the employee's partner must have:

- Been working for at least 26 weeks (the 26-week period does not need to be continuous);
- Earned at least £390 in total during 13 of the 66 weeks (it is permissible to add up the highest earning weeks, regardless of whether they were continuous).

These partner conditions apply whether the partner is an employee, worker or self-employed individual. Moreover, a partner does not need to be working at the date of birth or when SPL or ShPP begins.

This summary is provided for general informational purposes only and does not apply to specific circumstances. It does not purport to be a comprehensive analysis of all matters relevant to its subject matter. The content should not, therefore, be regarded as constituting legal advice and not be relied upon as such. In relation to any particular problem which they may have, readers are advised to seek specific advice. Further, the law may have changed since first publication and the reader is cautioned accordingly.

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SHPP ELIGIBILITY

Employees are eligible for ShPP if they are eligible for:

- Statutory maternity pay (SMP) or statutory adoption pay (SAP); or
- Statutory paternity pay (SPP), and the employee's partner is eligible for SMP, maternity allowance (MA) or SAP.

Workers are eligible for ShPP if they are eligible for SMP or SPP.

THE PROCESS

Employees must give their employer written notice of their entitlement of SLP and ShPP. Notice must be provided at least eight weeks prior to when the employee wishes to use his or her leave. The government has produced model notices that employees may use to satisfy these requirements.

Within 14 days of receiving notice, an employer may request an employee applying for SPL or ShPP to provide additional information. Employees must provide the additional information with 14 days of the request. Additional information includes:

- A copy of the birth certificate;
- A declaration of the place and date of birth (if the birth hasn't been registered yet); and
- The name and address of the partner's employer or a declaration that the partner has no employer.

In cases of adoption, employers may request:

- The name and address of the adoption agency;
- The date the employee was matched with the child;
- The date the child will start living with the employee; and
- The name and address of the partner's employer or a declaration that the partner has no employer.

