

[Home](#)[A-Z index](#)[Search](#)[Help](#)

Summary of Statutory Paternity Pay (birth)

NB This summary outlines the main aspects of the new right to Statutory Paternity Pay. The SPP scheme has been approved by Parliament. It came into force on 8 December 2002 throughout the UK.

- [Implementation](#)
- [Entitlement conditions](#)
- [Paternity Pay Period \(PPP\)](#)
- [Recovery](#)
- [Records](#)
- [Early Births](#)
- [Special Cases](#)
- [Interaction with SSP](#)
- [Terms](#)
- [More Information](#)

Implementation

Paternity leave and pay is available to parents whose babies are due on or after 6 April 2003. **A baby expected to be born on or after 6 April 2003 could be born prematurely as early as the end of November 2002.**

Parents whose babies are due before 6 April 2003 but are born after 6 April 2003 can also be entitled to Paternity leave and pay but special notice arrangements apply - employees have to give their employers 28 days notice of their absence. This will mean that these employees are not automatically entitled to leave or pay from the date of birth itself.

[Top](#)

Entitlement conditions

To qualify for **Statutory Paternity Pay** in respect of a newborn child the employee must:

- Have a prescribed relationship with the child **and** the mother
- Have been continuously employed for at least 26 weeks into the Qualifying Week (QW)
- Remain in continuous employment with the employer from the end of the QW up to the date of birth of the child
- Intend at the start of the Paternity Pay Period to care for the child or support the mother
- Have average weekly earnings at or above the LEL that applies at the end of the QW
- Give the employer notice of when he expects the liability to pay SPP to begin at least 28 days

beforehand. Where this is not reasonably practicably it must be given as soon as is practicable. [For paternity leave notice must be given at the QW, though the employee can change the length and start date of leave as long as they give the employer 28 days notice. Where this is not reasonably practicably it must be given as soon as is practicable.]

Entitlement to SPP is by self-certificate. IR have produced form [SC3](#) for employees and employers to use. Employers can produce their own form, providing it contains the required information. Employers will have no right to see form MATB1.

The rules on continuous employment and calculation of average weekly earnings mirror those for Statutory Maternity Pay (SMP).

Unlike SMP, entitlement to SPP cannot be established until the baby has been born. Once entitlement has been established it cannot be lost, for example if the employee was made redundant after the date of birth but before they had planned to start their leave and pay period.

Even if more than one child is born as the result of the same pregnancy, only one period of SPP is available.

If the baby is stillborn before the 25th week of pregnancy (treated as the 16th week before the EWC) there is no entitlement to SPP, in the same way that there is none for SMP.

Entitlement to SPP will not end if either the mother or baby die.

[Top](#)

Paternity Pay Period (PPP)

Leave cannot start before the child has been born. Leave cannot continue later than the 56th day after the date of childbirth or the 56th day after the Sunday of the week in which the baby is due whichever is the later.

SPP cannot be paid by an employer to an employee for any week during which the employee is entitled to be paid SSP.

Leave and PPP can start on any day of the week. Leave can only be taken in whole weeks.

Leave can only be taken as a single period of either one or two weeks' leave.

SPP cannot be paid by an employer to an employee for any week during which the employee does some work for that employer.

SPP will end if the employee dies or is taken into legal custody (mirroring SMP).

Unlike SMP a week during the PPP does not start on a Sunday and end on a Saturday but is a period of 7 days. For example if the employee starts their leave on a Tuesday, then the PPP runs from Tuesday to Monday; if they start their leave on a Friday, then the PPP runs from Friday to Thursday.

[Top](#)

Recovery

Employers can recover either 92% of the SPP they have paid, or 100% plus compensation if they qualify for Small Employers Relief (SER).

The qualification for SER, and the amount of compensation are the same as for SMP.

Employers will also be able to apply for funding in advance, as they can now for tax credits.

[Top](#)

Records

Employers must tell their employee if they are not entitled to SPP in writing. IR have produced form [SSP1](#) for employers to use but they will be able to produce their own, providing it contains the required information.

Employers will also need to keep the same kinds of records that they need to keep for SMP. IR have produced form [SSP2](#) for employers to use. Details of the SPP paid and recovered will need to be recorded on the required legislative returns (P14/P35 or equivalent) as they are now for SMP.

Where the baby is born early, i.e. before 6 April 2003, and SPP is paid and recovered in 2002/03 it should be recorded on the P11, P14 and P35 as though it were SMP. From 2003/04 these forms will require separate entries for SPP.

[Top](#)

Early births

The same rules will apply to SPP as apply to SMP in respect of early births.

[Top](#)

Special cases

Like SMP there are some adaptations to the rules where, for example an employee has more than one job, or works abroad. These mirror the rules on SMP.

[Top](#)

Interaction with SSP

If the employee is sick before they have started their PPP, the PPP must be delayed until they are well. There is no extension to the 56 day period in which SPP can be paid in these circumstances.

If the employee notifies their employer that they are sick during the PPP then there will be no entitlement to SPP during any week in the PPP in which the employee is entitled to be paid SSP. An employee can get SPP while sick and serving their waiting days for SSP.

An employee who is, exceptionally entitled to SPP but not SSP can continue to get SPP while they are sick.

The exact details of how this will operate have not yet been decided.

[Top](#)

Terms

Expected Week of Childbirth

This is the week in which the child is expected to be born. SMP legislation refers to Expected Week of Confinement. The terms childbirth and confinement are interchangeable.

Qualifying Week

This is the 15th week before the Expected Week of Childbirth (EWC)

[Top](#)

More information

A step-by-step guide to working out SMP, maternity leave, Statutory Paternity Pay and paternity leave for birth parents is available in helpbook, Pay and time off work for parents [E15\(2003\)](#) (PDF 196K).

IR have provided some answers to [frequently asked questions](#).

Links to the Employment Act 202, the relevant regulations and DTI publications are available at the [Department of Trade and Industry website](#).

[Home](#)

[Top](#) | [Menu](#)
