

Statutory Paternity Pay (Adoption)

Statutory Paternity Pay (SPP) may be payable to an employee (male or female) in respect of a child up to the age of 18 newly placed for adoption where the certificate matching them with a child for adoption is issued on or after 6 April 2003. To qualify the employee must:

- Be liable to Class 1 National Insurance contributions
- Have a prescribed relationship with the child placed for adoption *and* the person with whom the child is placed, or is expected to be placed, for adoption
- Have been continuously employed for at least 26 weeks into the Matching Week (MW), ie when the adopter is notified that they have been matched with the child
- Remain in continuous employment with the employer from the end of the MW up to the date of placement with the adopter
- Intend at the start of the Paternity Pay Period (PPP) to care for the child or support the adopter
- Have average weekly earnings at or above the Lower Earnings Limit (LEL) that applies at the end of the MW (£84 per week in 2006/07)
- 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 practicable it must be given as soon as is practicable

PATERNITY PAY PERIOD

When you have determined that the employee qualifies for SPP it is payable for a single period of either one or two weeks. The PPP cannot start before the child has been placed and cannot continue any later than the 56th day after the child was placed.

The PPP can start on any day of the week for which a week is a period of 7 days.

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

SPP will end at the end of the week in which the child becomes 18. SPP will also end if the employee is taken into legal custody or dies.

STATUTORY PATERNITY PAY ENTITLEMENT

Employees who satisfy the qualifying conditions will be entitled to a maximum of 2 weeks SPP. For 2006/07 this is £108.85 per week or 90% of average weekly earnings, whichever is the lowest amount. Note that there is no daily rate, as entitlement must be taken in blocks of at least one week.

CALCULATION OF AVERAGE EARNINGS

The 'relevant period' to be used to calculate an employees average weekly earnings is the period between:

- 1 the last normal payday before the end of the matching week, ie on or before the Saturday of the qualifying week itself; and
- 2 the last normal payday falling at least eight weeks before the payday at 1.

For example, your employee is paid monthly on the last day of the month. If your employee's Matching Week was Sunday 24th November to Saturday 30th November, the last normal payday would be Friday 29th November. You then need to work back eight weeks from the 29th November (which will take you back to Friday 4th October) and include any paydays that fall within this period, ie Thursday 31st October.

To calculate the weekly average of the 2 payments, ie 29th November and 31st October, you should add the two figures together, multiply by six and then divide by 52 to give you a weekly average.

SELF CERTIFICATION

Entitlement to SPP will be by Self Certificate. The employer can design their own form providing it contains the required information or they can obtain a supply of forms SC4 from the Inland Revenue. The SC4 form should then be passed to the employee for completion. The employer will have no right to see the MATB1 form.

STATUTORY PATERNITY PAY RECOVERY

The arrangements for recovery of Statutory Paternity Pay mirror those in place for Statutory Maternity Pay. In general, employers are able to recover 92% of the gross SPP paid to an employee, but where the employer is deemed a 'Small Employer', the employer can recover 100% of the gross SPP paid plus an additional 4.5% in respect of compensation for the employers' National Insurance Contributions paid on the SPP.

To be deemed as a Small Employer for SPP paid in the 2006/07 tax year, Class 1 National Insurance contributions (both employees' and employers') in the last complete tax year before each employee's matching week must be equal to or less than £45,000.

The method of recovery is to simply subtract the amount to be recovered from payments over to HMRC in respect of PAYE and National Insurance Contributions.

If there are insufficient monies from which to make the deduction, ie where the employer expects to pay out more in SPP than they will have to pay to HMRC for the same period, then an application to the HMRC Accounts Office can be made for advance funding.

NON PAYMENT OF SPP

Where an employee does not qualify to receive SPP from you, you must notify the employee in writing. The Inland Revenue has produced a model notification form for employers to use (form SPP1) but employers are free to produce their own. The employee will then be able to make a claim for Income Support.

This fact sheet is an outline of the position at the time of writing.

It offers general guidance only and should not be regarded as a complete or authoritative statement of law.

No part of this fact sheet should be copied or transmitted to any third party.

If you wish to adapt the fact sheet for your own internal use, you must contact the Helpline before doing so.

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