

**Appendix 17**

**PATERNITY LEAVE**

**In accordance with Article 48**

Statutory rights in accordance with the Employment Act 2006 came into force for babies due on or after 30<sup>th</sup> September 2007.

**1. PATERNITY PROVISIONS**

- 1.1 The statutory right to paternity leave allows an eligible employee, who provides the required notice, to take one week or two consecutive weeks leave to care for the baby/child or to support the mother/adopter following birth (paternity leave cannot be taken for any other purpose).
- 1.2 The masculine pronoun has been used throughout this section, however all provisions apply equally to both eligible male and female employees.

**2. WHO IS ELIGIBLE?**

- 2.1 An employee must have worked continuously for the same employer:
  - For 26 weeks ending with the 14<sup>th</sup> week before the baby is due (the 'qualifying' week) and
  - From the 14<sup>th</sup> week before the baby is due up to the date of the birth
- 2.2 If the baby is born earlier than the 14<sup>th</sup> week before it is due and, but for the birth occurring early, the employee would have been employed continuously for the 26 weeks, then he will be deemed to have the necessary length of service.
- 2.3 An employee is eligible for paternity leave if he has or expects to have responsibility for the baby's/child's upbringing and is the biological father of the baby, and/or the husband or partner of the mother/adopter. In the case of a couple who are adopting jointly, the couple can decide who will take Adoption Leave and who will take Paternity Leave.
- 2.4 A 'partner' is someone who lives with the mother of the baby in an enduring family relationship but is not an immediate relative. 'Partner' may include a female partner in a same-sex couple.
- 2.5 Paternity leave must be taken in order to care for the new baby/child or support the mother/adopter of the baby/child.

**3. NOTICE PERIODS**

- 3.1 An employee must advise their employing authority that he intends to take paternity leave:
  - a) by the end of the 15<sup>th</sup> week before the week the baby is due (if this is not possible, as soon as is reasonably practicable) or
  - b) within 7 days of the date on which the adopter is notified of being matched with the child (or as soon as reasonably practicable) providing the following information:

- i) in the case of birth parents:
  - the expected week of the baby's birth
  - whether he wishes to take one or two week's leave
- ii) in the case of adopters:
  - The date on which the adopter was notified of having been matched with the child
  - The expected week of the baby's birth/child's placement
  - Whether he wishes to take one or two weeks leave
  - When he wants to start his leave, giving at least 28 days notice of the start date (or, if not practicable, as soon as reasonably practicable)

- 3.2 The form at Annex 1 (Paternity)/Annex 2 (Adoption) must be completed. On receipt of the completed declaration the employing authority should:
- Retain a copy
  - Send a copy to the appropriate pay section
  - Send a copy to the Office of Human Resources (if applicable)
- 3.3 If an employee wishes to change the date he wants to start his leave, he must give the employing authority 28 days notice before that date (or as soon as reasonably practicable).

#### **4. PATERNITY LEAVE**

- 4.1 An employee eligible for paternity leave can choose to take paternity leave of either one week or 2 consecutive weeks. Leave cannot be taken as odd days or as 2 separate weeks. If more than one baby is born as a result of the same pregnancy, or more than one child is placed for adoption as part of the same arrangement, only one period of leave can be taken.

#### **5. TIMING OF PATERNITY LEAVE**

- 5.1 Leave can start any time between the birth and 56 days after the first day of the week the baby was due.
- 5.2 Paternity leave cannot be taken before the birth of the baby. If the baby is not born by the date specified, the employee must change the date or choose to take leave from the actual date of birth or a specified number of days after the birth.

#### **6. PATERNITY PAY**

- 6.1 There is no contractual right to paternity pay.
- 6.2 In accordance with established Government policy an employing authority may exercise discretion in respect of paternity pay, whereby paid leave of absence will be given following the birth of the baby for a maximum of 5 days.
- 6.3 Employees may be eligible to claim paternity allowance from the Department of Health and Social Care.

## **7. PENSION CONTRIBUTIONS**

- 7.1 Employer contributions will be calculated as if the employee is working normally and being paid as usual for doing so. If the pension scheme requires the employee to make contributions, and he receives any contractual paternity pay during leave, his contributions will be based on the amount of paternity pay he receives.

## **8. STILL BIRTH OR DEATH OF A BABY**

- 8.1 In the tragic event of still birth or the death of a baby shortly after birth, the employee eligible for paternity leave will be entitled to such leave if the baby is stillborn after 24 weeks of pregnancy. If the baby is born alive at any point in the pregnancy but dies later, the employee will be entitled to paternity leave in the usual way.

## **9. DISRUPTION OF PLACEMENT DURING ADOPTION LEAVE**

- 9.1 If the adopter is told, before paternity leave has started, that the placement will not be made, the employee will not be able to take paternity leave. If the child is placed and then dies or is returned to the adoption agency, the employee will be entitled to paternity leave as planned.

<b>Your dates for Leave</b>	
The baby is due on	
And, if the baby has been born, please enter the actual date of birth	
I would like my paternity leave to start on	
I want to be away from work for one/two* weeks (*delete as appropriate)	
Surname	
First Name	
<b>You must be able to tick all three boxes below to be eligible for paternity leave</b>	
I declare that	
<ul style="list-style-type: none"><li>• I am<ul style="list-style-type: none"><li>– the baby's biological father, or</li><li>– married to the mother, or</li><li>– living with the mother in an enduring family relationship, but not an immediate relative</li></ul></li></ul>	<input type="checkbox"/>
<ul style="list-style-type: none"><li>• I have responsibility for the child's upbringing</li></ul>	<input type="checkbox"/>
<ul style="list-style-type: none"><li>• I am taking time off work to support the mother or care for the child</li></ul>	<input type="checkbox"/>
<b>I understand that where one or two weeks paternity leave is approved, only five days will be paid.</b>	
Signature	<input type="text"/>
Date	<input type="text"/>

**Note: Manager's authorization for paid/unpaid leave provided on next page.**

**This leave is to be paid/unpaid\* (\*Manager to delete as appropriate)**

An officer who is entitled to paternity leave will also be entitled to paternity pay of a maximum of 5 days paid leave.

Signature of Manager

Date

This completed form to be copied to:

Pay Section  
Office of Human Resources  
Public Sector Pensions Authority

<b>Your dates for Leave</b>	
The adoption agency told the person adopting the child that he or she had been matched with the child on _____	
The child is expected to be born on _____ and placed on _____	
If the child has been placed, what date was this on? _____	
I want to be away from work for one/two* weeks (*delete as appropriate)	
<b>Your declaration</b>	
Surname _____	
First Name _____	
<b>You must tick this box if you are adopting a child with your partner</b>	
I declare that I am adopting the child with my partner and I want to receive paternity leave and not adoption leave. <input type="checkbox"/>	
<b>You must be able to tick all three boxes below to get paternity leave</b>	
I declare that	
<ul style="list-style-type: none"><li>• I am either<ul style="list-style-type: none"><li>– married to the person adopting the child, or</li><li>– living with the person adopting the child in an enduring family relationship, but not an immediate relative <input type="checkbox"/></li></ul></li><li>• I shall have responsibility for the child's upbringing <input type="checkbox"/></li><li>• I shall take time off work to support the person adopting the child or care for the child <input type="checkbox"/></li></ul>	
I understand that where one or two weeks paternity leave is approved, only five days will be paid.	
Signature	<div style="border: 1px solid black; height: 40px; width: 100%;"></div>
Date	<div style="border: 1px solid black; height: 40px; width: 100%;"></div>

**Note: Manager's authorization for paid/unpaid leave provided on next page.**

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