

# Paternity Rights in the UK



**CRODA**

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## Introduction

This booklet contains a brief outline of the rights and conditions relating to paternity leave and pay. The legislation related to these rights is complicated and details cannot be given in full. If you have any queries please contact Group HR at Cowick Hall.

The rights allow an eligible employee to take paid leave to care for their baby or to support the mother following the birth. Eligible employees include the biological father of a child, or the mother's husband, civil partner or partner.

This booklet gives general guidance only and should not be regarded as a comprehensive or authoritative statement of the law. The information given in this booklet is correct as at April 2013 and applies to UK employees only.

The company must comply with Social Security and HMRC rules and cannot be held liable for any decision made by an employee regarding any aspects of paternity leave or pay.

## Definitions and Abbreviations

Term	Abbreviation	Meaning
Childbirth		In this booklet childbirth means the live birth of a child, or a still birth after a pregnancy lasting at least 24 weeks.
Expected week of childbirth	EWC	In this booklet expected week of childbirth means the week, beginning with midnight between Saturday and Sunday, in which it is expected that the baby will be born.
Week of childbirth		In this booklet week of childbirth means the week, beginning with midnight between Saturday and Sunday, in which the baby is actually born.
Lower Earnings Limit	LEL	The level of weekly earnings set by government above which National Insurance contributions are payable (£109 per week from April 2013).
Statutory Paternity Pay	SPP	Money paid for a maximum of 2 weeks by an employer to qualifying employees. There are service, earnings and notification tests to qualify. SPP is £136.78 per week as of April 2013 or 90% of average weekly earnings, if that is less.
Partner		Partner may include a female partner in a same sex couple. Where this guide refers to employees as 'father', 'he', 'him' or 'his' this should be taken to include those female same sex partners who qualify.
Statutory Sick Pay	SSP	Money paid by employers to qualifying employees absent through sickness. The standard weekly rate from April 2013 is £85.85 and it is payable for 28 weeks in one spell of incapacity. There are service, earnings and notification tests to qualify.
Additional Paternity Leave	APL	This can be taken if the partner has returned to work. The leave can be taken between 20 weeks and one year after the child is born or placed for adoption.
Additional Paternity Pay	APP	APP will only be payable during the partner's statutory maternity pay, maternity allowance or adoption pay period.

## **Company Policy on Paternity Leave and Pay**

It is Company policy that eligible employees should receive all rights due under the legislation relating to paternity policy and paternity pay. The Company will provide information to employees so that rights can be understood and accessed. It will also ensure that managers are aware of their responsibilities in this respect. The Company supports working fathers and will not tolerate any form of discrimination against them.

## **Employee Obligations**

The procedures that an employee needs to follow in order to claim paternity rights are set out below. It is important that employees familiarise themselves with the requirements set out in this booklet so that they know what information they need to give the Company and when.

Failure to provide the Company with the correct information at the right time may result in employees losing their right to take paternity leave and/or to receive paternity pay.

## **Right to Privacy**

Employees have the right to keep their plans and intentions private regarding family and children. There are no reasons why anyone, either management or colleagues, should ask or expect to be told details of someone's personal life. There is no legal requirement that an employee should inform their employer of impending parenthood. The requirement to inform is only triggered if the employee wants to take advantage of their rights to paternity leave and pay.

## **Paternity Pay and Leave**

### **Purpose**

A partner can only take paternity leave in order to care for their new baby or support the mother of the baby – they cannot take paternity leave for any other purpose.

### **Statutory Paternity Pay and Leave**

If an employee is the father to be or will share the responsibility with a partner for bringing up a child, they may have the right to Statutory Paternity Leave and Pay. This includes those who are adopting a child.

Paternity leave is available to employees who:

- have or expect to have responsibility for the child's upbringing
- are the biological father of the child or the mother's husband or partner (including same sex relationships) and
- have worked continuously for Croda for 26 weeks ending with the 15th week before the baby is due or the end of the week in which the child's adopter is notified of being matched with the child

Those who are eligible can choose to take either one week or two consecutive weeks' paid paternity leave, odd days are not permitted. Employees may be entitled to Statutory Paternity Pay (SPP) which from April 2013 is £136.78 per week or 90% of your average weekly earnings, if that is less. In the case of multiple births/adopted children, entitlement to SPP is exactly the same as if there were one baby/child. SPP is an employment payment and is therefore subject to the usual pay deductions.

The employee will need to take their paternity leave within 56 days of the actual date of birth of the child/adoption date of child, or if the child is born early, within the period from the actual date of birth up to 56 days after the first day of the week in which the birth was expected. An employee can choose to start their leave:

- On the date of the baby's birth/ adoption date of child – whether or not it is born on the expected date
- From a chosen number of days or weeks after the date of the child's birth/ adoption date of child (whether this is earlier or later than expected)
- From a chosen date which falls after the first day of the expected week of childbirth/expected adoption date of child

### **Company Paternity Pay**

The Company provides enhanced paternity pay for employees. This is one week's paid leave of 50% of weekly salary or SPP, whichever is the greater for each week taken.

## **Notification Requirements**

Both Statutory Paternity Leave and Pay are conditional upon employees giving the company notice at the right time.

To qualify for paternity leave an employee must tell the Company, usually via their line manager, that they intend to take paternity leave at least eight weeks prior to their chosen start date. Notification must be in writing and must include:

- the expected week in which the child is due/ adoptee is placed with their partner
- whether they wish to take one week or two weeks leave
- when they want to start their leave

In order to receive SPP or Company paternity pay an employee will be asked to sign a self-certificate issued for this purpose by the HMRC (form SC3) confirming the nature of their relationship with the child and its mother/adopter.

The form asks the employee to confirm:

- they are taking leave either to care for their child or support the mother/adopter or both
- has or expects to have responsibility for the upbringing of the child
- is the father of the child and/or the partner or husband of the mother/adopter

The form is attached, below, and will need sending to the HR Assistant – Payroll in Group HR at Cowick Hall.



SC3 Paternity

Employees who fail to give the required notifications within the specified time limits may lose their rights to SPP and to start paternity leave on their intended start date.

### **Changing the notified start date**

An employee may change their mind about the date on which they intend to start paternity leave so long as they inform the Company of the revised start date at least 28 days before the date in question, or as soon as is reasonably practical.

### **Changing the period of leave**

There is no statutory right to change the length of the leave that has already been notified. However, the Company will at its discretion consider such requests.

### **Return to work**

Employees will be entitled to return to the same job after paternity leave.

### **Terms and conditions during paternity leave**

The contract of employment continues throughout paternity leave, except for terms relating to “remuneration”, which is defined to mean sums payable by way of wages or salary only. The right to accrue holidays will continue. The employee continues to be bound by any obligations under the contract of employment, except for the obligation to work.

## **Additional Paternity Leave and Pay**

Additional paternity leave allows employees who are eligible to take up to 26 weeks leave to care for their new baby.

To qualify you will have to be an employee and worked continuously for the Company for 26 weeks ending with the 15th week before the baby is due, or the end of the week in which the child's adopter is notified of being matched with the child.

Additional paternity leave and pay may be available if:

- you are the father of a child, partner or civil partner
- you and your partner receive notification that you are matched with a child for adoption
- your wife, partner or civil partner is adopting a child from overseas and the child enters Great Britain
- the child's mother is entitled to statutory maternity leave, maternity pay or allowance or statutory adoption leave or pay

Additional paternity leave is for a maximum of 26 weeks. Leave can be taken any time from 20 weeks after the child is born, but it must have finished by the child's first birthday. In the case of adoption it can start anytime between 20 weeks and 52 weeks after the child starts living with the adopter.

## **Notification Requirements**

To qualify for additional paternity leave and pay, the Company must receive notice in writing at least eight weeks before the start of the leave. This must include:

- the expected date of the baby's birth or date of notified of being matched for adoption
- the actual date of baby's birth, or placement of adoption
- the start date of the Additional Paternity leave and pay
- relationship to the mother, and leave is taken to care for the child
- how much leave they wish to take
- when they want to start their leave

For Additional Paternity leave and pay to be taken the child's mother or adopter must have started working again and any relevant maternity/adoption payment must have stopped, with at least two weeks of the 39 week payment period remaining. The Company may request to speak to the partner's employer to ask for confirmation.

Employees must intend to care for the child during your Additional Statutory Paternity Pay period. Additional Statutory Paternity Pay (£136.78 per week or 90% of average weekly earnings if that is less) is only payable during the period of the 39 week Maternity Allowance, Statutory Maternity or Statutory Adoption Pay period. It cannot continue beyond the end of the statutory maternity pay, maternity allowance or statutory adoption pay period.



## **Croda Additional Paternity Pay**

The Company provides enhanced maternity pay for employees. The pay for people on paternity leave will reflect the payments made to women after 20 weeks on maternity leave. That is:

- 20% of weekly salary plus statutory additional paternity pay for week 21-39
- 20% of weekly salary for week 40-52

Please be aware that should an employee not return to work for at least eight weeks following the end of their additional paternity leave the Company has the right to reclaim the enhanced paternity pay

## **Additional Information**

### **Other Benefits**

Employees who do not qualify for SPP may be able to get Income Support while on paternity leave. Information is available from the local Jobcentre Plus or Social Security Office.

### **Paternity leave and holidays**

An employee continues to accrue annual leave whilst on paternity leave. They are not entitled to take annual leave during paternity leave but, subject to the usual arrangements on booking holidays, there is no reason why they cannot take a period of annual leave immediately before or after paternity leave.

### **Sickness and paternity leave**

An employee who falls ill before paternity leave commences may change the start of paternity leave subject to the rules on sickness notification and ordinary paternity leave being completed within 56 days of the actual date of birth/adoption placement of the child.

If illness occurs during paternity leave then the leave takes precedent – paternity leave cannot be ‘swapped’ for other types of leave once it has commenced.

If an employee cannot go back to work at the end of their paternity leave because of illness they will be subject to the company’s usual sickness provisions. If they are sick, they must notify their manager in the usual way. The usual considerations as to absence management will apply.

### **Protection against Detrimental Treatment or Dismissal**

The right not to suffer detrimental treatment at work starts as soon as an employee has told the Company that they are considering taking paternity leave. The protection applies regardless of the employee’s length of service.

Detriment can cover a wide range of forms of unfair treatment, such as denial of promotion, facilities or training opportunities which the company would otherwise have offered or made available.

An employer must not subject an employee to unfair treatment at work because he:

- took paternity leave and additional paternity leave or
- sought to take paternity leave and additional paternity leave

Furthermore it is unlawful for the company to dismiss an employee or select him for redundancy in preference to other comparable employees, because he:

- took paternity leave and additional paternity leave or
- sought to take paternity leave and additional paternity leave

## Frequently Asked Questions

### **Is any time off allowed with pay to attend antenatal appointments?**

No there is no legal right to paid time off. However, employees could take some annual leave. It may be possible to swap shifts or make time up via the local flexi-time system. These arrangements must be agreed with the line manager in advance

### **When does an employee need to tell the employer when they are going to take Paternity Leave?**

They should tell the Company as soon as possible, but no later than the end of the 15th week before the expected week of childbirth. They should say when the baby is due, if they are going to take one or two weeks off, and when they expect their paternity leave to start.

### **Can any paternity leave be taken before the baby is born?**

No, paternity leave cannot start until the birth of the baby. However, employees may be able to take some annual leave before.



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Croda International Plc  
Cowick Hall  
Snaith  
Goole  
East Yorkshire  
DN14 9AA

01405 860551