

# Adoption Rights in the UK



CRODA

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## **Introduction**

This booklet contains a brief outline of the rights and conditions relating to leave and pay for adoptive parents. Rights to leave and pay for adoptive parents have been introduced for employees whose children are placed for adoption with them on or after 6<sup>th</sup> April 2003. 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 similar to either ordinary maternity leave or parental leave.

The information given in this booklet is correct as at April 2013 and applies to UK employees only. It covers only the leave and pay rights where a child is matched and placed for adoption in the UK. There are similar rights where a child is adopted from overseas, although the detailed operation of the scheme will differ for practical reasons. If you are adopting from overseas you must contact Group HR as the rights and notification process will be slightly different.

This booklet does not attempt to describe the rights in detail and should not be taken as an authoritative statement of the law. The company must comply with Social Security and Inland Revenue rules and cannot be held liable for any decision made by an employee regarding any aspects of adoption leave or pay.

## **Company policy on adoption leave and pay**

It is company policy that eligible employees should receive all rights due under the legislation relating to adoption policy and adoption 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 families and will not tolerate any form of discrimination against them.

## **Employee obligations**

The procedures that you need to follow in order to claim your adoptive parents' rights are set out below. It is important that you familiarise yourself with the requirements set out in this booklet so that you know what information you need to give us and when.

**Failure to provide the company with the correct information at the right time may result in you losing your right to take adoption leave and/or to receive adoption leave pay.**

## **Right to privacy**

Employees have the right to keep private their plans and intentions regarding family and children. There are no reasons why anyone either in 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 through adoption. The requirement to inform is only triggered if the employee wants to take advantage of his/her rights to adoption leave and pay.

## Adoption leave

### Availability

Adoption leave is available to an individual who adopts or to one member of a couple where a couple adopt jointly. It is not available in circumstances where a child is not newly matched for adoption by an adoption agency, for example when a step-parent is adopting a partner's child or where a child is already living with a family, say through fostering arrangements.

In the case of couples adopting it is for the couple to decide which partner takes adoption leave. The other partner may take paternity leave (subject to qualifying conditions).

Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

### Eligibility

To qualify for adoption leave, an employee must:

- be newly matched with a child for adoption by an adoption agency
- have worked continuously for their employer for 26 weeks or more ending with the week in which they are notified of being matched with a child for adoption

### Length of adoption leave

Adopters are entitled to up to 26 weeks' **ordinary adoption leave** followed immediately by up to 26 weeks' **additional adoption leave** - a total of up to 52 weeks' leave.

If the child's placement ends during the adoption leave period, the adopter can continue adoption leave for up to eight weeks after the end of the placement.

Adopters are entitled to 39 weeks statutory adoption pay.

### Start of adoption leave

Adopters can choose to start their leave:

- from the date of the child's placement (whether this is earlier or later than expected), or
- from a fixed date which can be up to 14 days before the expected date of placement.

Leave can start on any day of the week.

### Return to work

Employees on adoption leave have the same protection as employees on maternity leave i.e. they will be entitled to return to the same job after ordinary adoption leave. After additional adoption leave they will return to the same job unless that is not reasonably practicable, in which case they would return to a job that is suitable, appropriate, and on terms and conditions no less favourable.

An employee wishing to return from adoption leave should give the company 8 weeks notice of the date they wish to return.

### Terms and conditions during adoption leave

Throughout their adoption leave period employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to salary. The employee continues to be bound by any obligations under the contract of employment, except for the obligation to work.

## **Statutory Adoption Pay (SAP)**

### **Eligibility**

To be eligible for SAP an employee must:

- have been continuously employed for at least 26 weeks ending with the week in which they are notified of being matched with a child for adoption
- earn above the lower earnings limit (LEL)

and

- correctly notify the company of intended adoption leave

### **Rate of SAP**

The rate of SAP is the same as the standard rate of Statutory Maternity Pay. In the case of multiple adoptions, entitlement to SAP is exactly the same as if there were one child.

The rate from April 2013 is £136.78 per week. It is normally reviewed annually.

SAP is an employment payment and is therefore subject to the usual pay deductions.

### **Croda Adoption Pay**

The Company now provides adoption pay for the full 52 weeks for employees that are eligible to receive it:

- SAP for the first 6 weeks
- 20% of weekly salary plus SAP for 33 weeks
- 20% of weekly salary for 13 weeks

### **Keeping In Touch Days**

The introduction of ten "Keeping in Touch" days (KIT) will allow an adopter to do a limited amount of work under their contract during the adoption leave period without it affecting SAP or signalling the end of their adoption leave. Any work done on any day will count as a whole KIT day, i.e. if the adopter attends work for a one hour training session for example they will have used one of their KIT days. It is entirely a matter for the employee and employer how and when KIT days are used during the adoption leave period. Once those days have been used up, the adopter will once again lose a weeks SAP for any week in which he/she does work under their contract of service for the employer paying them SAP.

For example, if an adopter earns £50.00 for a KIT day, under the previous regulations he/she would simply receive £50.00 for that week – having lost their SAP as they had done work under their contract. Under the new regulations they will now be able to retain their SAP, although the £50.00 earned will be offset against this, meaning they will receive £136.78 for the week. If he/she works for three KIT days in the same week and earns £150.00 they will receive £150.00 – their SAP being offset against contractual pay paid for the same week.

### **Other benefits**

Adopters who do not qualify for SAP should contact their adoption agency, as they may be able to receive financial support in relation to their adoption. Additional financial support may be available through Housing Benefit, Council Tax Benefit or Tax Credits. Further information is available from your local Jobcentre Plus office or Social Security office.

## **Notification requirements**

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

### **Adoption leave**

Adopters are required to inform the company of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable.

Notification must be in writing and must include:

- when the child is expected to be placed with them
- and
- when they want their adoption leave to start.

### **Statutory Adoption Pay (SAP)**

Adopters must tell the company the date they expect any payments of SAP to start at least 28 days in advance, unless this is not reasonably practicable.

Employees must also give documentary evidence (from their adoption agency) as evidence of their entitlement to SAP. Employees should ask their adoption agency for this documentary evidence, which may be provided in the form of a matching certificate that includes basic information on matching and expected placement dates.

### **Confirmation of end date of adoption leave**

The company will respond to the employee's notification by confirming in writing the date on which the employee is expected to return to work (assuming the full entitlement to adoption leave is taken). This must be done within 28 days of receipt of the employees' notification.

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

Adopters can change their mind about the date on which they want their leave to start, providing they tell the company at least 28 days in advance (unless this is not reasonably practicable).

### **Changing the return to work date**

Adopters who want to return to work before the end of their adoption leave period, must give 8 weeks written notice of the date they intend to return.

### **Protection from detriment and dismissal**

Employees are protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take adoption leave.

## **Paternity leave and pay (adoption)**

Following the placement of a child for adoption, the rights to paternity leave and pay give eligible employees the right to take paid leave to care for their new child or support the adopter.

### **Eligibility**

Employees must satisfy the following conditions in order to qualify for paternity leave. They must:

- have or expect to have responsibility for the child's upbringing
- be the adopter's spouse or partner
- have worked continuously for the company for 26 weeks ending with the week in which the adopter is notified of being matched with a child.

### **Length of paternity leave**

Eligible employees are entitled to choose to take either one week or two consecutive weeks' paid paternity leave (not odd days).

They can choose to start their leave:

- from the date of the child's placement (whether this is earlier or later than expected), or
- from a chosen number of days or week after the date of the child's placement (whether this is earlier or later than expected), or
- from a chosen date which is later than the date on which the child is expected to be placed with the adopter .

Leave can start on any day of the week on or following the child's placement but must be completed within 56 days of the child's placement.

Only one period of leave is available to employees irrespective of whether more than one child is placed together.

### **Statutory Paternity Pay**

During their paternity leave, most employees are entitled to Statutory Paternity Pay (SPP) if they earn more than the lower earnings limit (LEL).

The rate of Statutory Paternity Pay is £136.78 a week as of April 2013.

### **Croda Paternity Pay**

The Company provides enhanced paternity pay for employees. This is either two weeks paid leave of 50% of weekly salary or SPP, whichever is the greater.

### **Notice of intention to take paternity leave**

Employees must inform their employers of their intention to take paternity leave within seven days of the adopter being notified by their adoption agency that they have been matched with a child, unless this is not reasonably practicable. They must tell their employers in writing:

- the date on which the adopter was notified of having been matched with the child
- when the child is expected to be placed
- whether they wish to take one or two weeks' leave
- when they want their leave to start

Employees can change their mind about the date on which they want their leave to start providing they notify the company in writing 28 days in advance (unless this is not reasonably practicable).



Employees can tell their employers the date they expect any payments of SPP to start at least 28 days in advance, unless this is not reasonably practicable.

In order to receive SPP or Company paternity pay an employee will be asked to sign a declaration confirming the nature of their relationship with the child and its adopter. The form will be sent from the payroll department and asks the employee to declare whether:

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

There is a self-certificate issued for this purpose by the Inland Revenue (form SC3). The company does not require an SC3 but employees may find it convenient to use it.

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.

### **Contractual benefits**

Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary throughout their paternity leave.

### **Return to work after paternity leave**

Employees are entitled to return to the same job following paternity leave.

### **Protection from detriment and dismissal**

Employees are protected from suffering unfair treatment or dismissal for taking, or seeking to take, paternity leave.

### **Additional Paternity Leave**

The Government has announced plans to introduce a separate right to Additional Paternity Leave (APL). APL will be available to partners whose children have been placed on or after 3 April 2011. The scheme will be in addition to current paternity leave and pay. An employee who qualifies for APL may elect to take up to 26 weeks' within the first year of the child's adoption provided that the other partner has returned to work before using their full entitlement to adoption leave.



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Croda International Plc  
Cowick Hall  
Snaith  
Goole  
East Yorkshire  
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