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## **Chapter 3**

# **New family rights**

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# Chapter 3

## New family rights

### Introduction

One of the key aims of the **Employment Act 2002** is to assist working parents to balance their home and work responsibilities. Prior to the new rights being introduced, there had already been changes to the maternity period for new mothers, for the first time parental leave entitlement (up to four weeks per year to a maximum of 13 weeks per child) and a right to emergency time-off for those responsible for dependants. This latter provision went beyond parents and extended to those with other caring responsibilities.

The extension of rights to parents under the **Employment Act 2002**, began in December 2000 with the publication of a Green Paper *Work and Parents – Competitiveness and Choice*. As the title of that paper suggests, its focus was to help parents achieve the right balance for them, between the need to work and parenting. For the first time a right to flexible working will be provided to all parents of children under the age of 6 (or 18 in the case of a child in receipt of a disability living allowance) whereas previously, limited rights have been given to women to complain if they were refused the option of working part-time, job sharing or working in any way which helped them achieve this balance.

The other new rights dealt with in this Chapter focus on the following additional entitlements which will have effect from 6 April 2003:

- A new regime for maternity leave which will encompass both extended maternity absence and improved maternity pay.
- For the first time a right to paternity leave and pay for the period of that paternity absence.
- Also, for the first time, a right to take adoption leave and to receive adoption pay, through provisions which mirror the new maternity rights.

The detail of the flexible working rights which will be introduced have been dealt with earlier.

As is a common theme throughout the provisions of the Act, the body of the Act itself contains only ‘enabling provisions’ with the detail, outlining who is entitled to which of these rights and how much pay they receive, being introduced through a series of regulations. For completeness the details of the regulations are set out below, although the commentary as to who is entitled to what and obligations for issuing notices which is set out below, are drawn from a review of (in many cases) a combination of the entire framework of regulations in this area:

- Maternity and Parental Leave (Amendment) Regulations 2002.
- The Social Security, Statutory Maternity and Statutory Sick Pay (Miscellaneous) Amendments Regulations 2002.
- Paternity and Adoption Leave Regulations 2002.
- Statutory Maternity Pay and Statutory Adoption Pay (Weekly Rates) Regulations 2002.
- Statutory Paternity Pay and Statutory Adoption Pay (General) Regulation 2002.
- Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002.
- Statutory Paternity Pay and Statutory Adoption Pay (National Health Service Employees) Regulations 2002.
- Statutory Paternity Pay and Statutory Adoption Pay (Persons Abroad and Mariners) Regulations 2002.

Happily, the Department of Trade and Industry has issued a series of helpful booklets summarising the rights to pay and leave for adoptive parents, new mothers and under the paternity provisions. There is also an interactive website which has been made available outlining these new rights, which can be found at [www.tiger.gov.uk](http://www.tiger.gov.uk).

## Maternity leave entitlement

The new maternity rights are brought into effect firstly by new regulations, particularly dealing with maternity pay and secondly by making amendments to the existing maternity leave provisions contained within the **Employment Rights Act 1996**. Part 8 of that Act particularly sections 71, 73 and 74, addresses the question of how much leave an individual is entitled to and what happens at the end of such leave. Changes and amendments effective from 6 April 2003 are made through sections 17 to 21 of the **Employment Rights Act 2002**. This will introduce a longer period of maternity leave absence to which an individual will be entitled, changes to the notification and qualification requirements (which an individual must follow to gain their maternity leave rights) as well as making changes to pay during such absence.

The new rights identify those entitled to benefit from the new regime by reference to the week during which their child is expected to be born – known as the expected week of child birth. For these purposes, a week starts on a Sunday and an individual's expected date having been identified, translates to the expected week by referring back to the Sunday of the **week commencing** that in which the child is due. For these purposes, any individual whose expected week of child birth or who is expecting their baby on or after 6 April 2003, will be entitled to the new rights set out below. Any person falling outside of this definition remains entitled to maternity leave provisions under the old regime.

It is important to bear in mind that these provisions are entirely determined by reference to the expected week and not the actual week that the baby arrives. Thus, for example, an employee whose baby is due at the end of March, does not meet 6 April cut-off point; even though she may actually deliver the child after 6 April (by reference to her expected week she will still be entitled to the more limited rights under the old regime).

### Maternity leave

In future, an individual will either be entitled to ordinary maternity leave or additional maternity leave, dependent upon their length of service with the employer.

Ordinary maternity leave is a total of 26 weeks (previously it was 18 weeks) which can start (subject to the employee giving the appropriate notices) up to 11 weeks before the expected week of child birth (from the beginning of the 11th week again counting from the Sunday). The leave can commence at any time between the 11th week window and the date of child birth, provided the

appropriate notices have been given with one exception, which is that there is an automatic trigger, where the leave starts by law, in the event of illness during the four weeks before the expected week (see below).

Additional maternity leave is an entitlement given to those with a longer period of service. It is added to the ordinary maternity leave and amounts to a **further** 26 weeks absence.

Whether an individual will either be entitled to 26 weeks maternity absence or up to 52 weeks, depends upon their length of service.

### **Service requirements**

All employees, no matter how long they have been employed for, have an entitlement to 26 weeks ordinary maternity leave. Only those who have achieved 26 weeks continuous employment by the 15th week before expected week of child birth, gain the further entitlement to additional maternity leave.

It should be noted that other than having an entitlement to take time-off from work and to return to their job, the rights and other entitlements vary dependent upon whether the individual is on ordinary or additional maternity leave. This is examined further below.

### **The automatic start of maternity leave in the event of illness**

Anyone taking maternity leave will have an obligation in order to acquire the right, to provide notice to the employer. Provided the notice is issued in the right format, containing the relevant information and within the obligatory timescales, an employee can choose when they wish to start their maternity leave, as long as it is no more than 11 weeks before the expected week of child birth.

There is only one exception to this, and this is where an employee who is pregnant takes absence from work for a pregnant related illness at any time during the four weeks before the expected week of child birth. Where she is absent in that period and that absence is related to her pregnancy, by law she is required to start her maternity leave.

These provisions are aimed at preventing individuals from being regularly absent or on sick leave in the four weeks prior to giving birth, echoing the principle that an individual cannot be on both sick leave and maternity leave at the same time. Thus, if she is unable to work in this period for a pregnancy related illness, her absence will become one of maternity absence rather than sick leave. It also enables an employer to better plan the absence and to avoid the uncertainty of knowing whether the individual will be fit enough to be at work in that four week window.

There are two important issues to be addressed attached to this particular provision. The first is that absence for these purposes does not have to equate to any minimum period of a day and the second, is that it must be clear that the reason for absence is related to the pregnancy. Clearly medical evidence would assist on this and there is also guidance available from the Department of Trade and Industry identifying the sorts of conditions that can be pregnancy related. If however, the individual is absent for a reason unrelated to their pregnancy – for example flu – she cannot be forced to start her maternity leave.

### **Notice obligations**

Previously, the obligation on an employee to give notice as to her maternity leave differed slightly dependent upon whether she was taking the shorter statutory leave entitlement or the longer. The position has been streamlined so that notice will be the same regardless of whether the individual is taking ordinary or additional maternity leave.

The notice from the employee (which does not have to be in writing but of course ought to be for the sake of good practice) must inform her employer:

- that she is pregnant;
- identify the expected week of child birth – often by reference to a certificate known as a MATB1 available from her doctor or midwife; and
- identify the date on which she wishes to start her maternity leave.

The timing must also be right and, whichever date the employee chooses, she must notify her employer by the 15th week before the EWC prior to the leave starting – unless it is not reasonably practicable.

There is no requirement at this point for the employee to identify how much leave she is taking, how long she intends to be absent for, or indeed, whether and when she intends to return to work. Employers are therefore left to assume that the individual will take the maximum leave to which they are entitled.

If later the employee wishes to change the date previously notified as the start of her leave, she must provide 28 days notice before the date she wishes to start her leave.

### **Employer's response**

There is however, an obligation on the employer to reply to the individual's notice within 28 days of receiving that notice, in which the employer must identify the date upon which the employee is expected to return. This date is identified by reference to the full entitlement which the employee has, to either 26 or 52 weeks.

The guidance, which has been issued by the Government, contains a sample of the type of letter that can be issued by an employer to satisfy these requirements.

### **During the maternity leave**

The status of the individual's contract during the maternity leave varies dependent upon whether she is on ordinary or additional maternity leave.

During the ordinary maternity leave, her contract continues. She is entitled to be treated as if she was not absent from work, and all benefits must be maintained – with the exception of her remuneration which is substituted for statutory maternity pay (see below) if she is eligible.

By contrast, in the case of an employee who is on additional maternity leave, from week 27, her contract is effectively suspended and only the following contractual obligations have effect:

- The obligation of trust and confidence owed to her by the employer.
- Any contractual notice provisions.
- Contractual redundancy entitlement.
- Disciplinary and grievance procedures.

Equally, the employee must herself observe the obligation of trust and confidence and remains bound by her requirement to give notice to terminate, any restrictions as to confidentiality, acceptance of gifts or benefits, or restrictive covenants – restraints on participating in any other business both during and after the employment. These provisions which remain unchanged apply under Regulation 17 of the existing Maternity and Parental Leave etc. Regulations 1999 (SI 1999/3312) which will be amended and replaced by the Maternity and Parental Leave (Amendment) Regulations 2002 (No 2789).

### **Returning from maternity leave**

The new maternity rights are all based on the premise that the individual will take maternity leave to her full entitlement, and will return at the end of the 26 or 52 weeks, dependent upon whether she is entitled to ordinary or additional maternity leave.

Any employee who wishes to return early can only do so if she provides the employer with 28 days notice before returning. Whereas previously there had been obligations on the part of an employee to issue a notice to return, that is swept away and an individual taking their maximum entitlement has no further requirement or step imposed upon her.

The existing provisions regarding an employee's right to return to their job or, in a redundancy situation having a right to be offered suitable alternative employment, continue to apply. Similarly, the protection given to pregnant employees and those taking maternity leave, to prevent them suffering sex discrimination or being subjected to a detriment or dismissal for any reason related to their pregnancy or because they are relying upon their rights, will also continue.

### **Statutory maternity pay**

The changes to the statutory maternity pay provisions are brought about by way of regulations and amendments to the Social Security Contributions and Benefits Act 1992. Not surprisingly, the period of statutory maternity pay is streamlined so that it dovetails with the first 26 weeks maternity leave absence (the ordinary maternity leave). Changes are also made to the notice requirements so that these are consistent with the maternity leave obligations.

The right to SMP at the new level applies to any employee in receipt of statutory maternity pay after 6 April 2003.

### **Notice obligations**

An individual's entitlement to receive statutory maternity pay is conditional on her issuing the correct notice as well as meeting certain earnings and service requirements. The employee must give notice to her employer 28 days before she wishes to claim statutory maternity pay (effectively the date she starts her maternity leave).

### Other preconditions

There are also service and earnings requirements placed upon an employee, they must have average weekly earnings currently over £75 per week, the lower earnings limit for national insurance and must have been employed for 26 weeks by the 15th week before the expected week of child birth. An individual who is not entitled to statutory maternity pay, may be entitled to a maternity allowance (from the State rather than her employer). Maternity allowance is payable if any individual has been employed or self employed for 26 weeks at any time during the 66 weeks before the expected week of child birth.

### Rate of maternity pay

Statutory maternity pay only covers the period of the ordinary maternity leave, which is the first 26 weeks of maternity absence. It is payable throughout that period at two different rates:

- For the first 6 weeks of the ordinary maternity leave, at 90% of the employee's average weekly earnings. This is calculated by reference to an average taken over a period of 8 weeks or 2 months in the period immediately before the 14th week before the expected week of child birth.
- For the balance of 20 weeks, an employee receives as statutory maternity pay either 90% of their average weekly earnings or £100, **whichever is the lower.**

The strict requirement is that to be eligible and claim statutory maternity pay (or pay only and not leave) an employee must give at least 28 days notice of the date she is seeking to claim SMP and medical evidence that she is pregnant (probably using the MATB1 certificate). In reality, where an employee serves notice to take maternity leave by the 15th week before the expected week of child birth, she will have already satisfied the requirement to give notice for SMP purposes.

In the future, once an individual has acquired the right to maternity pay by meeting the notice and service earnings requirement, and provided they are employed up to the 15th week before the EWC, she is entitled to claim that payment from her employer, even if she is no longer employed at the time her maternity leave would have begun, i.e. she leaves prior to the 11th week before the expected week of child birth – the first and earliest date upon which maternity absence can commence. This right is retained regardless of whether the reason for any departure (whether dismissal or resignation) is related to her pregnancy or maternity, or not.

Under new provisions within the Social Security Contributions and Benefits Act 1992, employers will retain the right to off-set any maternity payment against their National Insurance bill at 92% (100% if they are a small employer) and will in future gain a right to apply to the Inland Revenue for help in funding such payments, in advance of the amounts being due for payment to the employee.

### Maternity leave

WK – 15	26 weeks' service to acquire additional maternity leave, statutory maternity pay and notice
WK – 11	Earliest date to start maternity leave
WK – 4	28 days (Employee Variation of start of leave)
WK – '0'	28 days (Employer Notice) Expected week of child birth
+ 2 weeks from birth	Earliest return to work
+ 26 weeks from start of leave	End of ordinary maternity leave
+ 52 weeks from start of leave	End of additional maternity leave

### Adoption leave rights

The right to adoption leave and pay will be provided for the first time, from April 2003. Previously, new adoptive parents had to rely upon the Parental Leave rights introduced in 1999. The right to adoption leave and indeed the pay which runs alongside that period of leave, mirrors the maternity regime.

The Scheme adopted by the Act in introducing adoption leave rights, is via the introduction of a new chapter (Chapter 1 A) into Part 8 of the existing **Employment Rights Act 1996**. This section deals entirely with the taking of adoption leave but in addition, there are further regulations which address the question of adoption leave and pay entitlement.

### Parents to elect: one parent only

The provisions recognise that there may be circumstances in which a joint adoption takes place, and states that where this occurs, one of the two people matched for adoption must elect to be the child's 'adopter' and thereby seek to take the adoption leave.

It is not possible under the provisions which have been introduced for adoption leave, for both parents to take statutory adoption leave and claim statutory adoption pay. Only one individual in the case of an adopting couple can claim and seek to take adoption leave. The other partner's rights to time-off are limited to the paternity leave entitlement. This is to reflect and equate the position with birth parents, where the mother can take maternity leave and the father paternity leave.

The right to take adoption leave only applies where either a child is matched on or after 6 April 2003 or is placed for adoption after that same date. Although generally speaking the right attaches to the child where, under the same adoption arrangement more than one child is being matched and adopted, only one period of adoption leave can be taken (Regulation 15 (4)) of the Paternity and Adoption Leave Regulations 2002 (SI 2788).

To vary any date, for example the date upon which to start the adoption leave, a further 28 days notice must be provided.

Similarly, the employee only has to give notice of their intention to return, if they expect to return earlier than their maximum period of leave, in which case 28 days notice for return must be provided.

### Adoption stages

Many of the new adoption rights centre around the matching. Under legislation in this area and the new provisions, there are two key stages to the adoption process:

- 1 **Matching:** when the adoption agency confirms a person or couple are suitable adopters for the child; and
- 2 **Notification:** when a formal notice of the decision is issued, under the Adoption Agencies Regulations 1983 (Regulation (11(2)) or, in Scotland the Adoption Agencies (Scotland) Regulations 1996.

### **Entitlement to adoption leave**

Employees with more than 26 weeks employment by the notified date of placement (matching), can take adoption leave. The adopter must within 7 days of being notified of the match, issue notice to the employer of their wish to take adoption leave and identify when they wish to start their leave. The employee may begin their adoption leave either on the date of the placement or up to 14 days before.

Prior to the placement, an employee will have been notified of a successful match with a child, and later a date for placement will be identified. Where an employee has been notified that she has been matched for adoption he or she has an obligation to provide the employer with notice of the matching within seven days of receiving the notification of matching themselves. Any variation of the date of leave can be made through a 28 day notice.

### **Period of adoption leave**

Again, as with maternity leave absence, there are two periods of adoption leave, a short period (ordinary adoption leave) and a longer period (additional adoption leave).

Ordinary adoption leave (which is paid – see further below) amounts to 26 weeks absence.

Additional adoption leave follows on from the first 26 weeks, and amounts to a further period of 26 weeks.

The rights are only given to new adoptive parents so that those who are already step parents or foster carers, and who effectively already know the child, do not gain the right to any adoption leave at all. Moreover, the adoptive child has to be under the age of 18 for the right to be acquired.

### **Start of leave**

Adoption leave can be taken from the date that the child is actually placed with the adoptive parent, however, there may be circumstances where an adoptive parent wishes to prepare for the arrival of a child. In such circumstances, the earliest possible date (and subject of course to having given the requisite 7 day notice) is 14 days before the expected date of placement – this latter date will have been confirmed by the adoption agency.

Any change which an employee may wish to make to their adoption leave, for example, to change the date they start their leave has to provide 28 days notice.

### **Employee's notice**

The employee's 7 day notice must include a copy of the certificate from the adoption agency and:

- confirm the employee's name and address;
- identify the adoption agency including both name and address;
- state the date he/she was informed of the successful match; and
- confirm the planned date of the placement.

### **Employer's response**

Again, as with the maternity provisions, once an employer receives notice of an employee's intention to take the adoption leave, they have an obligation within 28 days of receipt to reply (Regulation 17(7) of the Paternity and Adoption Leave Regulations 2002 (No 2788)). The reply must outline (based on the employee's maximum entitlement) the date that they are due to return, i.e. 52 weeks from the date they start their adoption leave.

### **Rights during the adoption leave**

The status of the individual's employment and indeed their contract, again reflects the maternity provisions.

During ordinary adoption leave the employee should be treated as if they were at work and remain entitled to all benefits and terms – the exception being their right to wages or remuneration, which is substituted for statutory adoption pay.

During the additional adoption leave the limited contractual terms (of trust and confidence, notice, redundancy compensation, discipline and grievance) continue, as does the employee's own obligations of the trust and confidence, notice and restrictions on confidential information, receiving gifts and benefits and undertaking other business.

An employee returning from both periods of leave has the right to return to the same job but in the case of an employee who has been absent beyond the first 26 weeks, they may be offered a suitable alternative job where it is not reasonably practicable to allow them to return to their original position. In both cases, the rights as to seniority, pension and service has to be honoured.

Again, the provisions introduce a right not to be subjected to any detriment, or indeed, be dismissed for any reason related to the individual taking, or seeking to take, adoption leave.

### **Returning from adoption leave**

An individual who returns from adoption leave earlier than the end of the 26th or 52nd weeks must provide 28 days' notice of this early return to his or her employer.

### **Statutory adoption pay**

During the adoption leave, an individual's entitlement to his usual remuneration is replaced by the statutory adoption pay, which has been introduced by amendments to the Social Security Contributions and Benefits Act 1992 through three sets of regulations.

### **Qualifying for statutory adoption pay**

In order to be entitled to Statutory Adoption Pay quite clearly the individual in question must be expecting to adopt a child under UK legislation. They must also have been continuously employed for 26 weeks by the week that the child is matched.

The payment of the adoption leave is only triggered once the employee actually commences the leave itself and there is a lower earnings requirement that over the eight weeks or two months prior to the matching week, the employee must have earned a minimum amount, which equates to the lower earnings limit for National Insurance (currently £75).

### **Notice obligation**

The employee must also have given notice to the employer of the date from which he/she effectively wishes to take the adoption leave, i.e. the date that the employer will be liable to pay the statutory adoption pay and this must be given 28 days before the start of the leave.

It is also necessary and a pre-condition that the employee should cease working altogether. If an employee has two employers and gives notice to employee A that they wish to take leave and seeks to claim statutory adoption pay, but intends to continue working for employer B, although employer B is not liable to pay the statutory adoption pay because the individual continues working, no adoption pay may be made at all. The question which arises however, is how it is that employer A is expected to know about the employee's intentions! One assumes that the relevant authority will monitor the position.

### **The amount of statutory adoption pay**

Exactly the same amount of adoption pay is payable as maternity pay. The maximum period is 26 weeks – so that an individual who is entitled to take additional adoption leave should be aware that they are not entitled to receive any pay for the second instalment of their 26 weeks.

The amount is one set rate of either £100 per week or 90% of the employee's normal weekly earnings (again calculated by reference to the eight week or two month period prior to the date of matching) whichever is the lesser. Thus the most any individual on adoption leave can receive under the statutory provisions (unless his employer is more generous) is £100 per week.

Again employers will be able to reclaim 92% of the amount paid to employees as statutory adoption pay and small employers will be able to claim 100% dependent upon their National Insurance bill. Again, advanced funding will be available.

### **Paternity leave and paternity pay**

The paternity leave provisions that again will be introduced from 6 April 2003, compliments the new maternity, and in particular, statutory adoption provisions. Thus mention was made earlier of joint adopters having to elect for one of the couple to take adoption leave, on the basis that the other is then entitled to take statutory paternity leave. In the case of birth mothers, the father will be entitled to take paternity leave and claim paternity pay in the same way.

### **Entitlement to paternity leave**

The new rights are introduced by the insertion into the **Employment Rights Act 1996**, of a new section 80A, 80B, 80C, 80D and 80E.

Firstly, the child in respect of whom the paternity leave is to be taken, must have been born on or after 6 April 2003 or have an expected week of child birth on or after that date. Unlike the maternity provisions, this means that a child whose expected week is before the 6 April date but who arrives late, can have the benefit of at least the birth father, or one of the adoptive parents, taking leave. In the case of an adopter taking paternity leave the child must have been matched and the individual notified of the matching on or after 6 April 2003 or have been placed for adoption on or after that date.

Similarly, in order to be a child to whom the provisions apply the minor must be under the age of 18.

These are solely the provisions to entitlement pertaining to the child and, in addition, the employee seeking to take the paternity leave must have been continuously employed for at least 26 weeks by the end of the 15th week before the expected week of the child's birth or by the notification of matching.

### **Premature births**

There is one saving provision, which applies to premature births. If the baby is born before the 15th week before the week he is due, and the employee would have had 26 weeks employment at week 15, but does not at the birth, paternity leave can still be taken.

### **Relationship with the child**

It is also necessary to demonstrate that the paternity leave is to be taken in order to care for the child and mother/adopter. This is done by demonstrating that there exists a relationship with the child. The person seeking to take the paternity leave must therefore demonstrate that they are either:

- the father of the child;
- married to, or a partner of, the child's mother (where they are not the child's father);or
- is either married to, or a partner of, the child's adopter and expects to have responsibility for the upbringing of the child or have the main responsibility.

It should be noted that the partner for these purposes includes a person of the opposite sex as well as a person of the same sex.

### **Notice requirements**

The employee must provide to the employer notice of his intention to take the paternity leave by providing notice:

- of the expected week of child birth;
- the length of the paternity leave they wish to take; and
- the date on which they wish to take that leave.

That notice must be given during or before the 15th week before the expected week of child birth, unless this is not reasonably practicable. The employee is also obliged, where this is requested by the employer, to declare (thereby confirming the position) their relationship with and responsibility for the child and that they intend to take the leave in order to care for the child or mother. This notice is being termed the self certification. In the case of a person taking paternity leave in an adoption situation the notice must be given within 7 days of the notice of matching (save where this is not reasonably practical).

The date to start the paternity leave can only be varied by the giving of a further 28 days notice.

### **Amount of paternity leave**

The period of paternity leave is limited to a period of two consecutive weeks or one week's leave.

It must however, be taken within 56 days beginning with the later of the date of the expected week of childbirth or the birth; if the child is born before the expected week, i.e. is premature, it must be taken within 56 days after the actual date of the birth. In the case of an adoptive parent taking paternity leave, the 56 days run from the date of the placement.

If having given notice, the baby arrives late and the employee issued notice to take the leave on a set date, he must vary his notice and identify an alternative date, as soon as reasonably practical.

### **Statutory paternity pay**

In order to qualify for statutory paternity pay, an employee must have been employed for 26 weeks, continuously, by the end of the 15th week before the expected week of the birth or the week he is notified of the matching.

Provided the individual is above the lower earnings limit (in the previous eight weeks) and has issued the requisite notice (by the expected week of child birth or within seven days of having been notified of matching for adoption) the paternity leave period will attract statutory paternity pay – provided the employee ceases to work for all employers.

The amount of the statutory paternity pay in such circumstances is £100 or 90% of actual normal weekly earnings, whichever is the lower.

### **Rights during paternity leave**

During the paternity absence the employment contract continues and the employee has a right to return to their job, as well as the right not to be treated in a detrimental manner or dismissed for taking, or seeking to take, paternity leave and rely upon their rights under these new provisions. The only provision in the contract which is suspended during the period of the paternity leave is that relating to wages or salary, which are of course substituted for the statutory paternity pay.

Finally, it should be noted that as with maternity and adoption leave, if more than one child is born or adopted, only one period of paternity leave can be taken.

#### **Action points**

- Employers should review and amend their existing maternity and other leave policies and any guidance issued to employees, to reflect the new rights.
- Employees who are pregnant should identify their expected week to decide whether they have rights under the new regime and ensure compliance with all notice requirements.
- Policies on paternity leave and adoption leave should be reviewed, if already in existence, and if appropriate, amended to ensure compliance if rights are less favourable than the statutory regime are provided.