

WORK AND FAMILIES ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 6: Entitlement to additional statutory paternity pay: birth

27. Currently, statutory paternity pay is available to an employed earner who meets certain conditions. He must be the father of the child or (if not the father) the mother's husband or partner and be taking time off to care for the child or support the mother. He must also satisfy certain conditions relating to duration of employment and earnings.
28. **Section 6** inserts a new section 171ZEA in Part 12ZA of the Social Security Contributions and Benefits Act 1992 which deals with statutory paternity pay. The new section allows the Secretary of State to make regulations entitling employees who satisfy certain conditions to additional statutory paternity pay following the birth of a child.
29. Additional statutory paternity pay will be paid by employers who can recover most or all of it from the state. Additional statutory paternity pay will be administered by employers in the same way as statutory paternity pay.
30. *Subsection (2)* of the new section states the conditions that an employee must meet to be entitled to additional statutory paternity pay. In some cases, the conditions provide for further matters to be dealt with in regulations. For example, subsection (2)(a) provides that the employee must satisfy prescribed conditions as to relationship with a child and the child's mother. The prescribed conditions will be set out in the regulations. The conditions also include conditions relating to the employee's employment status and earnings and the entitlement of the child's mother to statutory maternity pay or maternity allowance.
31. The conditions include a requirement that the mother must have taken action that is treated as constituting a return to work (see subsection (2)(f)). The regulations will deal with what is to be treated as constituting her return. In addition, the employee will normally only qualify for additional statutory paternity pay if the mother returns to work at a time when a part of her maternity allowance period or maternity pay period remains unexpired. The regulations will specify how much of her maternity allowance period or maternity pay period must remain unexpired.
32. *Subsection (3)* allows for certain of the qualifying conditions to be modified or excluded in cases where the mother of the child has died.
33. *Subsection (4)* states that entitlement to additional statutory paternity pay will be unaffected by the birth of more than one child as a result of the same pregnancy.