

# **NATIONAL INSURANCE CONTRIBUTIONS ACT 2006**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These explanatory notes relate to the National Insurance Contributions Act 2006 which received Royal Assent on 30 March 2006. They have been prepared by HM Revenue & Customs (HMRC) in order to assist the reader of the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. These notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

### **SUMMARY**

3. This Act takes forward the Paymaster General's Pre-Budget Report 2004 announcement that the Government would be prepared to act against tax and National Insurance Contributions avoidance involving employee remuneration. (Written Ministerial Statement made on 2 December 2004 – see House of Commons Hansard Vol. 428 Col 45 WS). The Act provides for a power to make regulations in respect of National Insurance Contributions ("NICs") that reflect retrospective tax changes that take effect on or after 2 December 2004. Existing NICs legislation does not allow regulations to be made which can take effect that far back. The powers allow for NICs liability to be changed back to 2 December 2004, if necessary. They also allow for consequential changes to contributory benefit and statutory payments where appropriate. This power will be used in the first instance to reflect the employment-related securities anti-avoidance provisions included in Schedule 2 to the Finance (No.2) Act 2005, which received Royal Assent in July 2005 but which took effect from 2 December 2004.
4. The other main provisions in the Act:
  - will prevent NICs elections and agreements being used by employers to pass on any secondary NICs liability, on certain security based employment income, which is created retrospectively by virtue of the new powers; and
  - provide for a power to extend to NICs the existing tax disclosure rules brought in by Part 7 of the Finance Act 2004.

### **OVERVIEW OF THE ACT**

5. An explanation of the various classes of National Insurance contributions is at Annex A; a description of statutory payments, is at Annex B; and a glossary of abbreviations is at Annex C.

***Power to make regulations to create a retrospective liability for National Insurance contributions etc***

6. The provisions in section 1 will enable the Treasury to make regulations under specified existing powers that will have retrospective effect from dates as early as the 2 December 2004, if necessary. The new power may only be used where a provision of the Income Tax Acts which relates to income tax chargeable under the employment income Parts of ITEPA 2003 is passed which has retrospective effect and the Treasury consider it appropriate to make NICs regulations under any of those existing powers for the purpose of reflecting the whole or part of the retrospective tax provision. It must also appear expedient to the Treasury for the NICs regulations to have retrospective effect in consequence of the retrospective tax provision. The regulations can ensure that payments made under a tax and NICs avoidance scheme or arrangement, used since the 2 December 2004, can be treated as earnings for NICs purposes. The resulting NICs liability will be calculated as if a liability had existed at the time the payments were made. The Government only envisages exercising these powers where the retrospective tax provision is a provision tackling avoidance of the income tax payable on employment income.
7. **Section 1** also provides for wide powers to make consequential changes or other changes that may be required through exercise of the powers described in paragraph 6 above for the purposes of contributions, contributory benefits, statutory payments, contracted-out pension rebates or other purposes. In particular it is anticipated the powers will allow for:-
  - earnings that originally avoided NICs liability to count towards benefit entitlement and statutory payments (SMP, SSP, SPP and SAP);
  - the NICs paid on avoidance earnings to be treated as having been paid in the year in which the avoidance occurred.
8. **Section 3** introduces powers to enable the Treasury to make regulations in relation to matters affecting the law relating to Class 1A NICs where this is expedient in consequence of retrospective tax legislation which affects a person's general earnings. The regulations may have retrospective effect to dates as early as the 2 December 2004, if necessary.

***Voiding of NICs Agreements and Elections***

9. Currently, employers and employees can jointly agree or elect to transfer any future potential secondary NICs liability, due on certain employment income from shares and securities acquired by employees, from the employer to the employee. These provisions are found in paragraphs 3A(2)-(4) (agreements) and 3B of Schedule 1 (joint elections) to the CBA 1992. This facility was introduced on 28 July 2000 by the Child Support, Pensions and Social Security Act 2000, to help employers deal with the problem of their unpredictable future NICs costs due on gains from share options. Amendments made by the National Insurance Contributions and Statutory Payments Act 2004 extended this facility to include employment income derived from restricted securities and convertible securities.
10. **Section 5** ensures that Joint NICs Agreements and Elections can only be used for their intended purpose and specifically prevents the use of these agreements and elections by employers who seek to recover from their employees any NICs liability that may be imposed retrospectively under the powers introduced by this Act.

***Disclosure of NICs avoidance schemes and arrangements***

11. Part 7 of the Finance Act 2004 requires disclosure of arrangements or proposals for arrangements where:
  - use of the arrangements might be expected to confer a tax advantage;

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- that tax advantage might be expected to be the main benefit, or a main benefit, of using the arrangements; and
  - the arrangements fall within a description prescribed in Treasury regulations.
12. The Finance Act 2004 disclosure provisions apply to income tax, corporation tax, capital gains tax, stamp duty land tax, stamp duty reserve tax, inheritance tax and petroleum revenue tax. The [Tax Avoidance Schemes \(Prescribed Descriptions of Arrangements\) Regulations 2004 \(SI 2004/1863\)](#), as amended, describe the notifiable arrangements in relation to income tax, corporation tax and capital gains tax. These include arrangements that concern employment. The [Tax Avoidance Schemes \(Information\) Regulations 2004 \(SI 2004/1864\)](#), as amended, specify the information required to be disclosed. The [Tax Avoidance Schemes \(Promoters and Prescribed Circumstances\) Regulations 2004 \(SI 2004/1865\)](#), as amended, specify the circumstances in which persons are not to be treated as promoters.
13. It was recognised that many employment schemes relate to both tax and NICs. However, NICs were not included in the disclosure rules because that would have required NICs primary legislation. In practice the tax disclosure rules provide the information necessary to counter both tax and NICs avoidance in the usual situation where a scheme seeks to avoid both. But they do not provide information in relation to schemes seeking to avoid only NICs. Section 7 provides for the tax disclosure rules to apply to NICs proposals and arrangements as they apply to income tax schemes.

#### ***Application of the Act to Northern Ireland***

14. [Sections 2, 4 and 6](#) mirror for Northern Ireland the provision made in sections 1, 3 and 5 for Great Britain. Section 7 extends to Northern Ireland as well as Great Britain. Under the provisions of Schedule 2 to the Northern Ireland Act 1998 NICs are an excepted matter. The Act therefore amends relevant Northern Ireland legislation relating to NICs.
15. Where the powers in the Act allow for retrospective changes to earnings, Treasury regulations made by virtue of the Act which make consequential changes to matters which are the responsibility of a Northern Ireland department require the concurrence of that department. Contributory benefits and statutory payments are transferred matters under the Northern Ireland Act 1998 and responsibility for them lies with the Department for Social Development and the Department for Employment and Learning (in respect of SPP and SAP).

#### **COMMENTARY ON SECTIONS**

##### ***Power to make regulations to create a retrospective liability for National Insurance contributions***

##### ***Section 1 – Power to make provision in consequence of retrospective tax legislation: Great Britain***

16. Subsection (1) provides for new sections 4B and 4C to be inserted after section 4A of the CBA 1992.
17. Subsection (1) provides for a new power at New Section 4B – Earnings: power to make retrospective provision in consequence of retrospective tax legislation. Section 4B enables the existing regulation making powers mentioned in subsection (3) of that section to be exercised with retrospective effect. The power can only be exercised where there have been retrospective tax enactments relating to those Parts of ITEPA 2003 dealing with employment income. The Treasury must also consider it appropriate to make the regulations for the purpose of reflecting in whole or in part the provision made by the retrospective tax provision. Subsection (2) provides that it also must appear to

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the Treasury to be expedient in consequence of the retrospective tax provision for the regulations to have retrospective effect.

18. Subsection (3) specifies the relevant NICs regulation making powers, which are to be extended to allow NICs legislation to be made that can take effect back to 2 December 2004. They are the powers in sections 3, 4(6) and 4A of the CBA 1992.
19. Subsection (4) provides for retrospective tax provisions which were made before the Act received Royal Assent (30 March 2006) to also trigger the use of the power in subsection (1).
20. Subsection (5) limits how far back the NICs changes can be backdated. It provides that the new regulation-making powers cannot take effect earlier than 2 December 2004, which was the date of the Paymaster General's announcement on tax and NICs avoidance.
21. Subsection (6) provides that regulations made retrospectively through extension of the powers at sections 3, 4(6) and 4A of the CBA 1992 will be able to affect payments of earnings made to or for the benefit of employees prior to the date when the regulations are made.
22. Subsection (7) provides for definitions of "relevant contributions legislation", "the relevant time" and "the revised earnings" in section 4B.
23. Subsections (8), (9) and (10) provide that, where regulations that are made by virtue of subsection (2) have the effect described in subsection (6), the contributions legislation is to be applied to the revised earnings figure and liability is to be re-determined by reference to the revised earnings or amount of those earnings as if the revised position applied at the time.
24. Subsection (11) provides that subsections (7) to (10), which provide for liability to be re-determined, are to be subject to any exceptions which are specifically provided.
25. Subsection (12) makes it clear that the new power in section 4B(2) does not affect any other power in the CBA 1992 or other enactments.
26. Subsection (13) provides for the meaning of "contributions legislation" in section 4B.
27. Subsection (1) of new section 4C – **Power to make provision in consequence of provision made by or by virtue of section 4B(2) etc** – provides for the Treasury to make regulations which it considers expedient for any of the purposes mentioned in subsection (2) in consequence of any provision made by or by virtue of the powers in section 4B(2). The regulations require the concurrence of the Secretary of State. Subsection (2) identifies the purposes for which it may be necessary to make regulations where earnings are re-determined. Subsection (2)(f) also allows for additional purposes to be prescribed in future by the Treasury with the concurrence of the Secretary of State.
28. Subsection (3)(a) provides for the regulations to make changes to primary and secondary legislation, including provisions which came into force on or after the day this Act received Royal Assent (30 March 2006).
29. Subsection (3)(b) provides for the regulations to apply primary and secondary legislation with or without modifications.
30. Subsection (4) provides that any regulations under section 4C(1) cannot have effect earlier than 2 December 2004, which was the date of the Paymaster General's announcement on tax and NICs avoidance.
31. Subsection (5) gives a non-exclusive list of examples of matters which may be affected by regulations under section 4C(1) having retrospective effect.

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32. Subsection (6) provides that, where matters specified under subsection (5) have already been determined, regulations can be made under section 4C(1) that will allow for re-determination of these matters.
33. Subsection (7) ensures that where “the operative provisions” could remove past or future entitlement to contributory benefit, contribution-based jobseeker's allowance or statutory payments or reduce the amount of such payments those provisions are to be read with such modifications as are necessary to ensure that they do not have that effect.
34. Subsection (8) defines “the operative provisions” and “entitlement” for the purposes of subsection (7).
35. Subsection (9) ensures that other powers conferred by the CBA 1992 or any other enactment are not affected by this new power.
36. Subsection (10) provides that further amendments and revocations can be made to provisions modified by regulations under section 4C(1), and these do not need to be made under the section 4C(1) powers.
37. Subsection (11) provides the meaning of “the commencement day” “enactment”, and "statutory payment" in section 4C.
38. Subsection (2) of the section amends section 176 of the CBA 1992
39. Subsection (2)(a) inserts references to section 4B(2) and 4C into section 176(1)(a). This provides that if regulations are made using the powers under sections 4B(2) and 4C a draft of the instrument has to be laid before Parliament and approved by a resolution from both the House of Commons and the House of Lords, before the instrument is made.
40. Subsection (2)(b) inserts section 176(2A) and (2B) which provide that regulations made by virtue of section 4B(2) should be laid before Parliament within 12 months of the corresponding tax provision being passed. Where the corresponding tax provision was passed or made before Royal Assent of the Act, the regulations should be laid within 12 months of that Act being passed. Subsection (2)(b) also inserts section 176(2C), which defines some of the terms used.

***Section 2 – Power to make provision in consequence of retrospective tax legislation: Northern Ireland***

41. **Section 2** replicates the provisions of section 1 in respect of the CB(NI)A 1992.

***Section 3 – Class 1A contributions: power to make provision in consequence of retrospective tax legislation: Great Britain***

42. **Section 3** inserts a new section 10ZC after section 10ZB of the CBA 1992.
43. Subsection (1) of section 10ZC provides for regulations to be made if it appears to the Treasury to be expedient, for any purpose of the law relating to Class 1A contributions, to make the regulations in consequence of retrospective tax legislation which affects the amount of general earnings chargeable to income tax under the employment income Parts of ITEPA 2003. The power to make regulations also enables general provision to be made to deal with matters that may arise should such retrospective tax legislation be passed in the future. Retrospective tax provisions have an automatic effect on Class 1A liability by virtue of section 10 of the CBA 1992.
44. Subsection (2) defines "relevant retrospective tax provision".
45. Subsection (3) allows for the tax provision that triggers the use of the power in subsection (1) to have been made before or after the commencement day of this Act.

46. Subsection (4) makes it clear that the regulations can make provision modifying existing enactments (including future enactments) and applying existing enactments with or without modifications.
47. Subsection (5) provides that new regulations made under these powers cannot have retrospective effect earlier than 2 December 2004, which was the date of the Paymaster General's announcement on tax and NICs avoidance (written Ministerial Statement made on 2 December 2004 - see House of Commons Hansard Vol. 428 Col. 45 WS).
48. Subsection (6) allows for cases that have already been decided before regulations have been made under subsection (1), to be reviewed and amended where necessary.

For example, more than one employer may provide to the same employee a benefit which is chargeable to tax and which gives rise to a liability on each employer to pay a Class 1A contribution. That liability is apportioned between the employers. If a retrospective tax provision then provides for a revaluation of that benefit and alters the amount chargeable to tax in respect of it, it will be necessary to redetermine the apportionment and the amount due from each of the employers in respect of the resulting revised Class 1A liability.

49. Subsection (7)(a) prevents regulations made under subsection (1) from imposing a liability to pay a Class 1A contribution. Retrospective tax legislation which alters the amount of income tax chargeable to general earnings will normally automatically create a liability for Class 1A contributions by virtue of section 10 of the CBA 1992.
50. Subsection (7)(b) prevents regulations made under subsection (1) from increasing the amount of any Class 1A which is payable. The amount of any Class 1A will follow automatically by virtue of the retrospective tax legislation and its impact on section 10 of the CBA 1992.
51. Subsection (8)(a) ensures that the power in section 10ZC is without prejudice to any liability to pay a Class 1A contribution which arises by virtue of a relevant retrospective tax provision. Such liability will normally arise automatically under section 10 of the CBA 1992.
52. Subsection (8)(b) ensures that other powers conferred by the CBA 1992 or any other enactment are not affected by the power in section 10ZC.
53. Subsection (9) ensures that the modification of any secondary legislation by regulations made by the Treasury under section 10ZC does not prejudice any existing power that the department that made the original legislation has to amend or revoke it.
54. Subsection (10) defines "the commencement day" for the purposes of section 10ZC as the day upon which the Act received Royal Assent (30 March 2006). It also defines "enactment" for the purposes of section 10ZC as including an instrument made under an Act.
55. [Section 3\(2\)](#) inserts a reference to section 10ZC into subsection (1)(a) of section 176 of the CBA 1992. This provides that if regulations are made using the powers under section 10ZC a draft of the instrument has to be laid before Parliament and approved by a resolution from both the House of Commons and the House of Lords before the instrument is made.

***Section 4 - Class 1A contributions: power to make provision in consequence of retrospective tax legislation: Northern Ireland***

56. [Section 4](#) replicates the provisions of section 3 in respect of the CB(NI)A 1992.



## ***Agreements and Elections***

### ***Section 5 – Agreements and joint elections: Great Britain***

57. Subsection (1) introduces changes to be made to Schedule 1 to the CBA 1992 which contains the rules on Agreements and Elections that allow the employer to recover from, or pass on to, the employee any secondary NICs liability arising on certain securities based remuneration.
58. Subsection (2) amends paragraph 3A(2A) of Schedule 1. The change prevents Agreements for the recovery of contributions by the employer from the employee (of the kind allowed under that provision) from being used to recover any secondary contributions resulting from the imposition, by virtue of new section 4B(2), of a retrospective liability to Class 1 NICs.
59. Subsection (3) amends paragraph 3B(7B) of Schedule 1. Provisions in paragraph 3B allow the employer and the employee to enter into a joint election for the transfer of secondary NICs liability arising from securities options, restricted securities and convertible securities to the employee. The change will prevent the transfer of any secondary NICs liability that is due as a result of retrospective liability to Class 1 NICs imposed by virtue of section 4B(2).
60. Subsection (4) provides that the amendments made by the section have effect in relation to agreements or elections entered into before, on or after the time the Act received Royal Assent (30 March 2006).

### ***Section 6 – Agreements and joint elections: Northern Ireland***

61. Section 6 replicates the provisions of clause 5 in respect of the CB(NI)A 1992

## ***Disclosure of avoidance***

### ***Section 7 – Disclosure of contributions avoidance arrangements***

62. Subsections (1) and (2) of the section provide for a new section 132A – **Disclosure of contributions avoidance arrangements**, to be inserted into the SSAA 1992.
63. Subsection (1) of section 132A provides that the Treasury may make regulations requiring, or relating to, the disclosure of information in relation to “notifiable contribution arrangements” or “notifiable contribution proposals”.
64. Subsection (2) restricts the scope of the power provided by subsection (1). The regulations can only apply in relation to NICs (with or without modification), or make provision corresponding to, those provisions in primary or secondary legislation relating to the disclosure of information in relation to income tax avoidance arrangements, including provisions that come into force on or after the day the Act received Royal Assent (30 March 2006).
65. Subsection (3) defines “notifiable contribution arrangements” and “notifiable contribution proposal”. In essence, these are arrangements, or proposals for arrangements, whose use might be expected to obtain a NICs advantage as one of the main benefits of using those arrangements.
66. Subsection (4) provides a power enabling the Treasury to amend subsection (3) by regulations if, after the passing of this Act, any of the provisions relating the disclosure of income tax avoidance arrangements are amended in such a way that the definitions in subsection (3) no longer mirror the relevant tax provisions. The scope of the power is limited to amending the definitions in subsection (3) to make provision analogous to the changes to the relevant tax provisions.
67. Subsection (5) defines some of the terms used in subsection (4).

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68. Subsection (6) ensures that regulations made under section 132A cannot require any person to disclose information which is protected by legal professional privilege. This provision mirrors the equivalent provision applying to the disclosure of information in relation to income tax arrangements (section 314 of the Finance Act 2004).
69. Subsection (7) contains definitions of “advantage”, “arrangements”, “contribution” and “tax avoidance arrangements”.
70. Subsection (3) of the section inserts a reference to subsection (4) of the new section 132A of the SSAA 1992 into section 190(1) of the SSAA 1992. This provides that if regulations are made using the powers under section s132A a draft of the instrument has to be laid before Parliament and approved by a resolution from both the House of Commons and the House of Lords before the instrument is made.
71. Subsection (4) of the section ensures that the new section 132A extends to Northern Ireland as well as Great Britain.

**FINANCIAL EFFECTS OF THE ACT**

72. The Department has conducted a Regulatory Impact Assessment on the measures contained in this Act. The assessment provides information on the financial effects of the Act. A copy of the assessment can be found on the HMRC internet at <http://www.hmrc.gov.uk/ria/ria-nicbill05.pdf>.

**HANSARD REFERENCES**

73. The following table sets out the dates and Hansard references for each stage of this Act’s passage through Parliament.

<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
<b><i>House of Commons</i></b>		
Introduction	11 October 2005	Vol. 437 Col 169
Second Reading	27 October 2005	Vol. 438 Cols. 471-506
Standing Committee D	15 November 2005	Hansard Standing Committee
Report and Third Reading	15 December 2005	Vol. 440 Cols. 1479-1534
<b><i>House of Lords</i></b>		
Introduction	19 December 2005	Vol. 676 Col 1511
Second Reading	9 January 2006	Vol. 677 Cols. 12-29
Committee	26 January 2006	Vol. 677 Cols. GC368- WS65



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<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>	
Report	28 February 2006	Vol. 679 Col. 63	
Third reading	20 March 2006	Vol. 680 Col 12	
<b>Royal Assent – 30 March 2006</b>		House of Lords Hansard Vol. 680 Col 861	
		House of Commons Hansard Vol. 444 Col 1061	

## **ANNEX A: OVERVIEW OF NATIONAL INSURANCE CONTRIBUTIONS<sup>1</sup>**

There are six classes of contributions.

- **Class 1** contributions which are paid by both employees and employers on the employee's earnings – the employee's share is known as the *primary contribution*, the employer's as the *secondary contribution*. Class 1 contributions are payable on all gross earnings including commissions and bonuses, on readily convertible assets given to employees and on employees' liabilities paid by employers. Primary contributions are payable at 11% of earnings above £94 up to £630 per week (£4,895 to £32,760 per year) and 1% of earnings above this limit. Secondary contributions are payable at 12.8% of all earnings above £94 per week. There are arrangements for reducing the rates of both primary and secondary contributions where the employee has contracted out of the State Second Pension. Class 1 contributions are normally collected monthly by HMRC along with PAYE income tax.
- **Class 1A** contributions are payable by employers on most taxable benefits in kind. They are payable by employers only and collected annually by HMRC.
- **Class 1B** contributions are payable annually by employers on items which are dealt with under a PAYE Settlement Agreement (PSA) for income tax. Class 1B contributions are payable at a rate of 12.8% on the value of the items included in the PSA and on the total tax payable by the employer under the PSA.
- **Class 2** contributions are paid by the self-employed at a flat rate of £2.10 per week – a self-employed person can be exempted from liability where earnings are below £4,345 per year. Class 2 contributions are paid either monthly or quarterly.
- **Class 3** contributions are paid on a voluntary basis by people who fall outside the scope of Class 1 and 2 contributions at a flat rate of £7.35 per week.
- **Class 4** contributions are paid annually by the self-employed on profits that are derived from a trade, profession or vocation and which are chargeable to income tax. Class 4 NICs are payable at a rate of 8% on profits between £4,895 and £32,760 and 1% of profits above £32,760.

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**1 AMOUNTS AND RATES ARE FOR THE 2005/6 TAX YEAR**

## **ANNEX B: OVERVIEW OF STATUTORY PAYMENTS<sup>2</sup>**

There are four Statutory Payments.

- **Statutory Sick Pay (SSP)** is paid to employees by their employer when the employee is incapable of work for four or more calendar days in a row. The employee does not need to provide the employer with medical evidence. There are some qualifying conditions the employee must satisfy. The main one is to have average weekly earnings of at least £82 in a period of at least 8 weeks before they became incapable of work. SSP is payable for a maximum of 28 weeks at £68.20 a week. If the employee is not entitled to SSP or they run out of their entitlement the employer must complete a form to enable the employee to claim Incapacity Benefit.
- **Statutory Maternity Pay (SMP)** is paid to pregnant employees by their employers when they satisfy the qualifying conditions. The employee must:
  - provide the employer with medical evidence of their pregnancy and the week the baby is due;
  - have worked for the employer continuously for 26 weeks up to and including the 15<sup>th</sup> week before the week the baby is due;
  - have average weekly earnings of at least £82 in a period of at least 8 weeks up to and including the 15<sup>th</sup> week before the week the baby is due; and
  - give their employer 28 days notice of when they want to take time off work.

SMP is payable at 2 rates. The first 6 weeks is paid at 90% of the average weekly earnings. The remaining 20 weeks are paid at the lower of £106 a week or 90% of the average weekly earnings. If the employee is not entitled to SMP the employer must complete a form to enable the employee to claim Maternity Allowance.

- **Statutory Adoption Pay (SAP)** is paid by employers to employees who are adopting a child on their own or to one member of a couple who are adopting a child together. The employee must:
  - provide the employer with evidence that they have been matched with a child for adoption;
  - have worked for the employer continuously for 26 weeks up to and including the week in which they are matched with a child for adoption;
  - have average weekly earnings of at least £82 in a period of at least 8 weeks up to and including the week in which they notified they have been matched with a child for adoption; and
  - give their employer 28 days' notice of when they want to take time off work.

SAP is payable for 26 weeks at the lower of £106 a week or 90% of the average weekly earnings. There is no state benefit if the employee is not entitled to SAP.

- **Statutory Paternity Pay (SPP)** is paid by employers to employees who satisfy the qualifying conditions and who are:
  - the baby's biological father; or
  - the partner or husband of the mother but not the baby's biological father, including a female partner in a same sex couple; or
  - adopting a child with their partner; or

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<sup>2</sup> AMOUNTS ARE FOR THE 2003/04 YEAR

- the partner of someone adopting a child on their own.

The employee must:

- provide the employer with a declaration of family commitment;
- have worked for the employer continuously for 26 weeks up to and including the 15<sup>th</sup> week before the week the baby is due OR up to and including the week in which the adopter is matched with a child for adoption;
- remain continuously employed until the baby is born or the child is placed for adoption (this means the child starts living permanently with the person who will be adopting them);
- have average weekly earnings of at least £82 in a period of at least 8 weeks up to and including the week in which the baby is due OR the week in which the adopter is matched with a child for adoption; and
- give their employer 28 days notice of when they want to take time off work.

SPP is payable for 1 or 2 whole weeks at the lower of £106 a week or 90% of the average weekly earnings. The employee may be entitled to Income Support if they are not entitled to SPP.

HMRC are responsible for providing employers with support to help them operate all four Statutory Payment schemes and also for ensuring that employees receive their correct entitlement.

**ANNEX C: GLOSSARY OF ABBREVIATIONS**

<b>Abbreviation</b>	<b>Term</b>
CBA 1992	Social Security Contributions and Benefits Act 1992
CN(NI)A 1992	Social Security Contributions and Benefits (Northern Ireland) Act 1992
ITEPA 2003	Income Tax (Earnings and Pensions) Act 2003
SAP	Statutory Adoption Pay
SMP	Statutory Maternity Pay
SPP	Statutory Paternity Pay
SSAA 1992	Social Security Administration Act 1992
SSA(NI)A 1992	Social Security Administration (Northern Ireland) Act 1992
SSP	Statutory Sick Pay