



Software Developer Guidance – Statutory Parental Bereavement Pay (SPBP) Reporting

Document history

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Overview

The Parental Bereavement (Leave and Pay) Act 2018 introduces a new employment right to Parental Bereavement Leave (PBL) and an entitlement to Statutory Parental Bereavement Pay (SPBP) for any qualifying parent who loses a child (under the age of 18) or who suffers a still-birth from 24 weeks of pregnancy. The new entitlement will apply to deaths from the 6th April 2020.

Parental Bereavement Leave (PBL) will be a 'day one' employment right, whereas eligibility for Statutory Parental Bereavement Pay (SPBP) will be subject to certain qualifying conditions, as is the case for other parental Statutory Payments (see section 1a). This guidance will focus on SPBP only.

SPBP will predominantly follow the same administration rules as all other parental Statutory Payments and will be treated as earnings for tax and National Insurance Contributions purposes, as per all other Statutory Payments.

We are awaiting the Regulations that will be made under the 2018 Act to implement the policy. These will set the policy detail, including the definition of a bereaved parent, the window in which the entitlement can be taken (the 'qualifying period'), how the leave and pay can be taken, and record keeping, along with further details of how the entitlement will work in practice.

Detailed guidance for parents and employers will be available on GOV.UK with a target publication date of December 2019. There will also be forms available for employers/employees to use. This includes employer's record keeping forms and the employee's declaration form for SPBP.

Section 1 – Entitlement

Employees who meet the requisite conditions outlined in sections 1a and 1b below will be entitled to two weeks' Statutory Parental Bereavement Pay (SPBP).

SPBP can be taken as a single block of 2 weeks, or as two separate blocks of 1 week each. The entitlement must be taken within 56 weeks, starting with the date of the child's death (although an employee is not obliged to take their full entitlement if they choose not to). SPBP may start on any day of the week and can be aligned with pay periods in the same manner as all other SPs.

The employee does not have to remain in employment with the same employer until the week before SPBP is taken. They will be entitled to the payment if they meet the requisite conditions at the 'relevant week' (the 'relevant week' is the week before the one in which the child died).

If an employee works for the liable employer in any part of the week for which they have claimed SPBP, the employer has no obligation to pay SPBP for that week. The employee will still be entitled to receive payment for the second week if not already taken. More detailed guidance about working for another employer will be available on GOV.UK.

SPBP cannot interrupt another statutory payment. SPBP can be taken at the end of the other statutory entitlement, or later. In any event, SPBP must be taken within the qualifying period which begins with the date of death and ends 56 weeks after that date. In the case of a stillbirth, the 'date of death' should be read as the date of birth of the stillborn child.

There will be no entitlement to SPBP in respect of any week during any part of which an employee is entitled to Statutory Sick Pay.

There is no liability to pay SPBP for any week following that in which the person claiming it has died.

There will be no prescribed limit to the number of people who can claim SPBP in respect of one child, however every claimant's entitlement will be subject to that particular individual meeting the qualifying conditions in sections 1a and 1b.

The start date for claims will be 6 April 2020 which means that entitlement will arise (subject to qualifying conditions being met) for any parent whose child dies, or who has a still-birth, on or after 6 April 2020.

In the case where an employee is eligible for SPBP as a result of the deaths of more than one child, they will be entitled to 2 weeks' SPBP in respect of *each child*.

1a Conditions as to the employee's length of service and earnings

The conditions are:

- they have been continuously employed for at least 26 weeks at the **relevant week**
- they have average weekly earnings (AWE) of at least the LEL (in force at the relevant week) in the **relevant period** (this period will be the same, irrespective of when the employee chooses to take the entitlement)
- they have given the employer the correct notice
- they have completed the employee declaration

The '**relevant week**' is the week (ending with a Saturday) *before* the week in which the child dies.

The '**relevant period**' is the period of 8 weeks ending with the relevant week.

The AWE rules and calculations are similar to those for SMP and SAP, the only difference being the relevant period, outlined above.

An employee must give their employer 'notice' for SPBP in writing within 28 days of the first day of the SPBP period (or where not reasonably practicable, then as soon as reasonably practicable). The employee must provide evidence of entitlement in writing at the same time which must contain a written declaration that the person meets the qualifying conditions for SPBP as well as the specified information, which is:

- a) the name of the person claiming SPBP
- b) the date of the child's death (or date of birth for a stillborn child) and
- c) the period or periods in relation to which statutory parental bereavement pay is to be paid.

Please note that an individual living in Northern Ireland who has a contract of employment made under the Employment Rights (Northern Ireland) Order 1996 will not qualify for SPBP.

If however, the individual is living in Northern Ireland but has a contract of employment made under the GB Employments Rights Act 1996 they will be eligible to claim SPBP, subject to all eligibility criteria for SPBP being met.

1b Conditions as to the employee's relationship with the child

The person ('P') must also be a "bereaved parent" in order to qualify for Statutory Parental Bereavement Pay (SPBP), which requires that the person must meet the conditions as to their relationship with the child who has died.

The conditions are that, at the date of the child's death, P is:

- The child's parent. This includes:
 - adoptive parents, after a formal court adoption order has been made;
 - parents of a child born to a surrogate, after a formal court parental order has been made;
 - But does *not* include biological parents once such an adoption order or parental order has been made, *unless* they have a contact order which allows them to maintain contact with the child after the adoption.

- Adoptive parents, before a formal adoption order has been made, from the point at which

the child is placed with them for adoption, so long as that placement has not been disrupted or terminated

- In the case of an adoption from outside the UK, the adoptive parent will qualify before a court order is made if the child is living with them following their entry into Great Britain, and if they have received a written notification from the relevant domestic authority that it is prepared to, or has already, issued a certificate confirming that the person has been assessed and approved as a suitable adoptive parent
- Parents of a child born to a surrogate, before a formal parental order has been made, if they have applied for a parental order or intended to apply for a parental order (and expected to get it) within 6 months of the child's birth
- The child's 'parent in fact' (see further below)
- The partner of any of the above (whether of a different sex or the same sex), if they lived with the person above and the child in an enduring family relationship.

An employee will be the child's 'parent in fact' if they don't meet any of the above conditions, but the child has been living with them, in their own home, continuously for a period of 4 weeks ending with the date of death, and they have had day to day responsibility for the child's care during that time. Any temporary or intermittent absences are disregarded when deciding whether a period is 'continuous'.

For example, a 'parent in fact' could be a grandparent who has been looking after the child in place of the child's parents. This person will have provided day to day care for the child in their own home for a continuous period of at least four weeks ending with the child's death.

However, the person will not qualify as a 'parent in fact' if either:

- one of the child's parents, or anyone with parental responsibility (or in Scotland, parental responsibilities) for the child, is living in the same premises; or
- the person was receiving (or was entitled to receive) remuneration in respect of the care of the child. The following types of payment do not count as 'remuneration' in this situation:
 - a) A fee or allowance paid by a local authority to a foster parent;
 - b) Payments wholly or mainly intended to reimburse the person for expenses arising from the person's care of the child; or
 - c) Amounts received pursuant to the terms of a will, trust or similar instrument which makes provision in respect of the child's care.

For the purposes of entitlement to SPBL and SPBP, 'child' means any person under the age of 18, and includes any child still-born after 24 weeks of pregnancy

Section 2 – Calculations

HMRC's Basic PAYE Tools (BPT) will include a calculator for SPBP and GOV.UK will include guidance on manual calculations.

Those employees who meet the eligibility criteria detailed in Sections 1a and 1b will receive SPBP. This will be paid at the statutory flat weekly rate of £148.68 (for the year 2019/20) (or 90% of average earnings, where this is lower). The rate of SPBP will be updated each year, in line with other family-related statutory payments, e.g. Statutory Maternity Pay.

There are no KIT days or the equivalent for SPBP.

Section 3 – Record Keeping

Employers will have to keep records for 3 years after the end of the tax year in which the employer made the payments of SPBP – this is in line with all other Statutory Payments (excluding Statutory Sick Pay). Records will include details of the SPBP payments that have been made and recovered (date period of SPBP began and the amount paid in each week) and the corresponding evidence including the name of employee, the date of child's death (or date of birth in case of a stillbirth), the period(s) for which SPBP has been paid, and the employee's written declaration that qualifying conditions have been met. If the employer did not pay SPBP to the employee in respect of a week that was within the employee's period of payment, the employer must record that week along with the reason no payment was made.

Section 4 – FPS & EPS Submissions

SPBP will be reported and reclaimed in the same standard way for all other Statutory Payments via the FPS & EPS submissions.

4a – Reporting and correcting employee payments via FPS

As per other statutory payments a field will need to be created to capture Statutory Parental Bereavement Pay (SPBP) **in the tax year to date**.

If you have sent SPBP information in error for an employee, please resubmit the correct record in the next FPS

Section 4b – Claiming recoverable amounts via EPS

SPBP can be recovered by employers in the same way as other Parental Payments (generally 92% but 100% + 3% compensation for those who meet the definition of 'small' employers)

As per other statutory payments fields will need to be created to capture Statutory Parental Bereavement Pay (SPBP) for the following:

Amount of statutory payment recovered in the tax year to date

Amount of NICs compensation recovered in the tax year to date

Section 6 – P60 and wage slips

The P60 will be updated to include a field for SPBP. There will be no legal requirement to show SPBP separately on a wage slip however employers will have to ensure their records show they have met their liability.