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Attwaters' Employment Update

Recently fathers have been granted a boon by the government under the Additional Paternity Leave Regulations 2010. From April 2010 fathers of children due on or after 3 April 2011 will be able to swap up to 26 weeks of maternity leave with the mother.

The right to take Additional Paternity Leave ("APL") will only be granted to employees who are able to take "ordinary" paternity leave. The employee must have 26 weeks continuous service and give eight weeks notice to take APL. Notice is to be in writing setting out the date of birth with start and end dates for the APL.

Employees will "self certify" by providing details of their eligibility for APL to their employer by way of a declaration. To protect against abuse employers and HMRC will both be able to carry out further checks on entitlement if necessary. The main points of APL are;

- Entitlement to APL is only available if the mother returns to work;
- Leave must be taken between 20 weeks and 12 months after the birth of the child;
- Minimum period of leave is two weeks;
- All leave must be taken in a single continuous block;
- The employee will have enhanced rights on redundancy during APL (equivalent to mother's on maternity leave);
- The employee can take Keeping in Touch ("KIT") days (equivalent to mothers on maternity leave);
- Employers must keep records for three years.

Employment contracts will continue throughout APL and employees maintain their rights to non-cash benefits such as; company car, mobile phone or childcare vouchers, except for employee remuneration. Employers are able to recover 92% of statutory paternity payments ("SSP") or in the case of small employer's relief 104.5% of the SPP they pay.

An employee returning to work after APL will be entitled return to work as would a mother returning after ordinary maternity leave; that is, the right to return to the same job on the same terms and conditions as before the APL began.

The only concern now for businesses is whether a company that allows for enhanced maternity pay but not enhanced paternity pay may open itself up to potential discrimination claims for the unbalanced nature of benefits.

Should you wish any further information concerning this article or any other employment matters please contact Tim Carter by clicking on the button below.

[Contact Tim Carter](#)



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