

New rights to neonatal care leave and pay due to come into force on 6 April 2025

The Neonatal Care (Leave and Pay) Bill received Royal Assent on 24 May 2023 becoming the Neonatal Care (Leave and Pay) Act 2023. The Act provides the pathway to new rights and protections at work for employees who are parents of babies requiring neonatal care. In this briefing, we outline where things currently stand and what steps employers should take next.

What is the background?

Currently, parents of a baby requiring neonatal care must use existing statutory leave entitlements to allow them to take time off work while their baby remains in hospital. For mothers, this means using up some of their 52-week maternity leave entitlement (which may start no later than the day of the birth itself). For fathers, this will usually mean using up the two-week paternity leave entitlement, perhaps in combination with other leave rights such as unpaid parental leave, unpaid dependant emergency leave or annual leave. In some cases, the mother may exchange up to 50 weeks of her maternity leave for shared parental leave to share with the father. Doing this would enable the father to take a longer period of time off work, but would, in turn, reduce the amount of time off work that the mother is able to take.

Over the last ten years there have been calls to create special leave and pay rights for parents of premature babies

in receipt of neonatal care. In 2015, two premature baby charities, [Bliss](#) and [The Smallest Things](#), submitted a [joint petition](#) to Government on the issue. The aim was to create an entitlement to ringfenced rights which did not exhaust other forms of leave.

The Neonatal Care (Leave and Pay) Act 2023 received Royal Assent on 24 May 2023. The Act provided for the introduction of rights and protections for employees who are parents of babies up to 28 days old who require neonatal care for at least one week without interruption. However, the precise scope and mechanics of the new rights was deferred to regulations. On 20 January 2025, the Neonatal Care Leave and Miscellaneous Amendments Regulations 2025 and the Statutory Neonatal Care Pay (General) Regulations 2025 were published, providing these further details. The new framework is due to come into force on 6 April 2025 and the Government anticipates that it will benefit around 60,000 new parents.

Who is eligible to take neonatal care leave?

Employees will have a Day 1 right to take neonatal care leave for babies born on or after 6 April 2025. The employee must also:

- be the parent of the child;
- be the intended parent of the child (meaning someone who will become a parent through a surrogacy arrangement);
- be the child's adopter or prospective adopter; or

- be the partner of the child's mother, adopter or prospective adopter.

In all cases, the employee must have, or expect to have, responsibility for the upbringing of the child (apart from the baby's mother or adopter).

The right is not available to other workers, contractors or agency workers.

When is the right to take neonatal care leave triggered?

The leave may be taken in respect of a baby who begins "neonatal care" within 28 days of their birth, provided that the care continues for at least seven consecutive days. Confusingly, this period is counted from the day *after* the first day that the child enters neonatal care, meaning that, in fact, the child must spend *eight* days in neonatal care before the employee becomes entitled to leave. Where the employee has adopted the child, the entitlement to leave will only arise where the neonatal care is needed *after* the adoption placement has begun.

In this context, "neonatal care" means:

- medical care received in a hospital;

- medical care received following discharge after inpatient treatment in a hospital (where that care is under the directions of a consultant and includes ongoing monitoring and visits arranged by the hospital); and
- palliative or end of life care.

How much neonatal care leave is available?

Employees are entitled to one week's leave for each complete and uninterrupted week that the child spends in neonatal care, up to a maximum of 12 weeks' leave (and the weeks spent in neonatal care are known as "qualifying periods").

In multiple birth cases, leave will accrue in respect of each child requiring neonatal care leave, but where the babies are receiving neonatal care at the same time then the entitlement for that period only accrues once. For example, if twin babies received neonatal care for four weeks at the same time, the employee would be entitled to four weeks' leave, not eight weeks. However, if one twin received neonatal care in weeks one to four, and the other twin received neonatal care in weeks five to eight, the employee would be entitled to eight weeks' leave.

When may neonatal care leave be taken?

Leave may only be taken *after* the completion of the first

“qualifying period” (which, as above, requires the child to have actually spent eight days in neonatal care). In other words, the *earliest* that the employee may start the leave is on the ninth day after the neonatal care began.

Alternatively, the leave can be taken at a later date, although it must be taken within 68 weeks of the child’s birth.

How may neonatal care leave be taken?

The leave must be taken in blocks of at least a week.

Where the leave is to be taken *during* the time that the child is actually receiving neonatal care or within seven days of it ending (known as a “tier 1 period”), there is greater flexibility about how the leave may be taken. In these circumstances, the leave may be taken in either continuous or discontinuous blocks of at least a week. In practice, leave will usually only be taken in a tier 1 period by the child’s father or mother’s partner, since the mother is highly likely to already be on maternity leave.

Where the leave is to be taken more than seven days *after* the neonatal care has ended (known as a “tier 2 period”), the leave may only be taken in a single continuous block. This is most likely to arise when the employee is *already* taking another form of family leave when the baby receives neonatal care, for example, a mother on maternity leave. In such circumstances, the other form of family leave will continue, and the neonatal leave is added on at the end so that it does not interrupt the other leave.

How should an employee give notice of an intention to take neonatal care leave?

The employee must give the employer notice of a wish to take leave and provide specified information.

Where the employee wishes to take leave during a tier 1 period, notice must be given for each week of leave before the employee is due to start work on the first day of absence in that week (or, if this is not possible, as soon as reasonably practicable). The notice does not need to be in writing, although employers may request that written notice is provided (and, indeed, it will need to be in writing to claim statutory neonatal care pay).

Where the employee wishes to take leave during a tier 2 period, the notice must be given in writing. Where one week's leave is to be taken, at least 15 days' notice must be given. Where two or more weeks is to be taken, at least 28 days' notice must be given. A notice of leave in a tier 2 period may be withdrawn and replaced with a notice setting out new dates.

The leave will usually start on the date specified in the notice. The parties may agree to waive the notice requirements and, if they do so, the leave will begin on a mutually agreed date.

Who is entitled to be paid statutory neonatal care pay?

Employees will be entitled to be paid statutory neonatal care

pay where they:

- have accrued at least 26 weeks' continuous service with the employer by 15th week before the expected week of childbirth (or the week in which the adopter is notified of a match or, in other cases, the week before the week that the neonatal care starts); and
- receive weekly earnings at or above the "lower earnings limit" (which will be set at £125 per week from April 2025).

The statutory pay will be available for each complete and uninterrupted week that a child is in neonatal care, up to a maximum of 12 weeks. The rate of pay will be the same as other statutory family leave payments, namely £187.18 per week from April 2025.

The employee must give written notice to the employer of the week or weeks for which a claim is made and provide certain evidence of their entitlement to statutory pay.

Will employees taking neonatal care leave have any other rights and protections?

Employees will also have:

- a right to benefit from the existing terms and conditions of employment that would have applied but for the leave (apart from terms and conditions about remuneration);
- a right to return to work, in most cases to the job they performed before the leave (however, in certain circumstances the right is modified to the right to return to the same job or one that is suitable and appropriate for them to do);
- priority rights in a redundancy situation for any suitable alternative vacancy where the redundancy situation arises either during the neonatal care leave, or within 18 months of the child's birth or adoption (in circumstances where the employee took at least six consecutive weeks of neonatal care leave);
- protection from detriment as a result of having taken or sought to take or make use of the benefits of neonatal care leave, or because the employer believed that there were likely to do so; and
- protection from dismissal or selection for redundancy for having taken or sought to take or make use of the benefits of neonatal care leave, or because the employer believed that there were likely to do so – any such dismissal will be “automatically” unfair.

Further, the Government intends to introduce enhanced protection from dismissal following the return from certain types of family leave, including neonatal care leave. This

proposal is set out in the Employment Rights Bill, which is currently on its passage through Parliament. You can read more about this proposal [here](#).

What steps should employers consider taking now?

The Government will publish guidance for employers before 6 April 2025. Acas also plans to publish guidance once the new rights are in force.

Employers should consider the following policy issues now:

- Who will have “ownership” of ensuring compliance with the new rules within your business (including things like preparing a staff policy and updating related policies, training line managers and managing any record-keeping obligations)?
- Will you enhance the amount of neonatal care leave available? If so, to what amount?
- Will you enhance the rate of neonatal care pay? If so, to what level and for how long?
- Will you extend the rights to non-employees on a voluntary basis (albeit that any individuals benefitting from this would not be entitled to statutory pay and would not be able to bring relevant claims before an Employment Tribunal as they would fall outside the statutory scheme)?

- Will you relax the notice requirements? If so, what would be the minimum notice required? What form must it take (e.g. would verbal notice be sufficient)?

[Neonatal Care \(Leave and Pay\) Act 2023](#)

[Neonatal Care Leave and Miscellaneous Amendments Regulations 2025](#)

[Statutory Neonatal Care Pay \(General\) Regulations 2025](#)

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