EXPLANATORY MEMORANDUM TO

THE ADDITIONAL PATERNITY LEAVE REGULATIONS 2010

2010 No. [DRAFT]

THE ADDITIONAL STATUTORY PATERNITY PAY (GENERAL) REGULATIONS 2010

2010 No. [DRAFT]

THE ADDITIONAL STATUTORY PATERNITY PAY (ADOPTIONS FROM OVERSEAS) REGULATIONS 2010

2010 No. [DRAFT]

THE EMPLOYMENT RIGHTS ACT 1996 (APPLICATION OF SECTION 80BB TO ADOPTIONS FROM OVERSEAS) REGULATIONS 2010

2010 No. [DRAFT]

THE ADDITIONAL PATERNITY LEAVE (ADOPTIONS FROM OVERSEAS) REGULATIONS 2010

2010 No. [DRAFT]

AND

THE ADDITIONAL STATUTORY PATERNITY PAY (WEEKLY RATES) REGULATIONS 2010

2010 No. [DRAFT]

1. This explanatory memorandum has been prepared by Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instruments

2.1 These instruments introduce Additional Paternity Leave and Pay. This gives eligible employees (usually fathers) a right to up to six months' leave to care for a child, if the child's mother or (in the case of adoptions) the primary adopter returns to work without exercising their full entitlement to maternity leave. Some of the leave may be paid if it is taken during the mother's maternity pay period or, for adopted children, during the primary adopter's adoption pay period. The entitlement to Additional Paternity Leave and Pay will apply to parents of children due on or after 3 April 2011, or to adoptive parents notified of having been matched on or after that date.

2.2 The Additional Paternity Leave Regulations 2010 allow eligible employees (usually fathers) up to 26 weeks additional paternity leave, for the purpose of caring for a child under the age of one, or (for an adopted child) in the first year after being placed for adoption. Leave can only be taken once the mother has returned to work and the child is over 20 weeks old, or the child has been with its adoptive parents for 20 weeks. The Regulations set out the eligibility criteria including notice periods and information to be declared. These Regulations also provide for a longer period of leave where the child's mother or primary adopter has died during the year after the child's birth or placement for adoption.

2.3 The Additional Statutory Paternity Pay (General) Regulations 2010 allow employed earners to be paid Additional Statutory Paternity Pay if they are not working during their partner's maternity or adoption pay period. To be eligible the mother must have been entitled to maternity allowance, statutory maternity pay or statutory adoption pay and have returned to work. The Regulations set out the eligibility criteria including notice periods and length of service requirements. These Regulations also provide for cases where the mother or primary adopter dies during the year after the child's birth or placement for adoption.

2.4 The Additional Statutory Paternity Pay (Adoptions from Overseas) Regulations 2010, the Employment Rights Act 1996 (Application of Section 80BB to Adoptions from Overseas) Regulations 2010 and The Additional Paternity Leave (Adoptions from Overseas) Regulations 2010 apply the entitlement to Additional Paternity Leave and Pay (with necessary modifications) to eligible parents who are adopting a child from overseas.

2.5 The Additional Statutory Paternity Pay (Weekly Rates) Regulations 2010 set the standard weekly rate for Additional Statutory Paternity Pay.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 These instruments introduce the right to Additional Paternity Leave and Pay, provision for which was made by the Work and Families Act 2006, which amends the Employment Rights Act 1996 and Social Security (Contributions and Benefits) Act 1992. As so amended, the 1996 Act governs the entitlement to Additional Paternity Leave and the 1992 Act governs the entitlement to Additional Statutory Paternity Pay.

4.2 The instruments are part of a suite of regulations that enable Additional Paternity Leave and Pay, with a further six negative instruments completing the package.

4.3 This fulfils an undertaking made by the Government to introduce Additional Paternity Leave and Pay. On the 20 June 2007, Jim Fitzpatrick made an announcement in the House of Commons stating that the Government had made a commitment to introduce additional paternity leave and additional statutory paternity pay before the end of this Parliament, although a date of introduction was still to be decided.

5. Territorial Extent and Application

5.1 These instruments apply to Great Britain. Separate regulations are to be made in Northern Ireland.

6. European Convention on Human Rights

6.1 The Minister of State for Employment Relations and Postal Affairs has made the following statement regarding Human Rights:

In my view the provisions of the named Statutory Instruments are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 The Government believes Additional Paternity Leave and Pay will provide greater choice for parents in how they divide childcare responsibilities between them. It will enable certain employees (usually fathers) to have a greater involvement in raising their child in the first year of the child's life.

7.2 In its 2005 Manifesto, the Government stated its intention to give fathers more opportunities to spend time with their children.

7.3 The Work and Families Act 2006 was introduced to make provision for statutory rights to leave and pay in connection with the birth or adoption of children. This included the introduction of a new scheme to provide certain employees (generally fathers) with a new entitlement to take leave to care for a child and a new entitlement to receive pay while they are on leave, if certain conditions are met.

7.4 Introducing Additional Paternity Leave and Pay aims to give families more choice about their caring arrangements during the first year of life and so increase fairness. This will respond to the growing number of fathers who want greater opportunities to care for their child.

- ***Consolidation***

7.5 These Orders do not consolidate any other Instruments.

8. Consultation outcome

8.1 Consultations took place in March 2006 on the detail of the Additional Paternity Leave and Pay scheme and in May 2007 on the administration of Additional Paternity Leave and Pay. Both consultations were for 12 weeks.

8.2 A further consultation on the draft regulations closed on 20 November 2009. This consultation lasted eight weeks. A shorter consultation period was required in order to meet the challenging parliamentary timetable. As this was the third consultation, it gave interested parties ample opportunity to respond. A number of meetings with key stakeholders took place during the consultation period.

8.3 One hundred and ten written responses were received to the 2009 consultation. Half were from business or business representatives, 8% each from employee representatives and local government, and 11% each from charities or social enterprises and individuals. A further 5% each came from legal representatives and individuals.

8.4 Responses to the 2009 consultation were generally positive, with almost two thirds saying that the proposed administration strikes the right balance between the need to keep administration simple and need for certainty of entitlement.

9. Guidance

9.1 Guidance will be available for employees via www.direct.gov.uk and for employers via www.businesslink.gov.uk and www.hmrc.gov.uk; as well as HMRC Employer's CDRom; Employer Help books and the HMRC employer helpline. This guidance will be in place before the 3 April 2011 to ensure that employers and employees are aware of the changes and have the required level of information available.

10. Impact

10.1 The impact on business, public sector, charities or voluntary bodies can be more readily ascertained from the accompanying Impact Assessment.

10.2 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 Maternity, Paternity and Adoption leave are entitlements that should be available to employees based on eligibility criteria that are applied consistently, regardless of the size of their employer. We do not want to exclude parents who work in small firms from benefiting.

11.3 To minimise the impact of the requirements on firms employing up to 20 people, we have designed the administration of the scheme to be as 'light-touch' as possible to minimise the burden placed upon businesses. Small businesses (defined as paying £45,000 or less in National Insurance contributions) can claim back 104.5% of Additional Statutory Paternity payments made.

11.4 All affected businesses will be impacted by the absence of a member of staff, and small businesses may experience a disproportionate impact when an individual takes leave, compared to larger businesses. However, it is estimated that less than 1% of small businesses will be affected each year.

11.5 We have consulted with small business representatives as part of the consultation process.

12. Monitoring & review

12.1 The Department for Business, Innovation and Skills (BIS) regularly undertakes evaluations of maternity and paternity rights in conjunction with the Department for Work and Pensions (DWP). A survey of fathers will be undertaken once Additional Paternity Leave and Pay has been implemented in April 2011. Further surveys will be carried out on a regular basis.

13. Contact

13.1 Karen Haseldine at the Department of Business, Innovation and Skills Tel: 020 7215 5531 or email: karen.haseldine@bis.gsi.gov.uk can answer any queries regarding the instrument.

BIS | Department for Business Innovation & Skills

FINAL IMPACT ASSESSMENT

Additional Paternity Leave and Pay

JANUARY 2010

Summary: intervention and options

Department/agency: Business Innovation and Skills	**Title:** Final Impact Assessment of Additional Paternity Leave and Pay	
Stage: Final	Version: Final	Date: 18 January 2010
Related publications:		

Available to view or download at: www.berr.gov.uk/files/file54236.pdf

Contact for enquiries: Karen Haseldine /Sheila Honey Telephone: 020 7215 5531/6984

What is the problem under consideration? Why is government intervention necessary?

The Government recognises that families have diverse needs, and want more choice in how they balance work and caring responsibilities. In addition, there is a growing body of evidence that fathers can play an important part in their child's development from birth through to adolescence.

Fathers now contribute around a third of all time spent by parents in caring for their children. Recent survey evidence suggests that fathers would like to be even more involved. Many fathers want to be able to spend more time helping to bring up their children and have greater choices about balancing their work and caring responsibilities.

What are the policy objectives and the intended effects?

The Government has already taken significant steps to enable fathers to play a bigger role in bringing up their children with parental leave, two weeks' paid paternity leave and the right to request flexible working hours.

Introducing Additional Paternity Leave and Pay (APL&P) aims to give families more choice about their caring arrangements during the first year of life and so increase fairness. This will respond to the growing number of fathers who want greater opportunities to care for their child.

What policy objectives have been considered? Please justify any preferred option

Consultations were carried out in March 2006 which considered three options for eligibility for leave and pay : leave conditional upon a father having been eligible for Statutory Paternity Leave, in other words, will have been with his employer for the 60 weeks prior to the start of APL; leave conditional upon a father having been in continuous employment with his employer for one year, and leave conditional upon a father having been in continuous employment with his employer for the 26 weeks prior to the start of APL.

It has been decided that the eligibility for leave and pay should follow the first option. This option is felt to impose minimal additional burdens on businesses and will keep the administration as straightforward as possible since it will build on existing arrangements for employees who take up paternity and adoption leave and pay entitlements.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

BIS regularly undertakes evaluations of maternity and paternity rights in conjunction with the Department for Work and Pensions (DWP). A survey of fathers will be undertaken in over a year after Additional Paternity Leave has been implemented in April 2011.

Ministerial sign-off for final stage Impact Assessment

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:
Lord Young of Norwood Green
……Date: 13/01/2010

Lord Young of Norwood Green, Minister for Employment Relations and Postal Affairs

Summary: analysis & evidence

Policy option	Description
1	Leave conditional upon a father having been with his employer for the 60 weeks prior to the start of APL

Costs

ANNUAL COSTS		Description and scale of **key monetised costs by** 'main affected groups'
One-off (transition)	**Yrs**	Cost to the Exchequer in implementing systems to manage APL&P (£6.9m) Exchequer policy cost £0.2m to £2.7m Exchequer admin recurring costs £1.1m Costs to employers for covering absence (£0.5 to £10.3m) Employers' staff time spent on setting up administration systems for APL&P (£1.7m to £5m) Employers' staff time spent on administration of APL&P (£0.14m to £0.5m)
£8.6m – £11.9m	1	
Average annual cost (excluding one-off)		
£1.95m-£14.6m	**Total cost** (PV)	£25m – £137m

Other **key non monetised costs** by 'main affected groups'

Costs to the Exchequer and employers should fathers' leave not offset that which would have been taken by the mother; costs for DWP for mothers in receipt of Maternity Allowance.

Benefits

ANNUAL BENEFITS		Description and scale of **key monetised benefits by** 'main affected groups'
One-off	**Yr**	No evidence is available to quantify benefits.
£		
Average annual cost (excluding one-off)		
£	**Total Benefit** (PV)	£

Other **key non monetised benefits** by 'main affected groups'

More flexibility over childcare arrangements; increased opportunity for fathers to spend more time with their children so increasing fairness; greater connection of women to workplace; reduced gender gap in employment.

Key assumptions/sensitivities/risks:

Estimated take-up of Additional Paternity Leave will be between 4% and 8% of eligible fathers (10,000 – 20,000). Amount of time taken is unlikely to be greater than 13 weeks but could be considerably less.

Price base year: 2009	Time period (years) 10	Net benefit range (NPV) £	Net Benefit (NPV best estimate) £

What is the geographic coverage of the policy/option?	GB
On what date will the policy be implemented?	April 2011
Which organisation(s) will enforce the policy?	Tribunals Service/ HMRC
What is the total annual cost of enforcement for these	£ N/A
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	Yes
What is the value of the proposed offsetting measure per year?	£ N/A
What is the value of changes in greenhouse gas emissions?	£ N/A
Will the proposal have a significant impact on competition?	No

Annual cost (£-£) per organisation (excluding one-off)	Micro £1.71	Small £10.60	Med £55.69	Large £1,052.41
Are any of these organisations exempt?	No	No	N/A	N/A

Key	Annual costs and benefits: constant prices	(Net) Present Value

Evidence Base (for summary sheets)

A: Strategic Overview

1. The Government has set out clear commitments to ensure every child gets the best start in life and to give parents more choice about how to balance their work and family responsibilities. There is a growing body of evidence that fathers can play an important part in their child's development from birth through to adolescence.

2. Since the 1970s fathers have been spending increasing amounts of time with their children. Fathers now contribute around a third of all time spent by parents in caring for their children. Recent survey evidence suggests that fathers would like to be even more involved.

3. The Government has already taken significant steps to enable fathers to play a bigger role in bringing up their children with parental leave, two weeks' paid paternity leave and the right to request flexible working hours. However many fathers want to be able to spend more time helping to bring up their children and have greater choices about balancing their work and caring responsibilities.

B: The Issue

4. In the Work and Families Act 2006 the Government introduced a package of measures to give families more choice and flexibility in caring for their children during the first year of life. This was in response to a growing demand for fathers to have greater opportunities to care for their child and be the primary carer.

5. The Act included powers to increase fathers' entitlements to paternity leave and pay by providing Additional Paternity Leave (APL) and Additional Statutory Paternity Pay (ASPP). It has now been agreed that the Department for Business, Innovation and Skills (BIS) will now implement APL to be in place for babies due on or after 3 April 2011.

6. The new system will give fathers a right to a maximum of six months additional paternity leave, which can be accessed once the mother has returned to work. Mothers are entitled to 52 weeks' maternity leave, of which 39 weeks are paid (either Statutory Maternity Pay (SMP) or Maternity Allowance (MA)). The first 26 weeks of this leave will be reserved for mothers. If the father takes leave during the mother's Maternity pay period he will receive ASPP at a flat rate that is equivalent to SMP (currently £123.06). If SMP is extended to 52 weeks, fathers would have the right to up to six months paid at the flat rate.

Consultation

7. On 9 March 2006 the Government published a consultation document seeking views on the detailed aspects of the APL&P scheme.[1] The consultation closed on 31 May 2006. This consultation followed publication of

[1] "Work and Families – Choice and Flexibility. Additional Paternity Leave and Pay." March 2006; URN 06/639. www.berr.gov.uk/files/file25024.pdf

the Work and Families Bill, introduced in Parliament in October 2005, and publication of the Government's Response[2] to an earlier, wide-ranging consultation in spring 2005.[3]

8. The response acknowledged that there were still aspects of the administration of APL&P that needed further work. A second consultation was published in May 2007[4] and sought views on a number of aspects of the scheme. These included eligibility for APL&P, when APL&P could be taken and the administration of the scheme. The options considered are set out in Section D below.

Procedural Issues

9. A consultation on the legal and technical details of the scheme took place between 20 September 2009 and 20 November 2009. The Government response to this can be found on the BIS website.

10. This secondary legislation recently consulted on (and laid on the 18 January) sets out the details of the scheme; policy proposals for these regulations were set out in the 2006 consultation document published and in the Government Response to the consultation. The discussion of costs and benefits here therefore draw upon an earlier assessment of the overall costs and benefits of the Work and Families Bill.[5]

11. Since April 2003, working fathers of newborn children have been entitled to Statutory Paternity Pay and Statutory Paternity Leave (SPP and SPL). The introduction of APL&P will not affect these entitlements[6].

12. It should be noted that the APL&P legislation concerns statutory schemes only. If employers offer more generous occupational paternity leave or pay schemes these will not be affected by this policy.

13. Although the proposals in this part of the Work and Families Act will introduce new regulations for businesses, other measures in the Act (for example to encourage communication and contact during maternity and paternity leave) reduced the administrative and policy costs to employers of the overall package.

14. BIS is strongly committed to better regulation and to ensuring reforms deliver whilst minimising burdens. The Government Responses to the previous consultations set out how our proposals have developed in response to stakeholder views. Feedback is encouraged from stakeholders to help us develop our wider simplification programme in this and other policy areas, through www.BIS.gov.uk/bbf/better-regulation/challenge-red-tape/views/page24687.html

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2 "Work and Families: Choice and Flexibility – Government Response to public consultation" October 2005; URN 05/1298. www.dti.gov.uk/files/file16317.pdf

3 "Work and Families: Choice and Flexibility. A Consultation Document" February 2005; URN 05/847. www.dti.gov.uk/files/file11517.pdf

4 "Work and Families: Additional Paternity Leave and Pay Administration Consultation" May 2007; URN 07/788. www.berr.gov.uk/files/file39396.pdf

5 "Work and Families: Choice and Flexibility, DTI Final Regulatory Impact Assessment, October 2005". Available here: http://www.dti.gov.uk/files/file19314.pdf

6 Though they will be renamed as Ordinary Statutory Paternity Pay and Ordinary Paternity Leave, respectively.

C. Objectives

15. Introducing APL&P is part of the Work and Families package which aims to give families more choice about their caring arrangements. The package will respond to the growing number of fathers who want greater opportunities to care for their child.

16. It is difficult to estimate the take-up by fathers initially, but the aim is to build a modern system of statutory payments that is flexible enough to accommodate parents' reasonable expectations of choice in how their care for their children.

D: Options Identification

17. A summary of proposed options can be found below.

(1) Timing of start of leave

18. Leave can be taken from a set time (20 weeks) after the birth of a child.

19. There was a strong consensus from the responses to the Work and Families consultation in February 2005 that around the first six months of a mother's statutory maternity leave should be reserved for the mother. The Government concluded that this would be the approach adopted and the consultation in March 2006 asked for opinions on how exactly this period should be defined. The Government Response set out that the earliest date at which a father will be able to take leave will be 20 weeks from the birth of the child, or, in the case of adoption, 20 weeks from the date of placement of the child for adoption.

(2) Eligibility for leave

20. Three options were considered in this 2006 consultation:

    I. Leave conditional upon a father having been eligible for Statutory Paternity Leave[7] and also having been in continuous employment with his employer up to the start of APL. In other words, will have been with his employer for the 60 weeks prior to the start of APL;

    II. Leave conditional upon a father having been in continuous employment with his employer for one year, equivalent to the current conditions required for parental leave;

    III. Leave conditional upon a father having been in continuous employment with his employer for the 26 weeks prior to the start of APL. No requirement for a father to have been eligible for Statutory Paternity Leave (SPL).

21. It has been decided that the eligibility for leave and pay should follow option I, that being that leave is conditional upon a father having been eligible for Statutory Paternity Leave. This option is felt to impose minimal additional burdens on businesses and will keep the administration as straightforward as possible since it will build on existing arrangements for employees who take up paternity and adoption leave and pay entitlements.

[7] To be eligible for Statutory Paternity Leave, a father must be employed and have completed six months' service with their employer into the 15th week before the week the baby is due.

(3) Eligibility for and level of Additional Statutory Paternity Pay

22. Additional Statutory Paternity Pay will be conditional upon the mother being entitled to SMP or MA and having some of the entitlement remaining prior to the start of ASPP. In the case of adoption, the mother would have to have been entitled to receive Statutory Adoption Pay (SAP). The number of weeks for which ASPP will be payable will depend upon the number of weeks the mother had left of her entitlement to SMP, MA or SAP. The Government took powers in the Work and Families Act to implement this.

23. The consultation document set out the requirement for APL to be taken in one continuous block. It also sought the views of stakeholders as to the method of the calculation for ASPP, for instance whether it should mirror the existing requirements for Ordinary Statutory Paternity Pay (OSPP), where the calculation is based on average earnings taken over an eight-week period. It was decided that ASPP should be paid on the flat rate equivalent to SMP.

(4) Administration of Additional Paternity Leave

24. The consultation to date with stakeholders has highlighted the preference for an administration system that is 'light touch', resulting in a simple and straightforward yet robust process. With this in mind we believe that the administration should build on existing arrangements for employees who take up maternity, paternity and adoption leave and pay entitlements.

25. It is proposed that the father and mother self-certify to the father's employer key personal facts affecting the father's eligibility. The onus would therefore be on the parents to provide the necessary information within the set timescales[8]

E: Analysis of Options

Number of beneficiaries

26. Estimates for the number of fathers eligible for APL&P are approximate as no survey or administrative data exists on current eligibility for SPL. Table 1 below provides estimates of the maximum number of fathers potentially affected by the proposals.

Table 1: Estimated eligibility for Additional Paternity Leave and Pay (projection for 2011-2012)

	Number of fathers
	Option.1 (based on 60 weeks' service)
Eligible for leave and pay	258,632

Source: BIS analysis of the Labour Force Survey, Millennium Cohort Survey and DWP estimates of SMP / MA claims

[8] The Government has proposed that an employee will be required to give a minimum of 8 weeks' notice of his intention to take APL&P. This will mirror the minimum notice period required by a mother to indicate that she wishes to return to work early from her maternity leave. See the consultation document for more information on the proposed process and timelines.

27. Estimates of the projected take up of APL&P are approximate due to the difficult nature of predicting accurately how families would respond to the proposals. The BIS Maternity and Paternity Rights 2005 Survey[9] provides some data which can be used to predict take up. This takes into consideration two factors:

(i) an estimate of mothers who indicate that they are interested in making use of the new APL&P rights; and

(ii) an estimate of fathers who indicate they are interested in making use of the new APL&P rights, or already demonstrate a strong commitment to the upbringing of their child in its first year.

28. The proportion of partnerships where both these behaviours occur has been calculated, and this is used to estimate the number of fathers who are likely to take advantage of the proposed APL&P entitlements. Full details of the calculations are given in Appendix 2.

29. The number of fathers expected to take up the proposed entitlement is given in Table 2. These figures may be considered low. However, evidence from other countries with similar systems suggests that they are of the right order of magnitude.[10] Furthermore, while the initial take-up is predicted to be modest it may increase marginally over time if this policy encourages a culture more favourable to fathers' involvement with children in their first year.

30. It should also be noted that in the first year, because APL&P will be implemented for babies due on or after April 2011 and because fathers can only take leave once the baby is 20 weeks old (effectively half way through the financial year), uptake in the first year is only 50% as fathers eligible would not be able to take leave until the second half of the first year.

Table 2: Estimated take up of Additional Paternity Leave and Pay (projection for 2011/12)[11]

	Number of fathers Option 1 (60 weeks' service)
All fathers who take up Additional Paternity Leave and Pay	10,000 – 20,000

Source: BIS analysis of the Maternity and Paternity Rights 2005 Survey. See Appendix A for details.

31. A small number of fathers will be eligible for APL but not ASPP, as they earn less than what would amount to the Lower Earnings Limit (currently £95 per

[9] Maternity and Paternity Rights and Benefits: Survey of Parents 2005, D. Smeaton and A. Marsh, DTI Employment Relations Research Series No.50, URN 08/836. www.dti.gov.uk/files/file27446.pdf

[10] These predictions represent 4-8% of eligible fathers in the UK. Figures from Scandinavian countries, when operating similar systems indicate that where parents can share leave, the proportion of fathers taking leave was fairly low, ranging from 4% in Finland to 16% in Iceland. It is only when quotas are introduced, does take up increase. Recent figures from Denmark (Statistical Yearbook) show that even with generous funding, only 8% of all leave is taken by fathers and mostly in the earlier periods. Appendix B provides further information from countries with comparable policies, and data on take-up. Peter Moss and Margaret O'Brien (eds.), "*International Review of Leave Policies and Related Research 2009*", (Awaiting publication) BIS Employment Relations Research Series No. 102.

[11] NB: These figures are rounded to the nearest thousand for ease of reference, but cost calculations in this RIA use the precise underlying figures.

week) and are therefore not eligible for statutory payments. Analysis of data from the Annual Survey of Hours and Earnings, around 4.5% of male employees earned less than this limit in 2008/09[12] However, it is hard to estimate what proportion of those actually taking APL would earn less than the limit. On the one hand, low earners might be less likely to take leave, if they need the income from work to support their families and would not receive any ASPP. On the other hand, their fall in weekly income from taking leave could still be less than the fall for higher earners, making them more likely to take leave. Overall, this limit is likely to exclude at most a few hundred fathers. The calculations in the IA do not quantify the exclusion of fathers due to the flat rate cut-off. The numbers of fathers eligible for ASPP might vary slightly, depending on the timing of the pay calculation - for example if a father was earning less than the LEL before the birth of the child, but more than the LEL by the time he wanted to take APL - but these variations are likely to be very small and are not quantified here.

32. In addition, the Government also intends to allow fathers to take an extended period of APL and ASPP in the event of the mother's death during the first year of the child's life[13]. It is estimated that between 150 and 200 fathers would be eligible for leave and pay under these circumstances. The take up and overall cost of this proposal is expected to be negligible due to the small number of instances; the presumption is that under these circumstances most fathers would stop working for some time even without this provision. Many fathers may also benefit from compassionate leave and pay from their employer in the event of their partner's death and so this entitlement would have no impact on them. However, for fathers where this is not the case, this proposal provides an important safety net at a highly difficult time.

33. Employers may face an additional impact in making arrangements for the employees' absence in these specific circumstances as they may take longer periods of APL than would otherwise be available to them. However as the aggregate impact of this policy will be negligible due to the few cases, these costs are not quantified.

Timing and Duration of ALP

34. Analysis of take-up and cost of APL&P carried out in 2005-2007 was based on an assumption that paid maternity leave would be extended from 39 to 52 weeks and that fathers could 'step in' and takeover the mother's paid leave from week 27 onwards. In that situation the mother could return to work and the father would be entitled to claim ASPP[14] between weeks 27 and 52, whereas currently fathers would only be entitled to ASPP between weeks 27 and 39.

35. On this basis it was estimated that between 4% and 8% of eligible fathers would take up APL giving overall numbers affected of between 10,000 and 19,000. It was assumed on average fathers would take 13 of the 26 weeks available to them. This is based upon evidence from the Maternity and Paternity Rights Survey 2005, where mothers who expressed willingness to transfer leave to their partner were asked how

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12 In fact the cut-off is equivalent to £120.94 a week, as the flat rate represents 90% of the earnings level.

13 At present, fathers are not able to extend their paternity leave or pay in the event of the mother's death during this period. The Government is making a provision to enable this.

14 It is estimated that in 2011/2012, SMP will be £125.30 per week.

much leave they would transfer. The average response was 11 weeks. However, as this response was given in the context of existing maternity leave entitlements (26 weeks), it is possible that the actual figure under a 39 week and 52-week maternity leave entitlement would be higher.

36. Currently, paid maternity leave is for a maximum of 39 weeks, with weeks 40 to 52 remaining unpaid. Under the current proposal the mother can transfer part of her leave in either paid or unpaid periods or both. This is likely to affect the take-up, timing and duration of additional leave taken by fathers.

37. It has not been possible to conduct detailed analysis of what the effects will be on the number of fathers taking APL&P and what the costs may be. Costs have therefore been provided based on a range of durations of two weeks, six weeks and 13 weeks to cover the likely durations under both 39 and 52 weeks paid maternity leave.

Replacement

38. Previous versions of these calculations assumed that the father's decision to take advantage of APL&P would not affect the mother's decision about how much leave to take. This was a simplifying assumption. In reality the policy is likely to impact on mothers' choices, as the opportunity to share childcare with the father will enable some mothers to return to work earlier than they would otherwise have done.

39. The calculations in this IA are based on the assumption that leave taken by the father offsets that which would have been taken by the mother. However, there is the possibility that only part of the leave taken by the father will replace time that would otherwise have been taken by the mother. At this stage we do not have the evidence to assess the extent of replacement but will be monitored in further research.[15]

40. There will however be some Exchequer costs relating to the small proportion of fathers whose leave will clearly be additional to that of the mother. Recent DWP research16 found that 84% of mothers take all their entitlement to paid leave. A small proportion therefore, always planned to return to work early irrespective of whether APL is available. In those cases, if the father takes APL there will be a small additional cost since the costs of paying ASPP will not be directly offset by the savings in SMP. It is not possible to assess what proportion of the partners of those who go back early would actually take APL. Some of those who go back early will be lone parents and some will have gone back early because they need two incomes.

Costs

41. The aggregate cost of this policy to the economy as a whole is expected to be small. However there are costs both to the Exchequer and to employers, which should be considered.

To Employers

- Covering the cost of absence where the net additional cost was calculated.
- Direct policy cost due to differential in reclaim rates.
- Admin cost of implementing APL/ASPP.

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15 This is also based on information from the Maternity and Paternity Rights Survey of Parents 2005, where mothers who indicated willingness to transfer leave to their partner were asked whether this would affect how much leave they would themselves take. Around half of respondents said that it would.

16 Maternity rights and mothers employment decisions, DWP Research Report No 496, 2008) http://research.dwp.gov.uk/asd/asd5/rports2007-2008/rrep496.pdf

To the Exchequer:

- Admin cost of implementing and running the system.
- Direct policy cost of paying ASPP.

42. The figures quoted in this IA are based on the scheme being introduced for babies due from 3 April 2011.

43. The prevailing flat rate of pay is estimated to be £125.30 per week for the year 2011/12.[17]

44. It is also assumed that employers with occupational maternity provisions will not provide such rights to fathers receiving APL&P, as there will be no legal requirement for them to do so. Employers may choose to offer occupational paternity schemes above the statutory requirements, but as this will not be imposed by the regulations, the costs are not considered here.

Direct policy costs to Employers

45. The direct policy costs of APL&P reflect the weekly payments made to fathers who receive ASPP. Since the calculations in this IA are based on the assumption that leave taken by the father offsets that which would have been taken by the mother, and policy costs will be offset to by the reduction in total expenditure on Statutory Maternity Pay as mothers will be returning to work early. There are therefore, no direct policy costs.

46. As mentioned in paragraph 38 above, there will be a small proportion of fathers whose leave is clearly additional to that of the mother. However, given that the numbers are likely to be very small and will only affect larger businesses, it has been assumed that these costs will be negligible.

Cost of absence

47. Employers also face an additional direct cost due to having to cover the absence of those fathers who take up the new right. In calculating these costs, we assume that some employers reorganise existing employees to cover the absence while others hire temporary agency workers.[18] This additional cost depends on the number of fathers who take advantage of the APL&P entitlements, and is based on the range presented in Table 2. Table 3 shows the cost of absence borne by employers due to fathers taking 2, 6 and13 weeks of leave.

48. However, it should be borne in mind that across employers as a whole the costs of absence of fathers will be offset by the mother's early return to work thereby reducing absence costs for the mother's employer.*)*

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17 The rate for Additional Statutory Paternity Pay will be the same as the rates for Statutory Maternity Pay and Statutory Paternity Pay, currently £123.06 per week. Due to a forecast negative RPI in 2009, it is unlikely that the rate of SMP will change significantly. As stated above, October 2011 is the proposed timing for introduction of these measures: a precise date for introduction has still to be set.

18 See "Work and Families: Choice and Flexibility, Final Regulatory Impact Assessment on the Work and Families Bill, DTI (October 2005)" for a full explanation of the methodology employed here.

Table 3: Estimated cost of absence due to proposal to introduce Additional Paternity Leave and Pay (projection for 2011/12)

	£ (millions)		
	2 weeks	6 weeks	13 weeks
Total cost of absence	£0.5m-£1.6m	£1.4m-£4.7m	£3.2m-£10.3m

Source: BIS estimates

49. The range for the estimated cost of absence presented in Table 3 is wide as it incorporates both uncertainty about the number of fathers who will take up their entitlement to APL&P as well as uncertainty about the degree of costs that employers are likely to face.

Administrative costs to employers – One-off costs

50. Table 4 shows the estimated cost of administration borne by employers of mothers and fathers who make use of the APL&P entitlements. As the estimate of the numbers of men who take up their entitlement is low (in terms of the proportion of the male working population) it is assumed that many employers (and in particular small employers) will not adjust their systems immediately once the legislation is passed. Rather, it is assumed that individual employers would amend their HR practices gradually as cases appear, on a 'needs basis'. Furthermore clear and extensive guidance will be made available to employers through a variety of channels, to ease the implementation as much as possible.

51. As a result, the aggregate cost of implementation is both small and ongoing as large employers taken together as a group make the necessary one-off changes over a period of years. There are no one-off costs for smaller employers, since it is assumed that smaller employers operate more informal payroll practices.

Table 4: Estimated administrative costs to employers due to proposal to introduce Additional Paternity Leave and Pay (projection for 2011/12)

	Cost (£ millions)
One-off changes to systems and HR practices (larger employers only)	£1.7 - £5.0

Source: BIS estimates

Administrative costs to employers – Recurring costs

52. Recurring costs, both for individual employers and in aggregate are assumed to be the cost of administering fathers' take up of APL&P.

53. Although administrative costs in aggregate are small (as would be expected due to the small number of cases per year), for an individual employer the administrative costs might represent a greater burden, but we are aiming to keep the administration similar to existing maternity and paternity provisions, which should assist an employer. Some small businesses may have little experience in handling cases of employees taking leave to have a child, and

have little resource allocated to such tasks. In order to process a father's claim for ASPP, the task may fall to a Director who may have little experience of handling such claims, whereas for a larger employer, experienced Human Resource professionals would handle this. However, the likelihood of a case like this arising is very small. Alongside this, the guidance has been improved to further assist small businesses in handling cases.

54. Other measures in the Work and Families Bill to encourage communication and contact during parental leave should also reduce the administrative and policy costs to employers of APL&P, though these benefits have not been quantified.[19]

The administrative burden

55. The costs that are presented in the following section mirror those presented in the 2007 Impact Assessment on Administration of APL&P[20]. These reflect changes to the employer administrative burden baseline as measured by HMRC's standard cost model (SCM).

56. There are several areas of employer compliance for statutory payments that are not covered by the SCM. Although these obligations are not legislative requirements they still form part of the employer compliance regime and as such require costing as part of the wider employer compliance burden:

57. The full costing methodology and key assumptions used for each of these elements is presented in Annex 3.

58. Table 5 below provides a summary of all the additional costs of introducing ASPP. The costs have been estimated as ranging between £0.15 million and £0.46 million based on self- certification. These costings would of course be subject to change should the estimated number of employees claiming ASPP increase significantly above the initial estimates set out in Table 1 above.

Table 5: Summary of Estimated Recurring Costs to Employers under Self Certification

	10,000 recipients		20,000 recipients	
	Main estimate	**Upper Limit**	**Main estimate**	**Upper Limit**
Changes to the P11	£17,200	n.a.	£34,400	n.a.
Changes to the P14&P35	£40,600	n.a.	£81,000	n.a.
Recovery of ASPP	£17,200	n.a.	£34,500	n.a.
Advance funding of ASPP	£600	n.a.	£1,200	n.a.
Partial advance funding of ASPP	£5,200	n.a.	£10,400	n.a.
Payments Deductions records - P30BC/P32 Forms	£2,500 to £12,300	n.a.	£5,110 to £24,700	n.a.
Employee application for ASPP	£9,700	n.a.	£19,200	n.a.
ASPP2 record sheet	£38,200	£95,200	£76,600	£191,400
Changes to current compliance and audit checks	£5,400	£27,000	£10,800	£54,000
Total Costs (2 and 13 week durations)	£137,000 - £145,000	£215,000 - £225,00	£273,000 - £292,800	£431,000 - £458,800

Source: HMRC; * These costs form part of the wider compliance effect and as such are not calculated using only SCM evidence and data

[19] See *Work and Families: Choice and Flexibility*, Final Regulatory Impact Assessment on the Work and Families Bill, DTI (October 2005) for details of the proposed measures and a discussion of their likely impact.

[20] See Partial Regulatory Impact Assessment – Additional Paternity Leave and Pay – Administration of Additional Statutory Paternity Pay, (May 2007)

Direct policy costs to the Exchequer

59. As indicated in paragraph 40 above, there will be some Exchequer costs relating to the small proportion of fathers whose leave will clearly be additional to that of the mother. Her Majesty's Revenue and Customs have estimated that this is likely to be in the in the region of £1.3m for 10,000 recipients and £2.6m for 20,000 where the duration of leave is 13 weeks (see table 6, below).

Table 6: Estimated Direct Policy costs to the Exchequer due to proposal to introduce Additional Paternity Leave and Pay

	£ (millions)		
	2 weeks	6 weeks	13 weeks
Cost of ASPP – 10,000 recipients	£0.2m	£0.6m	£1.3m
Cost of ASPP – 20,000 recipients	£0.4m	£1.2m	£2.7m

Source: HMRC estimates

Administrative cost to the Exchequer

60. Administrative costs to the Exchequer were set out in the May 2007 Impact Assessment on administration of ASPP. HMRC will be responsible for employer support and guidance; for any forms development including impacts on systems for processing employers' end of year return data; and for processing employers' claims for advance funding of ASPP. The associated Exchequer costs associated with administration are presented in Table 7. It is estimated that the costs to set up the necessary IT solution will be £5.5 million by the first year with on-going IT costs of £0.6 million annually. Other administrative costs are expected to be £1.4 million manpower start-up and first year costs, and £0.5 million manpower costs each year thereafter.

Table 7: Estimated administrative costs to HMRC due to proposal to introduce Additional Paternity Leave and Pay

	Cost (£ millions)
One-off administrative set-up and first year cost s	1.4
One-off IT cost	5.5
Recurring administrative cost	0.5
Recurring IT cost	0.6
Total cost (first year)	6.9
Recurring cost (after first year)	1.1

Source: HMRC estimates

Benefits

61. The introduction of APL&P is expected to have significant economic and non-economic benefits.

62. *These include:*

- Enhancing child welfare;

- Providing an opportunity for fathers to take time off work to care for their baby, responding to growing numbers of fathers who want greater opportunities to care for their child;

- Providing both parents with more flexibility over their childcare arrangements;

- Enabling mothers to return to work earlier where their preferred option is for the father or partner to take over responsibility for caring for the child;

- By providing mothers with a real choice over their timing of return to the labour market, this not only supports their connection to the workforce and hence their future career development, but also helps maintain an important source of labour supply, thereby helping the UK meet the Lisbon objectives[21].

63. In general, evidence shows that greater parental leave (whether taken by the mother or father) has benefits for the child's welfare. For example, infant mortality is significantly reduced when parents spend more time with their children, particularly at the post neo-natal stage of 28 days to 1 year old. This is particularly true when the leave is taken in a job-secure context. [22] To the extent that Additional Paternity Leave increases the total length of time that parents spend with their new children (see earlier discussions on how fathers' leave-taking affects mothers' leave-taking), it will contribute to such improvements in child welfare.

64. Evidence on the specific impact of take-up of paternity leave on child welfare is scarce. One of the few studies to deal directly with this issue suggests that greater involvement of fathers in childcare during the first eighteen months of their child's life can have strongly beneficial effects on children's cognitive development if the mother is working full time, countering the negative (though small) effects of a mother returning early to full time employment.[23].

65. Studies on the impact of maternity leave and pay on women's connection to the labour force and the gender pay gap produce somewhat mixed results. On the one hand, it is widely thought that the right to leave and pay, combined with job security, enhances women's participation in the labour force. It may also help women to maintain the pay levels they had before the birth of the child.[24] On the other hand, there is some evidence to suggest that longer periods of leave may have detrimental effects on women's pay and how they are perceived in the workplace.[25] A more equitable sharing of

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21 In 2004, the UK female employment rate was 65.6%, already exceeding the Lisbon target of 60% to be achieved by 2010. Source: Table 5, *Employment in Europe 2005*, DG Employment and Social Affairs, European Commission

22 Ruhm (2000) and Tanaka (2005), cited in Moss and O'Brien (2006).

23 "The Effects of Early Maternal Employment on Child Development in the UK", Paul Gregg, Elizabeth Washbrook and the ALSPAC Study team, May 2003 Bristol CMPO Working Paper Series No. 03/070. URL: www.bris.ac.uk/Depts/CMPO/workingpapers/wp70.pdf

24 See for example Waldfogel (1998), "The Family Gap for Young Women in the United States and Britain: Can Maternity Leave Make a Difference?" *Journal of Labor Economics*, 16 (3).

25 Ruhm finds that short periods of leave (three months) have no effect on wages, but longer periods (nine months) are associated with a 2-3% fall in women's relative wages. Moss and Deven also find that longer periods of leave are associated with stereotypical roles for women. Ruhm (1998), "The economic consequences of parental leave mandates: Lessons from Europe", *The Quarterly Journal of Economics, 113*, 285-317; Moss and Deven (1999) "Parental leave policies: Progress or pitfall?" The Hauge/Brussels: NIDI/CBGS Publications.

childcare responsibilities among couples after the first six months' of a child's life may help to reduce any such risks for mothers.

F: Risks

66. There may be a risk of fraud and obviously the aim will be to minimise this as far as possible. Although checks with third parties may prove useful, the financial and time costs of involving in every case either HMRC and/or the mother's employer in the verification process would be significant and are likely to outweigh the benefit derived.

67. Instead HMRC will introduce a combination of random and risk-based checks on employers and employees. The costs of this have been estimated separately below.

G: Enforcement

68. In putting enforcement mechanisms in place, the Government is aware of the need to strike a balance between avoiding placing undue burdens on business and ensuring that employees receive their rights. Where statutory payments are concerned we also need to consider the balance between these interests and protecting the tax payer from payments made or claimed either in genuine error or fraudulently. We expect the compliance risks for the new scheme to be low and the steps taken to ensure compliance will be proportionate.

69. Full guidance on statutory payments is available at www.direct.gov.uk and www.businesslink.gov.uk. Advice for employers and employees about laws for working parents is also available from ACAS. The HMRC Employers' Helpline provides advice to employers about statutory payments in addition to the Employers Handbooks on how to administrate statutory payments which are available on-line.

70. Under existing maternity, paternity and adoption leave legislation, employees who believe their rights have been infringed may seek redress through a statutory dispute resolution mechanism and ultimately through an employment tribunal. Employees who believe an employer's decision about a statutory payment is wrong are able to appeal to HMRC.

71. We do not anticipate a significant change in the number of enquiries to ACAS or in the number of employment tribunal applications as a result of the APL&P proposals.

72. A tribunal will be able to award an employee compensation if the employer does not comply with the legislation, or if the employee suffers a detriment or is dismissed for taking paternity leave.

H: Summary Table of Costs and Benefits

Table 8: Summary of costs and benefits for introducing Additional Paternity Leave and Pay (projections for 2011/12)

	Estimated costs and benefits (£ millions)		
	2 weeks	6 weeks	13 weeks
COSTS			
Exchequer policy cost	£0.2-£0.4m	£0.6-£1.2m	£1.3-£2.7m
Exchequer admin one off costs	£6.9m	£6.9m	£6.9m
Exchequer admin recurring costs	£1.1m	£1.1m	£1.1m
Employer cost	£2.3m-£7.1m	£3.2m-£10.1m	£5.1m-£15.8m
of which direct policy cost	-	-	-
of which cost of absence	£0.5m-£1.6m	£1.4-£4.7m	£3.2m-£10.3m
of which administration cost – one off	£1.7m-£5.0m	£1.7m-£5.0m	£1.7m-£5.0m
of which administration cost – recurring	£0.14m-£0.43m	£0.14m-£0.4m	£0.15m-£0.5m
Total quantifiable costs	£10.6m-£15.4m	£11.9m-£19.4m	£14.4m-£26.5m
BENEFITS			
Total benefits	Positive (more flexibility over childcare arrangements, opportunity for fathers to spend more time with their children; greater connection of women to workplace; reduced gender gap in employment)		

Source: BIS / HMRC

J: Monitoring and evaluation

73. BIS conducts a number of key benchmark surveys across the diverse set of policy areas within Employment Relations to identify specific issues for both policy development and for monitoring and evaluation following implementation.

74. BIS regularly undertakes evaluations of maternity and paternity rights in conjunction with DWP. The current project includes a survey of fathers to provide information on take up, experiences and views on paternity rights and benefits. The main aim of this survey is to identify the impact of the 2007 legislative changes and to provide a baseline against which the impact can be measured.

75. Evaluation will be undertaken once Additional Paternity Leave has been implemented.

Specific Impact Tests: checklist

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	No
Rural Proofing	No	No

Annex 1:

Annex A: Specific impact tests

Small firms' impact test

Small Firms Impact Test

Small firms' impact test

Small businesses may experience a disproportionate impact on the running of their business when an individual takes leave, compared to larger businesses, particularly where small businesses do not have a dedicated HR function. As a group, small businesses are as likely to encounter requests for APL&P as larger businesses, though individual small businesses will be less likely to be affected by the new entitlements, as they have fewer employees per business.

However, it should also be noted that smaller employers are entitled to recover 100% of any ASPP payments they make (plus 4.5% compensation for the extra National Insurance Contributions payable), compared to a 92% recovery entitlement for larger firms. To some extent, this will offset the disproportionate impact on small firms, although other costs such as the cost of covering for absence will still remain.

Furthermore the BIS will consider what guidance is necessary for all businesses to ensure that any communication, whether involving the mother's and father's employers or HMRC is simple and effective, which will also limit the impact and costs of administering the leave and pay. Small businesses and their representative organisations will be encouraged in particular to work with government on this and ensure that the guidance and advice produced is clear, relevant and comprehensive.[26]

Race equality impact assessment

It is important that the proposals outlined do not have a disproportionate effect on any one ethnic group. A preliminary race equality impact assessment was conducted alongside an earlier version of this IA as part of the Work and Families Bill in October 2005[27]. That initial assessment concluded that overall the proposals contained in the Work and Families package of measures would apply equally to all groups.

An assessment of the overall effect of the proposals is that all groups will be equally entitled. Table 9 below shows that the proportions of eligible employees are often higher among ethnic minority groups. This suggests that APL will benefit ethnic minority groups in particular, as there might be greater take-up.

[26] According to data from Enterprise Directorate in BIS in 2007 there were around 1.298 million business in the UK employing 25.9 million employees. Around 97% (around 1.259 million) of all businesses employ fewer than 50 employees. Data for spring 2009 from the Labour Force Survey show that 45% of all male employees work in firms of this size. Assuming a similar distribution of male employees opting to exercise an entitlement to additional paternity leave, even based on the maximum level of take-up estimated in this RIA this would amount to 9,206 male employees working in small business. Therefore in any given year the APL&P entitlement is estimated to affect at most 0.73%, or 1 in every 137, of all small businesses.

[27] www.dti.gov.uk/files/file26943.pdf

Table 9: Ethnicity by Eligibility for Statutory Paternity Leave		
Ethnic Group	**All male employees continuously employed for 6 months or more with child under 1 years old in family**	**% of male employees**
All	**475,795**	**3.7%**
White	405,615	3.5%
Mixed	*	*
Asian or Asian British	39,476	6.1%
Black or Black British	15,147	6.0%
Chinese	*	*
Other	10,432	5.5%

Source: Office of National Statistics, Annual Population Survey, April 2008 to March 2009
Note: * table cells with a weighted count of less than 10,000 people have been suppressed

Disability Equality

The proposal is designed to have a positive impact on all fathers. Therefore, the proposed changes are unlikely to create any barriers to equality in terms of an employees disability. Furthermore, we do not expect that employers employing individuals with disabilities will be unduly affected by the proposed adjustments in this impact assessment.

Gender Equality

This proposal concerns gender equality in that it is providing fathers more opportunity to look after their children in the first year of life. Fathers now contribute around a third of all time spent by parents in caring for their children and evidence suggests that fathers would like to be even more involved.

The Government has already taken significant steps to enable fathers to play a bigger role in bringing up their children with parental leave, two weeks paid paternity leave and the right to request flexible working hours. APL will add to these provisions giving fathers further time off to bring up their children and provide greater choices about balancing their work and caring responsibilities.

APL and ASPP will contribute to building a modern system of statutory payments that is fair and flexible enough to accommodate parents' reasonable expectations of choice in how they care for their children.

Competition Assessment

Competition assessment

The proposed changes would apply to all firms and it is unlikely to affect the competitiveness of any particular sector, although for occupations that are traditionally male-dominated these proposals could have a greater impact. While such employers may have experience in administering paternity leave and pay, they are less likely to have managed longer absences as in maternity leave. Therefore, the introduction of an entitlement to APL&P may have more of an impact on these employers than on employers whose workforce is predominately female.

In terms of absences, the costs and difficulties could be greater if the employer operates in a skilled area where there is a shortage of temporary workers.

Table 10, below, shows that inexperience in dealing with maternity leave is particularly likely in the construction sector, as this has the lowest share of women workers. Agriculture, energy, manufacturing and transport and communications may also be disproportionately affected. However, given the fairly low number of fathers expected to take advantage of APL&P, the overall impact on these sectors will remain small, and in any case these sectors would be familiar with Statutory Paternity leave and pay, on which much of the administration for this scheme is based.

Table 10: Sectoral employment by gender (2006)

Sector	Employment (thousands)	Men as proportion of all employed in this sector
Agriculture and fishing	792	51%
Energy and water	197	74%
Manufacturing	2,942	75%
Construction	2,246	88%
Distribution, hotels & restaurants	6,857	49%
Transport & communications	1,845	75%
Finance and business services	6,483	56%
Education, health and public administration	8,145	30%
Other services	1,981	50%
All	31,188	53%

Source: Labour Force Survey Q1 (Jan to Mar) 2009

The results of the competition filter test showed that there is no need to do a detailed assessment of the impact of APL&P on competition. In the filter test, the issue of market share is not relevant because the proposals apply to all sectors of the economy and at the same time, with the total number of paternity cases per year expected to be low, the likelihood of any particular employer being affected by a case is low.

The proposed policies will not affect market structure or the potential of new firms to enter markets nor are the proposals expected to have an impact on firms' production decisions.

Annex 2:

Appendix A: Calculation of take-up figures

Calculations draw on the Maternity and Paternity Rights Survey of Parents 2005.

The proportion of eligible couples that would make use of APL&P opportunities was estimated as follows:

- The mother must have said that she would have transferred some of her entitlement to statutory maternity leave to her partner, when asked; and
- The father must have indicated by his behaviour that he was strongly committed to caring for his children, or (higher estimates) said he would have wanted to stay at home to care for his child using maternity leave and pay transferred from the mother, when asked.

A father was considered to show strong commitment if he had:

- Taken parental leave to help out at home / look after his baby / child / partner;
- Left paid work since the birth of his child, as he preferred to look after the child(ren);
- Used a career break for family reasons;
- Changed his job arrangements or hours, or employer, since the birth of his child, in order to spend more time with his child or partner.

Couples where fathers had not taken at least 5 days' leave at the time of the birth of their child were excluded, regardless of their other answers, as it was considered that this indicated a lack of serious intent to participate in childcare.

The calculations also took into account the relative incomes of both partners before the birth of their child, and the combined household income. Couples were excluded if the father earned £1,000 a month more than the mother, on the basis that the fathers' lost earnings would be too much of a sacrifice to make APL&P a realistic choice for the family. For lower-earning couples (where the combined income was less than £40,000 a year), the exclusion was made if the father earned £500 a month more than the mother.

Where the mother earned significantly more than the father, measured as £1,000 a month more (or £500 where the couple's combined income was less than £40,000), it was assumed that this would constitute a strong incentive for the family to use APL&P. Therefore, even if only one member of a couple expressed interest in using APL&P, it was assumed that there was still a 50% chance that the couple would take it up.

Table A.1 shows the numbers involved at each stage:

Table A.1: Figures used to generate take-up estimates

Fathers	
- Behaviour indicates significant commitment to spending time with the child	14%
- Behaviour indicates commitment or say they would use transferred leave	38%

(In both cases the father must have used at least a week of paternity leave)

Mothers	
- Say they would transfer their leave	26%
Couples (before income adjustment)	
- Father's behaviour indicates commitment and mother says she would transfer leave	5%
- Father's behaviour indicates commitment or father says he would use transferred leave, and mother says she would transfer leave	13%
Couples (after income adjustment)	
- Father's behaviour indicates commitment and mother says she would transfer leave	4% LOW ESTIMATE
- Father's behaviour indicates commitment or father says he would use transferred leave, and mother says she would transfer leave; OR one partner indicates interest in leave and mother earns significantly more (50% of these couples included)	8% HIGH ESTIMATE

Source: BIS calculations based on the Maternity and Paternity Rights Survey of Parents 2005

Annex 3:

Additional Statutory Paternity Pay

A. Introduction

1. Statutory Paternity Pay is **currently** paid to eligible fathers for one or two weeks when their wife, partner or civil partner gives birth to or adopts a child. In order to qualify for SPP four criteria must be satisfied:

   - That the claimant is the biological father or adopter of the child or is the mother's husband, partner or civil partner or have responsibility for the child's upbringing.
   - That the claimant has had continued work with the same employer without a break for at least 26 weeks by the 15th week before the baby's due date.
   - That the claimant continues to work for that employer without a break up to the date that the child is born.
   - That they are earning an average of at least £95 (the lower earnings limit) per week (before tax).

2. If these four criteria are satisfied then the father will be entitled to **one to two** consecutive weeks SPP which amounts to £123.06 per week or 90% of earnings (whichever is less).

3. Although the father is entitled to up to two weeks of statutory leave and pay when their child is born, they are not entitled to any pay over and above this. Statutory Maternity Pay (SMP) however, may be paid to the mother of the child for up to 39 weeks (for babies due on or after the 1st April 2007). At present, the parents do not have discretion over whether the mother or the father of the child is the main carer in terms of the Statutory Payments made, with the exception of parents who are adopting a child together as they are able to choose which partner is entitled to SAP and SPP (adoption).

4. Additional Statutory Paternity Pay is a significant part of the Government's Work and Families agenda. It is designed to provide greater choice and flexibility to parents in how they combine work with their caring responsibilities particularly in the first year of the baby's life.

5. ASPP will allow qualifying fathers to take up to 13 weeks off work with pay and a further 13 weeks off without pay in order to care for their new born child (or newly adopted child). The amount that will be payable is likely to be a flat rate of £123.06 per week or 90% of the father's average weekly earnings (AWE), whichever is the lesser number. The leave is not likely to begin until the child is 20 weeks old and cannot be taken after the child's first birthday. Qualifying conditions for ASPP will include: the baby's birthday, the father's employment history and how long they have worked for their current employer, the father's earnings record, the mother's entitlement to statutory maternity pay (SMP), statutory adoption pay (SAP) or maternity allowance (MA), the mother returning to work, and the mother having unused SMP, SAP or MA when returning to work.

6. This document summarises the additional administrative and compliance burden of a possible option for administering Additional Statutory Paternity Pay (ASPP): This option would require self certification by the parents.

7. In practice, this change to current Statutory Payments policy is likely to have a significant impact on the overall compliance burden of employers who have workers that choose to take-up ASPP as a number of additional obligations will be imposed.

8. The compliance costs that are set out in the following document focus on the areas that are likely to be the most significant in terms of additional employer burdens. To identify the net cost likely to accrue to employers it is useful to set out the additional processes that employers will be required to meet if any of their employees 'take-up' ASPP.

Process for father's employer	**Actions/Notes**
1. Confirm employee's a) entitlement to Additional Paternity leave and ASPP, and b) timing / duration.	• Receive SC3 Form from employee • Establish whether the individual has worked enough to qualify and meets other eligibility criteria (new employer checklist) • Notification of employee eligibility • Notification of non-eligibility
2. Calculating ASPP entitlement	• Establish the average weekly earnings in the Set Period (i.e. Does the employee earn enough?) • This period ends with the last normal payday on or before, the end of the 15th week before the week baby due, and starts with the last normal payday at least eight weeks before that. In the eight weeks prior to the date of the end of the Set Period the employee's average earnings need to be at or above the Lower Earnings Limit (LEL).
3. Calculate the amount of ASPP due:	• The lesser of £108.85 per week or 90% of average earnings (whichever is less)
4. Calculate the amounts recoverable by deduction from monthly / quarterly PAYE and NICs	• Small employers (£45,000 or less in Class 1 NICs in previous year) – entitled to 100% recovery plus 4.5% compensation • Larger employers (over £45,000 in Class 1 NICs in previous year) – entitled to 92% recovery only.
5. Deduct amounts recoverable by deduction from monthly / quarterly PAYE and NICs	
6. Calculate the amounts recoverable by advance funding claim (where deduction from monthly / quarterly PAYE and NICs does not cover full amounts recoverable)	
7. Application for Advance funding	
8. Pay ASPP to the employee, net of payroll deductions:	• Make net payments to employees each pay period
9. Pay Income Tax and NICs and other payroll deductions and contributions	• Employee Income Tax and NICs etc deductions on the amount paid • Employer NICs to be paid (also employer pension contributions etc)
10. Keep and maintain in-year records:	• P11 deductions working sheet • P30(BC) payslip booklet • P32 employer's payment record • ASPP2 record sheet for recording payments of ASPP
11. End of Year Returns	• Employer to complete P14 and P35 forms
	•

9. There are two main costings sections set out in the following document, those that are derived using HMRC's standard cost model (SCM) which are termed 'administrative

burdens' and those that fall outside the scope of the SCM which we term the 'wider compliance costs'. The SCM only costs legislatively binding administrative burdens, which doesn't in reality cover the entire employer compliance regime. Where there is a clear burden to employers that isn't covered by the SCM we analyse the burden using all available data.

B. Framework for analysis

10. The basic data used to assess the additional administrative and compliance burden imposed on employers from the introduction of ASPP are set out in the following section.

11. Policy advisers from BIS have projected that between 10,000 and 20,000 fathers will become recipients of ASPP. HMRC estimate this will affect roughly 6,316 employers (for 20,000 recipients) which translates to 3158 employers for 10,000 recipients. Further, we assume a wide range of take up of 2 weeks, 6 weeks and the full 13 weeks with pay entitlement. Using the HMRC data on the distribution of SPP recipients and employers (the best proxy available) we assume that employer numbers (by size) that will be affected are as outlined in table 1 below28. The table further apportions the populations of employers by whether the employer 'insources' - in that they meet their payroll obligations 'in house' or whether they 'outsource' - they pay a payroll agent to meet their obligations on their behalf. These disaggregations are made using SCM standard distributions

Table 1: Distributions of affected employers and recipients

Employer size band	Number of employers affected			Number of ASPP recipients		
	LOWER LIMIT	UPPER LIMIT	%	LOWER LIMIT	UPPER LIMIT	%
B: Micro: 1-9 employees – Insourced	294	587	9.3%	342	683	3.4%
B: Micro: 1-9 employees – Outsourced	411	821	13.0%	477	955	4.8%
C: Small: 10-49 employees – Insourced	730	1,460	23.1%	979	1,959	9.8%
C: Small: 10-49 employees – Outsourced	405	811	12.8%	544	1,087	5.4%
D: Medium: 50-249 employees – Insourced	600	1,201	19.0%	1,230	2,461	12.3%
D: Medium: 50-249 employees – Outsourced	237	474	7.5%	486	971	4.9%
E: Large: 250+ employees – Insourced	407	814	12.9%	5,027	10,054	50.3%
E: Large: 250+ employees – Outsourced	74	148	2.4%	915	1,830	9.2%
Total	**3,158**	**6,316**	**100.0%**	**10,000**	**20,000**	**100.0%**

*Recipients data are derived from HMRC BROCS data matched to the IDBR. Employer data are also provided by BROCS but the distributions are taken directly from the SCM.

12. In order to assess the additional compliance cost to employers, it is also necessary to attach some monetary value to the time spent in compliance. The wage rates used for the costings in this paper for those who engage in compliance activities are set out in table 2 and are obtained from SCM estimates. The rates found in the SCM are wage rates as of May 2005. As such, the wage rates used for these costings have been uprated to 2009 prices in accordance with ONS methodology. The wages given are noted as the 'blended wages' and are weighted averages of wage rates across activities in the SCM.

Table 2: Average hourly wage rates

[28] The insourcing/outsourcing split is derived from the percentage split for each employer size in the SCM.

Employer Size	Blended Wage Rates
Micro: 1-9 employees	£21.81
Small: 10-49 employees	£17.06
Medium: 50-249 employees	£17.06
Large: 250+ employees	£16.57

13. The standard cost model makes the assumption that a normally efficient business will complete payroll on a monthly basis. This is therefore the assumption used to assess the administrative costs to employers. However, when assessing the wider compliance cost the assumption that a normally efficient business will adopt a monthly payroll schedule is dropped and data from the Labour Force Survey (LFS) on employer pay period frequency is used as an alternative assumption. We drop this assumption in order to reflect the realistic compliance burden to employers as closely as possible. The pay period frequencies used are set out in the table below:

Table 3: Pay period Frequencies

Employer Size	Micro	Small	Medium	Large
Weekly	38%	29%	22%	15%
Fortnightly	2%	2%	2%	1%
Four weekly	5%	2%	9%	10%
Monthly	54%	66%	67%	74%
Total	100%	100%	100%	100%

Source: LFS employee pay period frequency data

14. Any further assumptions made in order to estimate additional burdens are obligation specific and will be outlined in each relevant section.

C. Calculation of the Potential Compliance Impact

15. The following section sets out the estimated increase in compliance burdens resulting from the core elements of this proposal, and also the key assumptions around each. The additional burden will be calculated using Standard Cost methodology, where possible, and as such will be reflected in an increase in the baseline estimates of HMRC's/BIS's[29] employer administrative burden. There are also aspects of the costing that make up a wider compliance burden which have been costed separately. It is important for the distinction between these two sets of costs to be made clear at this stage.

Table 4: Summary Table

Option 1 Costs	Estimated costs			
	10,000 recipients		19,000 recipients	
	Main estimate	Upper Limit	Main estimate	Upper limit
Changes to the P11	£17,200	n.a.	£34,400	n.a.
Changes to the P14&P35	£40,600	n.a.	£81,000	n.a.
Recovery of ASPP	£17,200	n.a.	£34,500	n.a.
Advance funding of ASPP	£600	n.a.	£1,200	n.a.
Partial advance funding of ASPP	£5,200	n.a.	£10,400	n.a.
Payments Deductions records - P30BC/P32 Forms	£12,300	n.a.	£24,700	n.a.
Employee application for ASPP	£9,700	n.a.	£19,200	n.a.
ASPP2 record sheet	£38,200	£95,200	£76,600	£191,400
Changes to current compliance and audit checks	£5,400	£27,000	£10,800	£54,000
Total	**£146,400**	**£225,000**	**£292,800**	**£450,800**

[29] Whether the burden should be added to HMRC's SCM or BIS's equivalent model has yet to be decided

* These costs form part of the wider compliance effect and as such are not calculated using only SCM evidence and data

16. The table above provides a summary of all the additional costs of introducing Additional Statutory Paternity Pay (option 1). The costs have been estimated as ranging between roughly £150 thousand and £450 thousand for option 1. These costings would be subject to a further increase if the number of employees claiming ASPP exceeded BIS's projections.

Option 1 – Self Certification:

The administrative burden

17. The costs that are presented in the following section reflect changes to the employer administrative burden baseline as measured by HMRC's standard cost model.

C1. Changes to the P11 form

18. At present, every employer is required to complete a P11 deductions workings sheet (or equivalent) in order to keep the necessary information on PAYE and NICS deductions, statutory payments, and student loans deductions. When ASPP is introduced changes will need to be made to the current P11 form in order to facilitate the recording of 'in-year' ASPP payments and deductions. This will require the addition of a new column on the P11 form in order to record the total amount of ASPP paid to the recipient each pay period.

19. It has been assumed that this change will incur a time cost of an additional 2 minutes per employee for employers each time they are required to complete the statutory payments information on the P11 and the deductions calculations that will need to be made on this pay. Taking these assumptions as the basis for the costing, the SCM yields an increase of between £17 and £35 thousand in administrative costs.

Table 5: Estimated increase in P11 costs

Employer size band	Estimated cost to employers	
	10,000 recipients	20,000 recipients
B: Micro: 1-9 employees – Insourced	1,400	2,800
B: Micro: 1-9 employees – Outsourced	1,500	3,000
C: Small: 10-49 employees – Insourced	1,900	3,800
C: Small: 10-49 employees – Outsourced	1,000	2,100
D: Medium: 50-249 employees – Insourced	1,800	3,700
D: Medium: 50-249 employees – Outsourced	800	1,700
E: Large: 250+ employees – Insourced	7,500	15,000
E: Large: 250+ employees – Outsourced	1,200	2,300
Total	**17,200**	**34,400**

C2. Changes to the P14 and P35 forms

20. The P14s and P35s are the employer end of year return forms. Specifically, the employer is required to record: income tax and National insurance deducted from every employee the amount of Statutory Payments paid, received, compensated recovered, and funded in advance, and the amount of student loans deductions paid. With the introduction of ASPP, employers of recipients will be required to meet the reporting and recording

obligations for an additional statutory payment. An extra box on the P14 form for reporting the amount of ASPP paid to the employee will be required and two extra boxes will be needed on the P35 form in order to record the amount of ASPP recovered and the amount of NICs compensation of ASPP. In addition, the total costs will also have to be up-rated to reflect the additional calculations and deductions to be made on the pay. The SCM assumes that micro employers (1-9) employees currently spend on average, 5 minutes to complete a P14 form for each of their employees and 5 minutes to complete a P35 form. We assume that by adding an extra box on the P14 form the time spent will increase by 1 minute and for two boxes on the P35 the time spent will be 2 additional minutes. Taking this assumption on board and up-rating for small medium and large employers we estimate the additional costs in the tables below:

Table 6: Estimated additional P14 costs

Employer size band	Total Additional cost	
	3,158 employers	6,316 employers
B: Micro: 1-9 employees – Insourced	£800	£1,500
B: Micro: 1-9 employees – Outsourced	£200	£400
C: Small: 10-49 employees – Insourced	£1,900	£3,800
C: Small: 10-49 employees – Outsourced	£900	£1,700
D: Medium: 50-249 employees – Insourced	£8,400	£16,800
D: Medium: 50-249 employees – Outsourced	£700	£1,400
E: Large: 250+ employees – Insourced	£5,700	£11,400
E: Large: 250+ employees – Outsourced	£200	£500
Total	£18,800	£37,500

Table 7: Estimated additional P35 costs

Employer size band	Total Additional cost	
	3,158 employers	6,316 employers
B: Micro: 1-9 employees – Insourced	£900	£1,800
B: Micro: 1-9 employees – Outsourced	£300	£500
C: Small: 10-49 employees – Insourced	£2,200	£4,400
C: Small: 10-49 employees – Outsourced	£1,000	£2,000
D: Medium: 50-249 employees – Insourced	£9,700	£19,400
D: Medium: 50-249 employees – Outsourced	£800	£1,700
E: Large: 250+ employees – Insourced	£6,600	£13,200
E: Large: 250+ employees – Outsourced	£300	£500
Total	£21,800	£43,500

C3. Recovery of ASPP from HMRC/NIF

21. Currently for Statutory Paternity Pay (SPP), the employer is able to recover 92% of the total paid out to the employee or 100% of SPP if the employer is a "small" business (i.e. the total NIC bill paid over the entire previous year is less than £45,000). The amounts to be recovered must be deducted from other payroll deductions such as PAYE, NIC and student loan repayments that the employer is collecting for the relevant month or quarter. The additional administrative burden has been calculated by up-rating the existing populations in the SCM and is estimated to be between roughly £17 and £35 thousand. No increase in time assumption is required to calculate the additional cost for this burden, as the costs represent a proportion of the internal costs from completing this obligation for other SPs.

Table 8: Recoveries

Employer size band	Estimated cost to employers	
	3158 employers	6316 employers
B: Micro: 1-9 employees – Insourced	£11,000	£22,000
B: Micro: 1-9 employees – Outsourced	£3,100	£6,100
C: Small: 10-49 employees – Insourced	£2,510	£5,020
C: Small: 10-49 employees – Outsourced	£300	£500
D: Medium: 50-249 employees – Insourced	£300	£600
D: Medium: 50-249 employees – Outsourced	£20	£30
E: Large: 250+ employees – Insourced	£100	£100
E: Large: 250+ employees – Outsourced	£0	£10
Total	£17,200	£34,500

C4. Advance Funding from HMRC

22. Where an employer is required to pay ASPP, in certain circumstances, the employer will be able apply to HMRC for advance funding from HMRC. The advance funding cannot be more than 92% of ASPP unless the business is a 'small' business. If the business is 'small' (i.e. its total NIC for the previous year is £45,000 or less) then the funding can be 100% of SPP plus an additional supplement (4.5%). The application for advance funding can be made where the ASPP payments due in an income tax month or income tax quarter are greater than the total of the following items for that quarter:

    - The PAYE deducted from all employees' emoluments
    - The NIC deductions operated on all employees' emoluments
    - The student loan deductions collected that month
    - Any payments deducted for sub-contractors under the construction Industry scheme
    - The Statutory payments the employer is required to pay to his employees.

23. Using information from HMRC's SCM it has been determined that roughly 350 employers (out of the total 6,000) may make an application for advance funding to HMRC. This is based on the data held in the model of proportions of employers that apply for advance funding of other Statutory Payments. As with the recoveries obligation set out above, no time increase assumption is required to calculate the additional cost for this burden, as the costs represent a proportion of the internal costs from completing this obligation for other SPs. Taking these assumptions into consideration it has been estimated that administrative burdens for advance funding will increase by between £600 and £1200.

Table 9: Advance funding

Employer size band	Estimated cost to employers	
	3158 employers	6316 employers
B: Micro: 1-9 employees - Insourced	£363	£726
B: Micro: 1-9 employees - Outsourced	£115	£231
C: Small: 10-49 employees - Insourced	£66	£132
C: Small: 10-49 employees - Outsourced	£10	£20
D: Medium: 50-249 employees - Insourced	£17	£35
D: Medium: 50-249 employees - Outsourced	£2	£4
E: Large: 250+ employees - Insourced	£4	£8
E: Large: 250+ employees - Outsourced	£0	£1
Total	£600	£1,200

24. An additional part of the advance funding procedure had been costed separately in table 10 below and refers to employers applying for partial advance funding to pay the ASPP to their employees: Currently, when an employer has made a payment of SPP he is entitled to recover some or all of the SPP from HMRC. This is usually done by deducting the recoverable amount from the other withholding payments that the employer is making to HMRC for the relevant income tax month or quarter (in the same way discussed above).

25. The other withholding payments include PAYE, NIC, student loan deductions, deductions from payments made to subcontractors under the Construction Industry Scheme.

26. Where these payments are not sufficient to cover the SPP due, the employer can make an application to HMRC for the **difference** to be paid to him. The option to do this will be extended to include ASPP payments with policy implementation.

Table 10: Partial advance funding

Employer size band	Estimated cost to employers	
	3158 employers	6316 employers
B: Micro: 1-9 employees - Insourced	3,270	6,540
B: Micro: 1-9 employees - Outsourced	1,039	2,079
C: Small: 10-49 employees - Insourced	592	1,184
C: Small: 10-49 employees - Outsourced	88	177
D: Medium: 50-249 employees - Insourced	161	322
D: Medium: 50-249 employees - Outsourced	17	35
E: Large: 250+ employees - Insourced	38	76
E: Large: 250+ employees - Outsourced	4	8
Total	£5,200	£10,400

C5. Changes to Current Compliance and Audit Checks

27. A combination of random and risk based checks on employers of ASPP recipients and the employers of the respective mothers will be imposed. For the purpose of these costings it has been assumed that between 1-5% of the 6316 employers will face a general audit per year. This in effect, will increase the auditing and inspection checks population of the SCM (currently 60,000) by between, 0.1% and 0.5% per year for 6,316 employers and between 0.053% and 0.027% for 3158 employers, which will increase costs as illustrated in the table below:

Table 11: Estimated costs from increasing the Audit and Inspection baseline

Segments	Increase in audit and compliance checks									
	3,158 employers					6,316 employers				
	1%	2%	3%	4%	5%	1%	2%	3%	4%	5%
B: Micro: 1-9 employees	£4,500	£8,900	£11,000	£17,800	£22,300	£8,900	£17,800	£22,000	£35,600	£44,600
C: Small: 10-49 employees	£700	£1,400	£1,400	£2,700	£3,400	£1,400	£2,700	£2,700	£5,500	£6,900
D: Medium: 50-249 employees	£200	£400	£400	£800	£1,000	£400	£800	£800	£1,600	£2,000
E: Large: 250+ employees	£100	£100	£100	£300	£300	£100	£300	£300	£500	£700
Total	£5,400	£10,800	£12,900	£21,600	£27,000	£10,800	£21,600	£25,800	£43,200	£54,000

28. It has also been assumed that only internal costs of Audit and Inspection will alter and those companies that outsource will not be affected by additional costs due to the small scale effects of this policy proposal.

The Wider Compliance Burden

29. There are several areas of employer compliance for Statutory Payments that are not covered by the standard cost model. Although these obligations are not legislative requirements they still form part of the employer compliance regime and as such require costing as part of the wider employer compliance burden.

C6. Payments Deductions records - P30BC/P32 Forms

30. The P32 and P30BC forms are designed to help the employer maintain records of when deductions payments have been made to HMRC and help the employer to complete the P35 form. If the employer does not keep detailed records of these payments, then HMRC may ask for payments to be made based on their own estimates. With the introduction of ASPP employers who have employees that are recipients of ASPP will be required to fill in additional information on one of these two forms. In practical terms, two new columns will be required so that the employer can detail the amount of ASPP recovered and the amount of NIC compensation on ASPP.

31. It has been assumed for the purpose of this costing that employers will take an additional 1 minute per pay period to report the recoveries and compensation on the P30BC/P32 form. Assuming that no additional cost will be met by employers that outsource their payroll, we find that the additional compliance burden to be borne by employers will be between £3 and £5 thousand if the employees take only 2 weeks entitlement, between £6 and £12 thousand if they take 6 weeks entitlement and between 12 and £25 thousand if the employees take full 13 weeks entitlement.

Table 12: P30BC/P32 costs

Employer size band	2 weeks duration		6 weeks duration		13 weeks duration	
	Estimated Total Costs		Estimated Total Costs		Estimated Total Costs	
	10,000 recipients	19,000 recipients	10,000 recipients	19,000 recipients	10,000 recipients	19,000 recipients
B: Micro: 1-9 employees – Insourced	£170	£340	£440	£870	£900	£1,800
B: Micro: 1-9 employees – Outsourced	£0	£0	£0	£0	£0	£0
C: Small: 10-49 employees – Insourced	£360	£710	£880	£1,760	£1,800	£3,700
C: Small: 10-49 employees – Outsourced	£0	£0	£0	£0	£0	£0
D: Medium: 50-249 employees – Insourced	£430	£860	£1,020	£2,040	£2,100	£4,200
D: Medium: 50-249 employees – Outsourced	£0	£0	£0	£0	£0	£0
E: Large: 250+ employees – Insourced	£1,600	£3,200	£3,640	£7,270	£7,500	£15,000
E: Large: 250+ employees – Outsourced	£0	£0	£0	£0	£0	£0
Total	£2,550	£5,110	£5,970	£11,950	£12,300	£24,700

C7. Application for ASPP from employee to employer

32. A new form (or change to existing SC3 form http://www.hmrc.gov.uk/forms/sc3.pdf) will be required for the employee to make an application to their employer for ASPP. The employer will not be required to complete or amend the form but will be required to keep in on file for three years. The form will also be used by the employer to help assess the employee's entitlement to ASPP. The only real financially tangible burden for this form is the storage costs which would be imposed on large and medium sized employers. The SCM assumes that small and medium sized employers would not require additional storage space for an extra form.

Table 13: Estimated storage costs

Employer size band	Storage cost	
	3,158 employers	6,316 employers
B: Micro: 1-9 employees – Insourced	£0	£0
B: Micro: 1-9 employees – Outsourced	£0	£0
C: Small: 10-49 employees – Insourced	£0	£0
C: Small: 10-49 employees – Outsourced	£0	£0
D: Medium: 50-249 employees – Insourced	£3,200	£6,400
D: Medium: 50-249 employees – Outsourced	£1,300	£2,500
E: Large: 250+ employees – Insourced	£4,400	£8,700
E: Large: 250+ employees – Outsourced	£800	£1,600
Total	£9,700	£19,200

C9. ASPP2 Record Sheet

33. HMRC will provide an ASPP record sheet to all employers who wish to use it, in order for them to keep the necessary details on their employee's Additional Statutory Paternity Pay. This form details the minimum amount of information that the employer is required to keep on ASPP and the form must be kept for at least 3 years after the tax years to which it relates. The information that is required includes: Employee's details (Name, NINO, payroll number), the birth date of the child and entitlement, and information about payments of the Statutory Payment. Based on estimates from IPP, a conservative assumption of 10 minutes to complete this form has been used to calculate the cost to employers.

Table 20: Estimated costs from introducing the ASPP record sheet (10,000)

Employer size band	No of forms processed	Internal cost	Storage cost	Total cost
Micro: 1-9 employees – Insourced	300	£1,200	£0	£1,200
Micro: 1-9 employees – Outsourced	500	£1,700	£0	£1,700
Small: 10-49 employees – Insourced	1,000	£2,800	£0	£2,800
Small: 10-49 employees – Outsourced	500	£1,500	£0	£1,500
Medium: 50-249 employees – Insourced	1,200	£3,500	£3,200	£6,700
Medium: 50-249 employees – Outsourced	500	£1,400	£1,300	£2,700
Large: 250+ employees – Insourced	5,000	£13,900	£4,400	£18,300
Large: 250+ employees – Outsourced	900	£2,500	£800	£3,300
Total	**9,900**	**£28,500**	**£9,700**	**£38,200**

Table 21: Estimated costs from introducing the ASPP record sheet (20,000 recipients)

Employer size band	No of forms processed	Internal cost	Storage cost	Total cost
Micro: 1-9 employees – Insourced	700	£2,500	£0	£2,500
Micro: 1-9 employees – Outsourced	1,000	£3,500	£0	£3,500
Small: 10-49 employees – Insourced	2,000	£5,600	£0	£5,600
Small: 10-49 employees – Outsourced	1,100	£3,100	£0	£3,100
Medium: 50-249 employees – Insourced	2,500	£7,000	£6,400	£13,400
Medium: 50-249 employees – Outsourced	1,000	£2,800	£2,500	£5,300
Large: 250+ employees – Insourced	10,100	£27,800	£8,700	£36,500
Large: 250+ employees – Outsourced	1,800	£5,100	£1,600	£6,700
Total	**20,200**	**£57,400**	**£19,200**	**£76,600**

34. As previously, IPP provided a range of time estimates beginning at 10 minutes and increasing to 30 minutes. As such, sensitivity analysis using this range is outlined in the table below:

Table 22: Estimated costs from the ASPP record sheet 10,000 recipients (alternative time assumptions)

Employer size band	10 minutes	20 minutes	30 minutes
Micro: 1-9 employees – Insourced	£1,200	£2,400	£3,600
Micro: 1-9 employees – Outsourced	£1,700	£3,400	£5,100
Small: 10-49 employees – Insourced	£2,800	£5,600	£8,400
Small: 10-49 employees – Outsourced	£1,500	£3,000	£4,500
Medium: 50-249 employees – Insourced	£6,700	£10,200	£13,700
Medium: 50-249 employees – Outsourced	£2,700	£4,100	£5,500
Large: 250+ employees – Insourced	£18,300	£32,200	£46,100
Large: 250+ employees – Outsourced	£3,300	£5,800	£8,300
Total	£38,200	£66,700	£95,200

Table 23: Estimated costs from the ASPP record sheet 20,000 recipients (alternative time assumptions)

Employer size band	10 minutes	20 minutes	30 minutes
Micro: 1-9 employees – Insourced	£2,500	£5,000	£7,500
Micro: 1-9 employees – Outsourced	£3,500	£7,000	£10,500
Small: 10-49 employees – Insourced	£5,600	£11,200	£16,800
Small: 10-49 employees – Outsourced	£3,100	£6,200	£9,300
Medium: 50-249 employees – Insourced	£13,400	£20,400	£27,400
Medium: 50-249 employees – Outsourced	£5,300	£8,100	£10,900
Large: 250+ employees – Insourced	£36,500	£64,300	£92,100
Large: 250+ employees – Outsourced	£6,700	£11,800	£16,900
Total	£76,600	£134,000	£191,400

D. Conclusion

35. This analysis was intended to provide an outline of the potential additional employer compliance costs associated with the introduction of Additional Statutory Paternity Pay and Leave. As always, the costings are heavily reliant on the underlying assumptions. If the recipient populations (for example) were to exceed their estimates, then the resultant cost increases could be considerable.

36. However, if we take on board the assumptions outlined in this document then additional compliance costs of between £220 thousand and £920 thousand will be incurred for option 1.

Annex 4:

Appendix B: International evidence on the use of shared paternal leave: Countries with policies comparable to APLP

Summarised from Peter Moss & Margaret O'Brien, "International Review of Leave Policies & Related Research", BIS Employment Relations Research Series No. 57, June 2006. www.BIS.gov.uk/files/file31948.pdf

Country	*Length of shared leave*	*Payment*	*Father's take-up*	*Factors affecting take-up*
Canada	Up to 35 weeks between the two parents, following immediately after maternity leave. Following an agreement reached in 2005, the Québec Parental Insurance Plan came into effect in January 2006, replacing the maternity and parental leave benefits through the federal Employment Insurance programme. This plan has a number of advantages in terms of the population covered, flexibility in taking the leave and the income replacement.	55 per cent of average insured earnings up to a maximum 'ceiling' of CAN$435 (€271) per week, and maximum of $41,000 (€25,576), for the year	Two-thirds (67 per cent) of Canadian men return to work less than one month after birth or adoption, compared to only two per cent of women; 17 per cent fathers take one to five months of leave and ten per cent six to 11 months compared to 12 and 33 per cent of women. While just over half of all mothers (51.5 per cent) take 12 months or more of leave, compared to only four per cent of fathers.	

Country	*Length of shared leave*	Payment	**Father's take-up**	*Factors affecting take-up*
Denmark	32 weeks split between parents. This can be spread over a longer period by the parents returning to work part-time. From 2007 the industrial sector has introduced a paid father's quota giving them three weeks with full earnings replacement as an individual right.	Ninety per cent of earnings up to a ceiling of DKK725 (€97) per working day before taxes for full-time employees, or DKK 3,515 (€470) weekly. Young people under 25 years who are not taking up education, only receive DKK363 (€49) or 50 per cent of the maximum daily sickness benefit rate (youth rate) in relation to taking up an offer of activation or traineeship in an enterprise as part of an employment programme.	Among parents of children born in 2005, 24 per cent of fathers took Parental leave and 94 per cent of mothers. On average, mothers took 28 weeks of leave, and fathers eight weeks.	It seems that the take-up of leave is related to the educational level of both the man and the woman. In those families where the woman takes the greatest part of the leave, the mother tends to have a low educational level and the father is unskilled, or the reverse; in these families, women typically take 99 per cent of total Parental leave weeks. Self-employed workers, both men and women, tend in general to take fewer weeks of leave. What seems to be important when men and women negotiate on who should take leave is wages, educational level, workplace culture and age and these seem be common factors for both the public and private sectors.

Country	***Length of shared leave***	Payment	***Father's take-up***	Factors affecting take-up
Finland	158 working days per family. A new term, 'father's month', has been introduced into the legislation; this consists of the two last Parental leave weeks and the 12 bonus days which the father gets if he takes the two last Parental leave weeks (2007). Taking advantage of the 'father's month' is more flexible than it used to be as it can be taken until the child is 16 months old.	During the first 30 days of leave, the payment is equal to 75 per cent of annual earnings up to €46,207, with a lower percentage for higher earnings. After this initial period of leave, the payment is 70 per cent of earnings up to €30,033, with a lower percentage for higher earnings. Minimum allowance as for Maternity leave.	Parental leave is mostly taken by mothers. Only 2% of fathers have taken leave over the years it has been available. Approximately 12% of fathers take the father's month.	Men with high education, employed in the public sector in middle-sized or big organisations, and whose partners also have high education, are more likely to take bonus leave – but the leave periods they take are shorter than those taken by men with less education. Overall, Parental leave is shared more often in families where both spouses have a high level of education and middle-sized or good income. Sharing is also more common among men over 30 years of age, and working in the public sector. Taking all factors into account, a father's take-up of Parental leave is most probable if he is over 30 years and does not consider himself to be the main provider of the family.

Country	***Length of shared leave***	***Payment***	Father's take-up	***Factors affecting take-up***
Iceland	3 months per mother, 3 per father, and 3 extra between parents.	Eighty per cent of earnings up to a ceiling of ISK400,000 (€1,342 per month), for those who have been in the workforce during the preceding 12 months, ending six months prior to birth. The payment to a mother working shorter part-time hours, i.e. between 25 and 49 per cent of full-time hours, is at least ISK82,000 (€275) per month; and for a mother working longer hours, at least ISK114,000 (€383)..	In 2006, 87.7 fathers took a period of leave (paternity and/or parents' joint rights) for every 100 mothers taking some leave, and fathers took about a third of all days of leave-taken by parents (an average of 100 days leave compared to 185 for mothers). Overall, 19.7 per cent of fathers took some of the parents' joint rights, and 18.5 per cent took less than their three months of designated Parental leave; 90.3 per cent of mothers took some period of parents' joint rights.	
Norway	46 or 56 weeks, depending on payment level. Of these, nine weeks are for mothers and ten weeks are for fathers 'father's quota'. The remaining 27 or 37 weeks is a family entitlement and may be taken by either mother or father.	At 100 or 80 per cent of earnings, up to a ceiling of six times the basic national insurance benefit payment (NOK421, 336 a year, €48,640). If taken at 100 per cent of earnings, the length of leave is reduced by ten weeks. Non-employed women receive a flat payment (currently about €5,000).	Prior to the fathers' quota only 4% of fathers took some parental leave. After the extension of the father's quota to six weeks in 2006, figures based on public records in 2007 show that 70 per cent of eligible fathers take more than five weeks; and that more and more fathers take six weeks. But most don't take more than their quota: only 15% take any part of the parental leave.	Fathers' use of leave is dependent on mothers and their willingness to share. If mothers have invested in education and have strong ties to working life (i.e. work full time / have higher status work) they are more likely to share. The higher the father's level of education, the more likely he is to use the quota and parental leave. Fathers least likely to use the quota are those with long working hours, in managerial positions or with a partner who works part time.

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