

## Maternity leave and pay - a reminder of the basics

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After the introduction of shared parental leave, maternity leave will continue to form the default position for employed women and the shared parental regime will coexist with maternity rights as a parallel system.

A pregnant woman is entitled to 52 weeks' maternity leave. This is made up of ordinary maternity leave ('OML') and additional maternity leave ('AML'), each lasting 26 weeks respectively. This is a day one right, with no qualifying period.

A pregnant woman must no later than the 15th week before her expected week of childbirth ('EWC') give to her employer notice of:

- her pregnancy;
- her EWC; and
- the date on which she intends her maternity leave to begin (which must not be before the beginning of the 11th week before her EWC).

The employer has a duty to inform the pregnant employee of the date on which her entitlement to maternity leave will end. The employer must do this within 28 days of receiving notice of the employee's intended maternity leave start date.

An employer is entitled to maintain reasonable contact with a woman on maternity leave, for the purposes of, for example, keeping her up to date with developments at work or offering training.

### Terms and conditions during leave and return to work

During maternity leave a woman remains bound by the terms and conditions in her contract of employment and remains entitled to her contractual benefits, save those relating to remuneration.

Employers are however obliged to maintain pension contributions at the employee's normal rate of pay throughout any period of maternity leave during which the woman is receiving maternity pay. Any contributions the employee makes will be based on the amount of any statutory maternity pay the employee is receiving, unless the employee wishes to make up the shortfall.

On her return to work after OML, the employee has the right to return to the same job in which she was employed before her absence. After AML a woman has the right to return to the same job, or, if it is not practicable for the employer to offer her the same job, to another job which is suitable and appropriate for her.

An employee who does not want to return to work should give notice of resignation in accordance with the contract of employment.

### Detriment dismissal and redundancy

Employees who take or ask to take maternity leave are protected from suffering any detriment or dismissal as a result. Employees on maternity leave are also given priority in a redundancy situation where there is a suitable alternative role available.

### Statutory maternity pay

Statutory maternity pay ('SMP') is payable provided the woman has 26 weeks' service and has high enough earnings.

SMP is payable at the 'earnings-related rate' for 6 weeks. For the remaining portion of maternity leave (maximum 33 weeks), it is payable at the lower of the 'earnings-related rate' and the 'prescribed rate'. The 'earnings-related rate' of SMP is 90% of the woman's 'normal weekly earnings', which is calculated by reference to average earnings in the eight weeks preceding the 15th week before the EWC. The 'prescribed rate' of SMP is determined by the Department of Work and Pensions and is reviewed annually - it is £138.18 per week in the tax year 2014/15. If a woman does not qualify for SMP, she may be entitled to receive Maternity Allowance ('MA').

SMP is a state payment paid by employers and then recouped as against national insurance contributions.

A woman may work for up to 10 'keeping in touch' (KIT) days during maternity leave without jeopardising her right to SMP.

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