

A pregnant woman is shown from the side, sitting and typing on a silver laptop. She is wearing a beige blazer over a dark, form-fitting dress. The background is a soft, out-of-focus light green. The text 'Clover HR' is overlaid in the top right corner, and 'EMPLOYER GUIDE' and 'MATERNITY LEAVE RIGHTS' are overlaid in the bottom right corner.

Clover HR

EMPLOYER GUIDE

MATERNITY LEAVE RIGHTS



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OVERVIEW

MATERNITY LEAVE

Pregnant employees are entitled to take up to 52 weeks statutory maternity leave, or as much leave as they wish to take, up to a maximum of 52 weeks. Employees are entitled to take the full 52 weeks of statutory maternity leave regardless of their length of service or hours of work.

The 52 weeks entitlement to statutory maternity is made up of:

- 26 weeks of ordinary maternity leave
- 26 weeks of additional maternity leave

COMPULSORY MATERNITY LEAVE

Following childbirth, there is a compulsory period of time a mother must refrain from working for.

This is:

- At least 4 weeks of maternity leave immediately following the birth of her baby for factory workers
- At least 2 weeks of maternity leave immediately following the birth of their baby for all non-Factory workers



NOTIFICATION OF PREGNANCY

An employee should inform their employer as soon as possible of their pregnancy. This will enable a health and safety risk assessment to be done as soon as possible to ensure the safety of the employee and their unborn child.

Pregnancy notification should be done no later than the 15th week before the expected week of childbirth (EWC). This is to ensure that the employee qualifies for the right to take statutory maternity leave.

Pregnancy notification must be done in writing and include the following:

- A statement that the employee is pregnant
- The expected week of childbirth (EWC)
- The date on which she intends to start her maternity leave
- Form MATB1 issued from the doctor or midwife

It is up to the employee to decide when their maternity leave starts, although this date must fall after the beginning of the 11th week before the expected week of childbirth. (Not before week 29 of an expected 40-week pregnancy).

An employee may change their intended start date of their maternity leave by giving their employer 28 days' notice of the new start date. After the employer has received an employee's notice to take maternity leave, the employer should write to the employee and confirm the following:

- Date maternity leave will commence
- Payments to be made during maternity leave

- Date maternity leave is due to end
- How contact will be made with the employee while on maternity leave

If an employee does not start their maternity leave before the birth or her baby, for example, if the baby arrives prematurely, the maternity leave will start automatically on the day after the birth of the baby when compulsory maternity leave begins.

If the employee is absent from work prior to their maternity leave starting due to pregnancy-related illness (within 4 weeks of the expected date of birth) their maternity leave will start automatically on the first day after the beginning of the absence.



MATERNITY PAY

Statutory Maternity Pay (SMP)

SMP can be paid for up to 39 weeks. SMP is made up of the following:

- 6 Weeks at 90% of an employee's average weekly earnings
- 33 weeks at £156.66 or 90% of an employee's average weekly earnings (whichever is lower).

*This amount can change in line with the statutory pay changes that take place in April each year

All SMP payments are subject to Tax and National Insurance deductions. Employees are eligible to receive SMP if:

- They have worked for their employer for at least 26 weeks before the end of the 15th week before the expected week of childbirth
- Their average earnings are not less than the lower earnings limit for national insurance payments.

Some employers offer enhanced maternity pay to employees, which would be paid in addition to SMP. (expected date of birth) their maternity leave will start automatically on the first day after the beginning of the absence.

Maternity Allowance

Any employee who is not eligible for statutory maternity pay, such as someone who is self-employed, or someone who has recently stopped working, may be entitled to receive maternity allowance instead

Maternity allowance payments depend on an employee's eligibility, these could be either:

- £156.66 a week or 90% of average weekly earnings, whichever is less for 39 weeks. (This amount can change in line with the statutory pay changes that take place in April each year)
- £27 a week for 39 weeks
- £27 a week for 14 weeks

To claim maternity allowance an employee would need to complete a MA1 form. Maternity allowance can be claimed after week 26 of pregnancy and payments can start 11 weeks before the baby is due. To be eligible for maternity allowance for 39 weeks, employees must be:

- Employed but not entitled to SMP
- Self-employed and pay class 2 National Insurance Contributions
- Recently stopped working

Employees must, in the 66 weeks before their baby's due date, have been:

- Employed or self-employed for at least 26 weeks.
- Earning £30 a week or more for at least 13 weeks (these weeks do not have to be together).

Pension

While an employee is on maternity leave, they continue to pay contributions into their pension scheme, employee contributions will be based on their actual earnings, i.e. their reduced wages. Employer contributions will continue to be paid as normal, i.e. based on their contractual earnings before maternity leave.



TIME OFF FOR ANTE-NATAL CARE

Pregnant employees are entitled to take paid time off for ante-natal care. Ante-natal care includes regular medical appointments, relaxation classes and parent-craft classes. In all cases any care appointments attended must be something that the employee has been advised to do by a registered doctor, midwife or health visitor.

Employees are entitled to continue to receive their normal pay during any authorised time off for ante-natal care. Employees must provide as much notice as possible for any appointments.

SICKNESS DURING PREGNANCY

Any pregnancy-related absence should not be counted as part of an employee's normal sickness absence record. Any absences that are non-pregnancy related will continue to be recorded as normal as per an employer's absence management procedure.





| CONTACT WHILE ON MATERNITY LEAVE

An employer reserves the right to contact employees who are on maternity leave, in order to share information with them. This includes any information about any organisational developments or career development opportunities that may arise within the company during their maternity leave.

Employees on maternity leave should not be contacted to apply pressure to them to return to work before they are ready to do so.

| KEEPING IN TOUCH DAYS (KIT)

Employees are entitled to 10 KIT days. KIT days can be used for employees to attend staff meetings, training courses, conferences, or any other work-related activity.

When using a KIT day, an employee does not have to attend work for their whole normal shift, a day has no fixed meaning and could mean any duration of time.

Maternity leave does not end if an employee attends work for a KIT day and the employee will still be entitled to receive statutory maternity pay. There is no obligation for an employee to use their KIT days. Employees will be paid their normal rate of pay for any KIT days.



HEALTH AND SAFETY

RISK ASSESSMENTS

Employers must comply with their duties under the Management of Health and Safety at Work Regulations 2000 to:

- Carry out general health and safety risk assessments as required and take into special account the risks that may affect the health and safety of employees who are expectant or new mothers
- Once an employee has informed their employer that she is pregnant, or she is within 6 months of the birth or is breastfeeding the employer must:
 1. Carry out a specific health and safety risk assessment to identify any risks in her work that may affect her or her unborn baby
 2. Provide her with information as to any relevant risks that were identified in the risk assessment
 3. Attempt to avoid or remove the risks, or temporarily alter working conditions or hours of work if possible; or offer suitable alternative work if available on the same terms and conditions
- If the risks cannot be avoided or removed the employee may need to be suspended from work on maternity grounds until the risk is avoided or removed. The employee would be entitled to receive normal salary and contractual conditions of employment unless she has refused an offer of suitable alternative employment.





TERMS AND CONDITIONS OF EMPLOYMENT WHILE ON MATERNITY LEAVE

Employees normal terms and conditions of employment continue while they are on statutory maternity leave, apart from those terms relating to pay.

HOLIDAYS

Employees continue to accrue holiday during the statutory maternity leave period.

SICKNESS ABSENCE AFTER MATERNITY LEAVE ENDS

If an employee is not able to return to work after the end of her maternity leave due to sickness or injury, whether pregnancy-related or not the normal company sickness absence policy and procedure will apply.

REDUNDANCY DURING MATERNITY LEAVE

If during maternity leave the employee's job has become redundant, the employee will be offered a suitable alternative position, if there is one available.

If there is not a suitable alternative position available, then the employees' contract of employment will be terminated on the grounds of redundancy. In these situations, company normal redundancy procedures would apply.



RETURNING TO WORK AFTER MATERNITY LEAVE AND RIGHTS ON RETURNING TO WORK AFTER MATERNITY LEAVE

If an employee wishes to return to work earlier than their expected return to work date, they should give 8 weeks advance notice of their return date.

An employee's rights to go back to her old job on her return from maternity leave may vary depending on if they return to work after OML or AML.

If an employee returns at the end of the OML period, they are entitled to return to the same job that they had prior to being on maternity leave and on the same terms and conditions of employment. The exception to this rule is where the job has been made redundant.

If an employee returns at the end of the AML period, they are entitled to return to the same job that they had prior to being on maternity leave and on the same terms and conditions of employment unless there is a reason why it is not reasonably practical for her to return to it. Instead they will be offered a similar job on terms and conditions that are no less favourable to those in the old job. The exception to this rule is where the job has been made redundant.



WHAT CAN AN EMPLOYEE DO IF NOT GETTING THEIR MATERNITY RIGHTS

The Equality Act 2010 governs the law relating to pregnancy and maternity discrimination.

Employees are protected from detrimental treatment or being dismissed on the grounds of pregnancy or maternity leave. This protection applies to employees from day one of their employment, there is no qualifying period.

During Pregnancy employees have the following rights:

- The right to Health and safety protection for mother and baby
- Right to reasonable time off, paid, for antenatal care
- Protection against unfair dismissal because of pregnancy

If an employee feels that they are not being given their legal rights, while being pregnant, or on maternity leave then they must talk to their employers to try to resolve the issues. An employee could request a meeting with their manager or HR representative to discuss the problems. Employees may find it useful to provide the employer with their concerns and their rights in writing. If this doesn't work an employee could raise a formal grievance. If these steps fail then an employee can contact ACAS to discuss the issue as they may be able to bring a claim to the employment tribunal.

If an employee's issue is regarding not being paid SMP then they can contact the HMRC directly.





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