

MATERNITY RIGHTS FACT SHEET

Rights

Pregnant employees (working under a contract of employment) are entitled to take up to 52 weeks maternity leave (which comprises of 26 weeks ordinary maternity leave immediately followed by 26 weeks additional maternity leave), regardless of length of service, so long as they follow the rules for telling the employer in advance.

A pregnant employee who satisfies certain qualifying criteria will be entitled to up to 39 weeks Statutory Maternity Pay (SMP)

Duties and Responsibilities

At least 15 weeks before the baby is due, the employee must notify her employer that she is pregnant, when the baby is expected (an employer may ask for a medical certificate confirming this), and the date on which they intend to start their maternity leave.

Once the employee has provided proper notification of her intention to take maternity leave (i.e. that she is pregnant; expected week of childbirth; and the date on which she expects her maternity leave to start), the employer must respond to her in writing within 28 days. The Employer must acknowledge her intentions and inform her of the latest date on which she must return to work after the maternity leave.

The employers may request that the employee produce form MATB1, confirming the Expected Week of Confinement.

Employees cannot start their maternity leave until the 11th week before the baby is due, unless the baby is born before then.

An employee may carry on working before the baby is born for as long as they like.

If they are absent from work for a pregnancy-related reason within the last four weeks before the baby is due, or if they give birth before they intended to go on leave, then their maternity leave will start automatically.

Pregnant employees who satisfy certain qualifying criteria – i.e. that they have worked continuously for at least 26 weeks into the 15th week before the Expected Week of Confinement, and whose average weekly earnings exceed the lower earnings limit for National Insurance contributions (currently £90) will be entitled to Statutory Maternity Pay. For Statutory Maternity Pay, employees will need to have had 26 weeks service in the qualifying week, while contractual maternity pay depends on the contract.

Prior to 5th October 2008, all the other terms and conditions of employment remain the same during ordinary maternity leave. However, for employees whose baby is due on or after 5th October 2008, your employer must continue to give you all non pay benefits throughout your entire maternity leave i.e. OML and AML.

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Employees who decide to take the full entitlement to maternity leave (i.e. 52 weeks); need not give advance notice of their return. They should simply come back on the date notified to them by their employer.

If the employee cannot return to work on that date because they are ill, the employee should notify the employer in accordance with the normal rules on sickness absence.

If the employee decides not to return from maternity leave at all, they must give the employer notice of their resignation, in accordance with their contract of employment.

If the employee returns before the end of her 52 week maternity leave entitlement, she must give eight weeks advance notice. If she doesn't the employer may postpone her return in order to get that notice.

The law does not allow the employee to return to work during the first two weeks after giving birth (four weeks in factories)

Employees returning from ordinary maternity leave are entitled to return to the same job, on the same terms and conditions as if they had not been away. This also applies when you return from taking additional maternity leave unless your employer shows that it is not reasonably practical to do so e.g. the job no longer exists. In that case, you should be offered alternative work on terms and conditions as if you hadn't been absent.

Keeping in Touch Days

Reasonable contact can be made between you and your employer during maternity leave. Also if you and your employer both agree you can do up to 10 days work.

Linda Roy

National Equality Officer

email: lroy@cwu.org

Tel: **0208 971 7238**

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www.cwu.org

Billy Hayes General Secretary
www.billyhayes.co.uk

CWU
The communications union