



Maternity Rights (employee handout)

Updated 28 January 2020

Employees have a right to:

- take a period of ordinary maternity leave of 26 weeks, so long as they provide proper notification of their intention to take maternity leave
- take a further 26 weeks of additional maternity leave following on immediately after the period of ordinary maternity leave
- receive statutory maternity pay, subject to their having a minimum of 26 weeks' continuous service as at the end of the 15th week before the week the baby is due and subject to their having average earnings that are at least the equivalent of the lower earnings limit for National Insurance purposes in force at the time and having notified the employer of their intention to take maternity leave in the prescribed manner
- receive a response within 28 days after having notified their employer of their intention to take maternity leave detailing how long they are entitled to be on leave and the latest date on which they must return to work, based on the start date given
- retain all terms and conditions of employment throughout maternity leave except for normal pay
- return to the same job when returning from ordinary maternity leave
- return to the same job when returning from additional maternity leave, unless this is not reasonably practicable, in which case they are entitled to be offered a similar job on terms and conditions which are no less favourable.

Employees have a duty to:

- notify their employer, at least 15 weeks before the baby is due, that they are 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
- not start their maternity leave before the beginning of the 11th week before the baby is due, unless the baby has been born prematurely
- notify the employer in accordance with the normal rules on sickness absence if they cannot return to work on the specified date because they are ill



- give the employer notice of their resignation, in accordance with their contract of employment, if they decide not to return from maternity leave
- give eight weeks' notice if they decide to return to work early before the end of their full maternity leave entitlement
- abide by the law by not returning to work during the first two weeks after giving birth.

Note:

If a woman's pregnancy ends other than by a live birth before the 25th week of pregnancy, she will not be entitled to maternity leave or pay. In that situation, she will ordinarily qualify for statutory sick pay. If a stillbirth occurs after the start of the 16th week before the EWC, the employer must treat the employee as having had a baby and pay SMP in the same way as for a live birth. Reference to a baby being born should be taken to include the delivery of a stillborn baby.