

Employment fact sheet: Maternity Rights at work

Who is entitled to take maternity leave?

Most women employees are entitled to take time off work to have a baby. This time off is called **maternity leave**. It is your right to take maternity leave no matter how long you have worked for your employer.

If you are in one of the following jobs, some of the information in this fact sheet may not apply to you. You will need to check your contract of employment to see what maternity rights you have at work. This applies to:

- women in the police force (not civilian employees)
- women in the armed forces
- share fisherwomen.

How much maternity leave can you take?

Most women have the right to take up to 52 weeks' maternity leave. This does not depend on how long you have worked for your employer.

The first 26 weeks of maternity leave are called Ordinary Maternity Leave (OML). You can also take an additional 26 weeks' maternity leave called Additional Maternity Leave (AML). This makes a total of 52 weeks' maternity leave. If you're taking AML, this must follow on directly after OML and there must be no gap between the two.

During OML and AML you will still get all the same rights under your contract of employment as if you were still at work. The only exception is that you will not get your normal pay unless your contract allows for it.

The Directgov website has an interactive calculator which helps you to calculate what maternity leave you are entitled to. Go to www.direct.gov.uk.

Your contract of employment may give you extra rights to maternity leave, but it can't give you less than the law allows. If your contract says you have fewer rights than the law allows, you'll still be entitled to take the maternity leave described above.

When maternity leave begins and ends

You can begin your maternity leave at any time from, the 11th week before your baby is due. If you want, you can work right up to the day your baby is born.

If you have an illness that's connected to your pregnancy in the four weeks before the baby is due, your maternity leave may have to start from that date.

If you are taking Ordinary Maternity Leave (OML), it will finish at the end of the 26th week after it began. If you are taking Additional Maternity Leave (AML), it will finish at the end of the 52nd week after it began unless you've agreed a different date with your employer.

You don't need to tell your employer that you are returning to work unless you want to return ea

Your employer refuses to pay you during maternity leave

If your employer refuses to pay SMP, or does not pay you what you think you should get, you can ask your employer to give you a letter explaining:

- why they won't pay you, and
- how they have worked out the amount you will get, and
- what weeks they are paying you for.

If you are still not happy with their decision, you can ask an officer at the local HM Revenue and Customs office to decide who is right. HM Revenue and Customs can impose a substantial fine if they repeatedly fail to pay you SMP.

Unfair treatment at work because of pregnancy or maternity leave

You should not be treated differently at work because you are pregnant, or have just had a baby. For example, you should not be denied opportunities for promotion or given different terms and conditions to those you had before. If you think you are being treated unfairly because you are pregnant or because of your maternity leave, you can make a complaint to an **industrial tribunal for sex discrimination**. You may need to raise a written grievance with your employer first. You should get help to do this from a trade union representative if you have one, or from an experienced adviser (see below). There are strict time limits for complaining to an industrial tribunal, and you should check that these do not run out before you make your complaint.

You are dismissed from work because of pregnancy or maternity leave

If you are dismissed from work because you are pregnant, have taken maternity leave or have just had a baby, you can make a complaint to an industrial tribunal for unfair dismissal and for sex discrimination. It does not matter how long you have worked for your employer.

You must have told your employer that you are pregnant and, where possible, have given them a sick note as proof. You will also need to raise a written grievance with your employer first.

You should get help to complain to an industrial tribunal from a trade union representative if you have one, or from an experienced adviser (see below). There are strict time limits for making a complaint, and you should check that you do not miss them.

Returning to work after maternity leave

In most cases, your employer must allow you to return to work after having a baby. All women must take at least two weeks off work after giving birth, or four weeks if you work in a factory.

If your employer refuses to let you return to work after maternity leave, this is a dismissal. You will be able to make a complaint to an industrial tribunal for unfair dismissal and/or sex discrimination. However, you may have to raise a written grievance with your employer first.

The right to return to the same job after maternity leave

If you have taken 26 weeks Ordinary Maternity Leave (OML), you have the right to return to the same job as the one you had before you went on leave. If your employer does not let you return to the same job, this is a dismissal, and you will be able to claim **unfair dismissal** and/or **sex discrimination** from an industrial tribunal.

If you have taken Additional Maternity Leave (AML) as well as OML, you are entitled to return to the same job unless your employer says this is not reasonable. In this case, you should be offered another suitable job with the same pay and conditions as you had before maternity leave. If your employer does not offer you another suitable job, or offers you an unsuitable job and dismisses you when you refuse it, you will be able to claim **unfair dismissal** and/or **sex discrimination** from an industrial tribunal (you may have to raise a written grievance with your employer first).

If you were working full time before your maternity leave, you may want to return to work part time, job share or on different hours. This is called **flexible working**. Your employer does not have to agree to let you do flexible working, but they must treat your request seriously. If you are refused, you may be able to make a claim for sex discrimination from an industrial tribunal. If you go back to work part time, your terms and conditions of employment should not be changed without your agreement.

If your terms and conditions are changed, you may be able to make a claim for sex discrimination from an industrial tribunal (you may have to raise a written grievance with your first).

Further help

Citizens Advice Bureau

Citizens Advice Bureaux give free, confidential, impartial and independent advice to help you solve problems. To find your nearest CAB visit www.citizensadvice.co.uk or look under C in your phone book.

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