

MATERNITY LEAVE AND PAY

MATERNITY LEAVE

1. How do I qualify for maternity leave?

You need to be an employee and you need to give the correct notice (see below).

Provided you qualify, you are entitled to 52 weeks' maternity leave:

- ➔ 26 weeks Ordinary Maternity Leave (OML) and
- ➔ 26 weeks Additional Maternity Leave (AML)

FACT :

The right to take maternity leave is available to you from day 1 in your job.

2. What is the process for telling my employer I want to go on maternity leave?

You must tell your employer, by no later than the 15th week before your due date:

- ➔ That you are pregnant
- ➔ The due date
- ➔ The date you want to start maternity leave

TIP:

You do not have to inform your employer in writing (the only written proof that is required is a MATB1 form, filled in by the doctor or midwife as proof of pregnancy) BUT it is a very good idea to inform the employer in writing to keep a paper trail in case of disagreements later.

If you change your mind about when you want to start your maternity leave, you can do this with 28 days' notice. We recommend giving this notice in writing too.

3. Can the employer refuse maternity leave?

No they can't refuse maternity leave. The employer must reply to you within 28 days confirming the dates the maternity leave will start and finish

TIP:

If you later decide you want to change the date the maternity leave will finish, you can do so by giving your employer 8 weeks' notice. We recommend you do this in writing.

4. When can I start maternity leave?

You can start maternity leave at any time from 11 weeks before the due date.

TIP:

Your employer is not allowed to change the dates your maternity leave runs from and to: you are entitled to decide when it starts.

If you later decide you want to change the date the maternity leave will finish, you can do so by giving your employer 8 weeks' notice. We recommend you do this in writing.

5. What if I'm ill in the run up to baby being due?

Your maternity leave and Statutory Maternity Pay will start automatically if you are off work for a pregnancy-related illness in the 4 weeks before the baby is due.

6. Will I get paid for pregnancy-related appointments?

You are entitled to reasonable time off with full pay for pregnancy-related appointments.

TIP:

You should give your line manager as much notice as you can of pregnancy-related appointments, providing proof of your appointments to avoid any misunderstandings.

7. Is there a minimum period of maternity leave I must take?

Yes. You must take 2 weeks' compulsory maternity leave from the date you give birth. This is extended to 4 weeks in a factory setting.

8. Am I obliged to have contact with work while on maternity leave?

No. The law provides for up to 10 keeping in touch (KIT) days during your maternity leave, but your employer has no right to require you to do any KIT days during your leave.

TIP:

If you think you might want to do some KIT days, it is worth telling your line manager before you go on leave. If you change your mind later, the employer has no right to then force you to do the KIT days.

TIP:

Unless they hear from you to the contrary, your employer will expect you back on the return date confirmed by them after you informed them you were pregnant. It is a good idea to contact your employer before you come back to work, if they don't contact you first, so you have some certainty about what will be happening when you return. You may wish to contact them to discuss making a flexible working request in any event (see our flexible working factsheet).

MATERNITY PAY

1. How do I qualify for maternity pay?

You are entitled to statutory maternity pay (SMP) if you are an employee and:

- ➔ At the 15th week before your baby is due (the 'qualifying week'), you have been continuously employed by your employer for 26 weeks; and
- ➔ You earned on average a minimum amount each week (this is a figure set by the government each year: <https://www.gov.uk/maternity-pay-leave/eligibility>) before the qualifying week.

TIP:

Your employer may well have a more generous policy than SMP. Check your employer's policy, if there is one.

2. Can my employer refuse SMP?

Yes – they can refuse SMP if you don't qualify for it.

3. What can I do if I don't qualify for SMP?

Maternity Allowance is available for those who do not qualify for SMP. This is paid by the government. You must fill in a form called an MA1 form and send it to the government. If you are eligible, you will receive 39 weeks' paid Maternity Allowance.

TIP:

The 'gov.uk' website has helpful step by step advice on how to apply (www.gov.uk/maternity-allowance)

Your employer may offer help in filling in the MA1 form: check with your employer if they do.

4. How long does SMP last?

SMP is paid for 39 weeks:

- ➔ The first 6 weeks are paid at 90% of weekly earnings
- ➔ The remaining 33 weeks are paid at the lower of: the current SMP rate or 90% of average weekly earnings.
- ➔ The last 13 weeks are unpaid according to SMP rules.

TIP:

Your employer's policy may be more generous than the rules relating to SMP so you should check this in your employer's policy.

If you can't afford to be unpaid for the last 13 weeks of leave, you might wish to consider ending your maternity leave period and using up some of your annual leave (for which you will be paid in full).

5. My employer says they can't guarantee they can keep my job open for me after maternity leave – what can I do?

You have the right to return to the same job after Ordinary Maternity Leave (so up to the end of the 26th week after the start of maternity leave). After taking Additional Maternity Leave you are entitled to return to the same job, but if it isn't reasonably practical to do this, the employer is permitted to assign you to a suitable alternative role.

TIP:

The alternative job must be on similar terms and conditions that are not less favourable to your old terms and conditions. If you feel the alternative role being offered is less favourable, you should raise this with your employer and if informal discussions do not resolve this, you may choose to raise a grievance (see our grievance factsheet).

Produced for Pregnant Then Screwed by law students at the University of Chester



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Chester Community Law Project

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