

# Fact sheet

## number 11

Issue 08/08

# Maternity leave

### INTRODUCTION

The rules relating to maternity leave, notification dates, etc. are not particularly “user friendly”. This *Fact sheet* summarises these rules and should be read in conjunction with the *Acknowledgement of notification of maternity leave* form, which is issued as a standard stationery item to all Citation’s personnel service clients.

### MATERNITY LEAVE PERIOD

There is no minimum service requirement for maternity leave, which is split into two parts – ordinary maternity leave and additional maternity leave. The ordinary maternity leave period is 26 weeks and the additional maternity leave period is a further 26 weeks from the end of the ordinary maternity leave period. Maternity leave weeks normally run from Sunday to Saturday and ordinary maternity leave can begin at any time up to the birth of the child, but no earlier than the 11th week before the expected week of childbirth (the ‘EWC’). Exceptionally, if maternity absence is triggered by an unforeseen event, such as a pregnancy related illness (see below) or a premature birth, then the ordinary maternity leave period begins from the day following the triggering event.

Where a woman’s work poses a risk to her health, the employer must take all reasonable steps to remove or control the hazard. If this cannot be done and there is no suitable alternative work, the woman must be placed on paid maternity suspension for as long as is necessary to protect her health and safety.

If a woman is absent from work at any time during the four weeks before the EWC for a pregnancy related illness or is on paid maternity suspension, her ordinary maternity leave starts from that point.

### NOTIFICATION BY THE EMPLOYEE

Before or during the 15th week before the EWC a woman must tell her employer that she is pregnant, give the date of the EWC as shown on her maternity certificate (form MAT B1) and give the date on which she intends to start her maternity leave. This information must be given in writing if requested and the employer can also ask to see the MAT B1. The woman can only change the date on which she intends to start her maternity leave by giving the employer 28 days’ notice before the new intended start date. Again, this notice must be in writing if requested.

### ACKNOWLEDGEMENT OF NOTIFICATION OF MATERNITY LEAVE

Within 28 days of receiving a notification as detailed above, the employer must acknowledge its receipt. The employer must also inform the employee of her eligibility for maternity leave, of her eligibility, if any, to statutory maternity pay and give the date she would be expected to

return to work if she took her full entitlement to maternity leave. All of this information can be given by completing the *Acknowledgement of notification of maternity leave* form.

If a woman wants to return to work before the end of her full maternity leave entitlement she must give her employer at least eight weeks' notice. If the woman does not give this notice, the employer may have the right to postpone the return until eight weeks from the date the employee gave notice that she would like to return early.

## **EMPLOYMENT STATUS DURING MATERNITY LEAVE**

All contractual rights continue during the whole of the maternity leave period except the right to pay. This includes all benefits, such as a company car, the entitlement to contractual holidays with pay, etc. A pregnant employee's absence will normally span two holiday years, and clients should contact the *Citation* Helpline for advice on how to deal with any outstanding holiday entitlement before final details of the maternity leave are agreed.

Where pension contributions are payable by the employer, these must continue to be paid throughout the period during which the employee is on paid maternity leave and must be based on the employee's normal pay. If there are employee contributions, the employee has the choice of paying contributions based on her normal pay or on her maternity pay.

## **RETURNING TO WORK**

Women have a statutory right to go back to their old job on return from ordinary maternity leave. This right also applies to women returning from additional maternity leave unless there is a genuine reason why the job is no longer available, in which case equivalent alternative work must be offered.

If there is a redundancy situation during a woman's maternity leave period and the employer cannot continue to employ her in her original job, she is entitled to be offered a suitable alternative vacancy if one is available. If the employer has a suitable alternative vacancy but does not offer it to the woman (in preference to any other candidates), a subsequent dismissal for redundancy will be an automatically unfair dismissal. "Suitable" means appropriate for her in the circumstances, with terms and conditions not substantially less favourable than her original job.

There is no longer any provision for the employer or the woman to delay the return to work following maternity leave. Instead, the normal employer's rules apply in relation to absence from work or shortage of work. This means that if the maternity leave period ends and the woman does not return to work because she is sick, the employer's normal sickness rules for notification, evidence of sickness, payment, etc., apply to the woman.

## **'KEEPING IN TOUCH' DAYS**

A return to work during the maternity leave period would normally end the entitlement to leave, but women are allowed, at their employer's request, to work on up to 10 'keeping in touch' (KIT) days during their maternity leave period without breaking their entitlement to maternity leave or to SMP, if payable. Any work carried out on a KIT day counts as a whole KIT day for the purpose of the 10 day limit and any missed days of maternity leave are lost and do not extend the leave period. There is no compulsion on an employee to work on a requested KIT day, and no action can be taken against a woman who refuses to do so.

## **COMPULSORY MATERNITY LEAVE**

There is a compulsory maternity leave period immediately after childbirth. This is normally a two-week period after the baby is born and it is extended to four weeks if the woman works in a factory. Alternatively, it may last until some later date if there is a statutory requirement prohibiting the woman from working because she has recently given birth.

***This Fact sheet is only intended as a general statement and no action should be taken in reliance on it without specific Helpline advice.***