

Maternity leave and pay in UK

You will find hereby the key points you must do as an employer as soon as your employee tells you she is pregnant and what your employee must do to benefit from the protections there for her.

1. Statutory Maternity Leave

- Eligible employees can take up to 52 weeks' maternity leave. The first 26 weeks is known as '**Ordinary Maternity Leave**', the last 26 weeks as '**Additional Maternity Leave**'.
- The earliest that leave can be taken is 11 weeks before the expected week of childbirth, unless the baby is born early.
- Employees must take at least 2 weeks after the birth (or 4 weeks if they're a factory worker).

To be eligible, the employee must:

- have an employment contract - it doesn't matter how long they've worked for you (**⚠ just for the leave not for the pay**)
- give you the correct notice, at least 15 weeks before the baby is expected the date:
 - the baby is due
 - they want to start their maternity leave - they can change this with 28 days' notice

You have 28 days to write confirming their leave start and end date.

Employees can change their return to work date if they give 8 weeks' notice

2. Statutory Maternity Pay (SMP)

- SMP for eligible employees can be paid for up to 39 weeks, usually as follows:
 - the first 6 weeks: **90% of their average weekly earnings (AWE) before tax**
 - the remaining 33 weeks: **£140.98 or 90% of their AWE** (whichever is lower)
- It is the employer's discretion to complete the employee's wage in order she gets 100% of her salary during this period or a partial period of time but there are no legal obligations.

IMPORTANT: Employers can usually reclaim up to **92% of employees' Statutory Maternity (SMP)** and 103% if your business qualifies for Small Employers' Relief, so if you paid £45,000 or less in Class 1 National Insurance in the last complete tax year. This will be reclaim through your payroll software. To reclaim the payments, include them in an Employer Payment Summary (EPS) to HMRC.

Tip: you can use the HMRC's SMP calculator for employers to know the key dates and pays for your employee by clicking here: <https://www.gov.uk/maternity-paternity-calculator>.

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To be eligible, your employee must:

- be on your payroll in the 'qualifying week' - the 15th week before the expected week of childbirth
- give you the correct notice (28 days' notice)
- give you proof of pregnancy. This is usually a doctor's letter or a maternity certificate (known as an MATB1 certificate). Midwives and doctors usually issue these 20 weeks before the due date. The employee should give you proof within 21 days of the SMP start date.
- have worked for you continuously for at least **26 weeks up** to the qualifying week
- earn at least £113 a week (gross) in an 8-week 'relevant period'

3. Extra leave or pay

You can offer more than the statutory amounts if you have a company maternity scheme. You must make sure your maternity leave and pay policies are clear and available to staff.

4. "Keep in touch" days and Employment rights

The employee can work up to 10 days during SMP leave and be paid at her normal salary on top of her SMP, these are called 'keep in touch' days and are normally used again towards the end of the leave to get back up to speed with work or training before returning back to work fully. Keeping in touch days are optional - both the employee and employer need to agree to them.

An employee's employment rights (like the right to pay, holidays and returning to a job) are protected during maternity leave.

5. Maternity Allowance for employee not eligible for Statutory Maternity Pay

You can refuse SMP if the employee doesn't qualify. The employee may be able to get Maternity Allowance instead.

To refuse it, give the employee the SMP1 form within 7 days of your decision. They must get this form within 28 days of their request for Statutory Maternity Pay or the birth (whichever is earlier).

Maternity Allowance is paid by the Benefits Agency, for up to 39 weeks. To qualify, the employee must have been employed or self-employed for 26 weeks out of the 66 weeks before the expected week of childbirth.

6. Record keeping

You must keep records for the HMRC, including:

- proof of pregnancy - usually a doctor's note or a MATB1 certificate (a photocopy is fine)
- the date SMP began
- your SMP payments (including dates)
- the SMP you've reclaimed
- any weeks you didn't pay and why

You must keep records for 3 years from the end of the tax year they relate to, eg by using form SMP2 or keeping your own records.

Sources: Gov.uk, Acas and NHS (BEER -Department for Business Enterprise & Regulator Reform - Pregnancy & work PDF).

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