# Maternity leave and pay in the UK

Please find below the key points you must consider as an employer as soon as your employee tells you she is pregnant & what benefits / protections your employee is entitled to.

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 earlier.
   - Employees must take at least 2 weeks after the birth (or 4 weeks if they're a factory worker).

Leave will also start:
- the day after the birth if the baby is early
- automatically if you're off work for a pregnancy-related illness in the 4 weeks before the week (Sunday to Saturday) that your baby is due

**To be eligible, the employee must:**

☐ have an employment contract - it doesn't matter how long they've worked for you (⚠*just for the* *<u>leave</u>* *not for the* *<u>pay</u>*)

☐ give you the correct medical notice (at least 15 weeks before the baby is expected) :
- ➢ the date the baby is due
- ➢ the date your employee wants to start her maternity leave - it can be changed with a notice of 28 days.

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: **£156.66 or 90% of their AWE** (whichever is lower)
   - It is the employer's decision 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.
   - SMP is paid in the same way as your wages (for example monthly or weekly). Tax and National Insurance will be deducted.

**IMPORTANT:** Employers can usually reclaim up to **92% of employees' Statutory Maternity (SMP),** Paternity, Adoption, Parental Bereavement and Shared Parental Pay. You can reclaim 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 pay rates for your employee by clicking here: [https://www.gov.uk/maternity-paternity-calculator](https://www.gov.uk/maternity-paternity-calculator).**

**To be eligible, your employee must:**

- ☐ earn at least £120 a week on average for 8 weeks before the qualifying week
- ☐ give you the correct 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.
- ☐ have worked continuously for at least **26 weeks continuing** into the 'qualifying week' - the 15th week before the expected week of childbirth.

### 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

You and the employee could have up to 10 optional keeping in touch days (KIT days) during the maternity leave, if both sides agree.
KIT days help employees stay in contact with their organisation, for example by joining training sessions or team meetings.
Both sides should agree the following before deciding KIT days:

- the work the employee will do on these days
- the pay (this cannot be below the National Minimum Wage)

If an employee works part of a KIT day, it still counts as a full day.
If they work more than 10 KIT days, their maternity leave and pay automatically end.

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

**Employers must give pregnant employees time off for antenatal care and pay their normal rate for this time off.** Antenatal appointments include:

- medical appointments related to a pregnancy
- classes for pregnancy-related health, fitness or relaxation
- sessions that support the person's mental health and wellbeing

Paid time off for antenatal appointments includes travel time.

The partner has the right to time off work to come with the employee to 2 antenatal appointments. This time off is usually unpaid and is for a maximum of 6.5 hours for each appointment.

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

You can refuse SMP if the employee does not qualify. You must give her the form SMP1 explaining why she cannot get SMP within 7 days of making your decision. She may be eligible for Maternity Allowance instead.

### 6. Additional support

Your employee could get additional maternity benefits:

- Universal Credit
- Child Benefit
- Child Tax Credit
- Working Tax Credit - this can continue for 39 weeks after the maternity leave
- Income Support - she may get this while she is not working
- Maternity Grant (usually for the 1st child), can get a one-off payment of £500 to help towards the costs of having a child

She can use the tool made available from the government to calculate these benefits via the following website: www.gov.uk/benefits-calculators.

### 7. 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, 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).*