

# I'm pregnant! What employers need to know

**Date:** 1 Mar 2013



Pregnant employees or those on maternity leave have many key rights in accordance with employment law. This includes:

- up to 52 weeks maternity leave regardless of length of service (26 weeks ordinary maternity leave + additional maternity leave)
- statutory maternity pay (or maternity allowance if length of service is not sufficient)
- receipt of full benefits during maternity leave
- paid time off for ante natal classes
- not to be dismissed for pregnancy or maternity-related reasons, to be offered suitable alternative role in redundancy situations in preference to other employees
- protection from discrimination
- the right to return to the same job after a period of ordinary maternity leave on the same terms and conditions.

The latter may be more difficult returning after additional maternity leave, but any alternative role should be a reasonable equivalent on the same terms and with the same status.

Ideally, when a female employee announces they are pregnant, a risk assessment should be done particularly if their work could place them and their unborn child at risk eg carrying heavy loads, working in dangerous conditions.

Pregnant employees are required to give their MAT B1 to their employers which they receive at 26 weeks pregnancy. This indicates the possible expected date of delivery allowing both parties to plan ahead. The employee can go off on maternity leave at any time from the 11th

<http://www.workingmums.co.uk/working-mums-magazine/top-story/6742918/iand39m-pregnant-what-employers-need-to-know.shtml>

week before the expected week of confinement. They could even work right up to date of delivery although that is not advisable. Maternity leave can start on any day of the week. Whilst on maternity leave the legislation allows for up to 10 keeping in touch days where the employee can come into work. This is ideal for training purposes or to remain in touch with key developments in their job.

Whilst on maternity leave they accrue holidays which can be taken after their maternity pay period ends and before they return to work.

Some employers engage a fixed-term worker to cover the maternity post. The contract should be clear with regards to the purpose of the cover giving a clear termination date. Employers should beware of preferring to keep the fixed term employee in the role over and above the returning employee. Any such treatment could be discriminatory. If the fixed term worker becomes pregnant during their contract they will be entitled to statutory maternity pay with sufficient continuous service and this is payable even after the contract has ended either as a lump sum or subsequent continuous payments.

Sometimes a female employee may fall pregnant again immediately. However, the law allows for this to happen despite it being frustrating to employers. They are still entitled to full maternity leave, although maternity pay may be affected as this is calculated on previous earnings; if they are below the lower earnings limit statutory maternity pay is not payable. Contractual maternity pay/sick pay/holiday pay/bonuses/commission will be classed as earnings.

There is a perception that it is legally dangerous to make a pregnant employee redundant. This is not the case, however, provided there is a clear reason for the redundancy situation. Employers should certainly not single out any pregnant employee or employee on maternity leave for redundancy and should beware of other possible discriminatory treatment. A skills matrix should be used, where appropriate, applying demonstrable fair scores, consultation should be conducted according to the law and the dismissal procedure undertaken fairly and legally. Statutory maternity pay is payable if continuous service is sufficient and the employee is identified for redundancy. It is important to remember that employees at home on maternity leave should not be forgotten during a redundancy consultation process – it sometimes happens.

Employers need to be seen to be treating employees who are pregnant or on maternity leave fairly. If they fail to do so then the penalty could be huge employment tribunal compensation.

*\*Sandra Beale is Workingmums.co.uk's newest HR expert and can respond to questions on employment law from both employers and employees. If you need advice with a maternity or pregnancy issue call her on 07762 771290 or contact her via [www.sjbealehrconsult.co.uk](http://www.sjbealehrconsult.co.uk).*