
STATUTORY INSTRUMENTS

1999 No. 3312

The Maternity and Parental Leave etc. Regulations 1999

PART II

MATERNITY LEAVE

Entitlement to ordinary maternity leave [^{F1}and to additional maternity leave]

4.—(1) An employee is entitled to ordinary maternity leave [^{F2}and to additional maternity leave] provided that she satisfies the following conditions—

- (a) [^{F3}no later than the end of the fifteenth week before her expected week of childbirth], or, if that is not reasonably practicable, as soon as is reasonably practicable, she notifies her employer of—
 - (i) her pregnancy;
 - (ii) the expected week of childbirth, and
 - (iii) the date on which she intends her ordinary maternity leave period to start,and
- (b) if requested to do so by her employer, she produces for his inspection a certificate from—
 - (i) a registered medical practitioner, or
 - (ii) a registered midwife,stating the expected week of childbirth.

[^{F4}(1A) An employee who has notified her employer under paragraph (1)(a)(iii) of the date on which she intends her ordinary maternity leave period to start may subsequently vary that date, provided that she notifies her employer of the variation at least—

- (a) 28 days before the date varied, or
- (b) 28 days before the new date,

whichever is the earlier, or, if that is not reasonably practicable, as soon as is reasonably practicable.]

(2) [^{F5}Notification under paragraph (1)(a)(iii) or (1A)]—

- (a) shall be given in writing, if the employer so requests, and
- (b) shall not specify a date earlier than the beginning of the eleventh week before the expected week of childbirth.

(3) Where, by virtue of regulation 6(1)(b), an employee's ordinary maternity leave period commences with [^{F6}the day which follows] the first day after the beginning of [^{F7}the fourth week] before the expected week of childbirth on which she is absent from work wholly or partly because of pregnancy—

- (a) paragraph (1) does not require her to notify her employer of the date specified in that paragraph, but

- (b) (whether or not she has notified him of that date) she is not entitled to ordinary maternity leave [^{F8}or to additional maternity leave] unless she notifies him as soon as is reasonably practicable that she is absent from work wholly or partly because of pregnancy [^{F9}and of the date on which her absence on that account began].
- (4) Where, by virtue of regulation 6(2), an employee's ordinary maternity leave period commences [^{F10}on the day which follows] the day on which childbirth occurs—
- (a) paragraph (1) does not require her to notify her employer of the date specified in that paragraph, but
- (b) (whether or not she has notified him of that date) she is not entitled to ordinary maternity leave [^{F11}or to additional maternity leave] unless she notifies him as soon as is reasonably practicable after the birth that she has given birth [^{F12}and of the date on which the birth occurred].
- (5) The notification provided for in paragraphs (3)(b) and (4)(b) shall be given in writing, if the employer so requests.

- F1** Words in [reg. 4 heading](#) inserted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **5(a)**
- F2** Words in [reg. 4\(1\)](#) inserted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **5(a)**
- F3** Words in [reg. 4\(1\)\(a\)](#) substituted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **5(a)**
- F4** [Reg. 4\(1A\)](#) inserted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **5(b)**
- F5** Words in [reg. 4\(2\)](#) substituted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **5(c)**
- F6** Words in [reg. 4\(3\)](#) inserted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **5(d)(i)**
- F7** Words in [reg. 4\(3\)](#) substituted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **5(d)(ii)**
- F8** Words in [reg. 4\(3\)\(b\)](#) inserted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **5(b)**
- F9** Words in [reg. 4\(3\)\(b\)](#) inserted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **5(d)(iii)**
- F10** Words in [reg. 4\(4\)](#) substituted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **5(e)(i)**
- F11** Words in [reg. 4\(4\)\(b\)](#) inserted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **5(b)**
- F12** Words in [reg. 4\(4\)\(b\)](#) inserted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **5(e)(ii)**

Entitlement to additional maternity leave

^{F13}5.

F13 Reg. 5 omitted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by virtue of [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **6**

Commencement of maternity leave periods

6.—(1) Subject to paragraph (2), an employee’s ordinary maternity leave period commences with the earlier of—

- (a) the date which ^{F14}... she notifies to her employer [^{F15}, in accordance with regulation 4,] as the date on which she intends her ordinary maternity leave period to start, [^{F16}or, if by virtue of the provision for variation in that regulation she has notified more than one such date, the last date she notifies,] and
- (b) [^{F17}the day which follows] the first day after the beginning of [^{F18}the fourth week] before the expected week of childbirth on which she is absent from work wholly or partly because of pregnancy.

(2) Where the employee’s ordinary maternity leave period has not commenced by virtue of paragraph (1) when childbirth occurs, her ordinary maternity leave period commences [^{F19}on the day which follows] the day on which childbirth occurs.

(3) An employee’s additional maternity leave period commences on the day after the last day of her ordinary maternity leave period.

F14 Words in [reg. 6\(1\)\(a\)](#) omitted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by virtue of [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **7(a)(i)**

F15 Words in [reg. 6\(1\)\(a\)](#) inserted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **7(a)(ii)**

F16 Words in [reg. 6\(1\)\(a\)](#) inserted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **7(a)(iii)**

F17 Words in [reg. 6\(1\)\(b\)](#) inserted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **7(b)(i)**

F18 Words in [reg. 6\(1\)\(b\)](#) substituted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **7(b)(ii)**

F19 Words in [reg. 6\(2\)](#) substituted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **7(c)**

Duration of maternity leave periods

7.—(1) Subject to paragraphs (2) and (5), an employee’s ordinary maternity leave period continues for the period of [^{F20}26 weeks] from its commencement, or until the end of the compulsory maternity leave period provided for in regulation 8 if later.

(2) Subject to paragraph (5), where any requirement imposed by or under any relevant statutory provision prohibits the employee from working for any period after the end of the period determined under paragraph (1) by reason of her having recently given birth, her ordinary maternity leave period continues until the end of that later period.

(3) In paragraph (2), “relevant statutory provision” means a provision of—

- (a) an enactment, or
- (b) an instrument under an enactment,

other than a provision for the time being specified in an order under section 66(2) of the 1996 Act.

(4) Subject to paragraph (5), where an employee is entitled to additional maternity leave her additional maternity leave period continues until the end of the period of [^{F21}26 weeks from the day on which it commenced].

(5) Where the employee is dismissed after the commencement of an ordinary or additional maternity leave period but before the time when (apart from this paragraph) that period would end, the period ends at the time of the dismissal.

[^{F22}(6) An employer who is notified under any provision of regulation 4 of the date on which, by virtue of any provision of regulation 6, an employee’s ordinary maternity leave period will commence or has commenced shall notify the employee of the date on which [^{F23}her additional maternity leave period shall end]—

- ^{F24}(a)
- ^{F24}(b)

(7) The notification provided for in paragraph (6) shall be given to the employee—

- (a) where the employer is notified under regulation 4(1)(a)(iii), (3)(b) or (4)(b), within 28 days of the date on which he received the notification;
- (b) where the employer is notified under regulation 4(1A), within 28 days of the date on which the employee’s ordinary maternity leave period commenced.]

F20	Words in reg. 7(1) substituted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by The Maternity and Parental Leave (Amendment) Regulations 2002 (S.I. 2002/2789) , regs. 1(1), 8(a)
F21	Words in reg. 7(4) substituted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by The Maternity and Parental Leave (Amendment) Regulations 2002 (S.I. 2002/2789) , regs. 1(1), 8(b)
F22	Reg. 7(6)(7) inserted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by The Maternity and Parental Leave (Amendment) Regulations 2002 (S.I. 2002/2789) , regs. 1(1), 8(c)
F23	Words in reg. 7(6) inserted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by The Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations 2006 (S.I. 2006/2014) , regs. 1, 7(b)
F24	Reg. 7(6)(a)(b) omitted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by virtue of The Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations 2006 (S.I. 2006/2014) , regs. 1, 7(a)

Compulsory maternity leave

8. The prohibition in section 72 of the 1996 Act, against permitting an employee who satisfies prescribed conditions to work during a particular period (referred to as a “compulsory maternity leave period”), applies—

- (a) in relation to an employee who is entitled to ordinary maternity leave, and

- (b) in respect of the period of two weeks which commences with the day on which childbirth occurs.

[^{F25}Application of terms and conditions during ordinary maternity leave [^{F26}and additional maternity leave]

9.—(1) An employee who takes ordinary maternity leave [^{F27}or additional maternity leave]—

- (a) is entitled, during the period of leave, to the benefit of all of the terms and conditions of employment which would have applied if she had not been absent, and
(b) is bound, during that period, by any obligations arising under those terms and conditions, subject only to [^{F28}the exceptions in sections 71(4)(b) and 73(4)(b)] of the 1996 Act.

(2) In paragraph (1)(a), “terms and conditions” has the meaning given by [^{F29}sections 71(5) and 73(5)] of the 1996 Act, and accordingly does not include terms and conditions about remuneration.

(3) For the purposes of [^{F30}sections 71 and 73] of the 1996 Act, only sums payable to an employee by way of wages or salary are to be treated as remuneration.]

[^{F31}(4) In the case of accrual of rights under an employment-related benefit scheme within the meaning given by Schedule 5 to the Social Security Act 1989, nothing in paragraph (1)(a) concerning the treatment of additional maternity leave shall be taken to impose a requirement which exceeds the requirements of paragraph 5 of that Schedule.]

F25 Reg. 9 substituted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by [The Maternity and Parental Leave \(Amendment\) Regulations 2002 \(S.I. 2002/2789\)](#), regs. 1(1), **9**

F26 Words in reg. 9 heading inserted (23.7.2008 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **4(1)(a)**

F27 Words in reg. 9(1) inserted (23.7.2008 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **4(1)(b)**

F28 Words in reg. 9(1)(b) substituted (23.7.2008 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **4(1)(c)**

F29 Words in reg. 9(2) substituted (23.7.2008 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **4(1)(d)**

F30 Words in reg. 9(3) substituted (23.7.2008 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **4(1)(e)**

F31 Reg. 9(4) inserted (23.7.2008 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2008 \(S.I. 2008/1966\)](#), regs. 1, **4(1)(f)**

Redundancy during maternity leave

10.—(1) This regulation applies where, during an employee’s ordinary or additional maternity leave period, it is not practicable by reason of redundancy for her employer to continue to employ her under her existing contract of employment.

(2) Where there is a suitable available vacancy, the employee is entitled to be offered (before the end of her employment under her existing contract) alternative employment with her employer or his successor, or an associated employer, under a new contract of employment which complies with

paragraph (3) (and takes effect immediately on the ending of her employment under the previous contract).

- (3) The new contract of employment must be such that—
- (a) the work to be done under it is of a kind which is both suitable in relation to the employee and appropriate for her to do in the circumstances, and
 - (b) its provisions as to the capacity and place in which she is to be employed, and as to the other terms and conditions of her employment, are not substantially less favourable to her than if she had continued to be employed under the previous contract.

Requirement to notify intention to return during a maternity leave period

11.—^{F32}(1) An employee who intends to return to work earlier than the end of her additional maternity leave period, shall give to her employer not less than 8 weeks' notice of the date on which she intends to return.]

(2) If an employee attempts to return to work earlier than the end of [^{F33}her additional maternity leave period] without complying with paragraph (1), her employer is entitled to postpone her return to a date such as will secure, subject to paragraph (3), that he has [^{F34}8 weeks'] notice of her return.

^{F35}(2A) An employee who complies with her obligations in paragraph (1) or whose employer has postponed her return in the circumstances described in paragraph (2), and who then decides to return to work—

- (a) earlier than the original return date, must give her employer not less than 8 weeks' notice of the date on which she now intends to return;
- (b) later than the original return date, must give her employer not less than 8 weeks' notice ending with the original return date.

(2B) In paragraph (2A) the “original return date” means the date which the employee notified to her employer as the date of her return to work under paragraph (1), or the date to which her return was postponed by her employer under paragraph (2).]

(3) An employer is not entitled under paragraph (2) to postpone an employee’s return to work to a date after the end of the relevant maternity leave period.

(4) If an employee whose return to work has been postponed under paragraph (2) has been notified that she is not to return to work before the date to which her return was postponed, the employer is under no contractual obligation to pay her remuneration until the date to which her return was postponed if she returns to work before that date.

^{F36}(5) This regulation does not apply in a case where the employer did not notify the employee in accordance with regulation 7(6) and (7) of the date on which [^{F37}her additional maternity leave period] would end.]

F32 Reg. 11(1) substituted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **8(a)**

F33 Words in reg. 11(2) substituted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **8(b)(i)**

F34 Words in reg. 11(2) substituted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by [The Maternity and Parental Leave etc. and the Paternity and Adoption Leave \(Amendment\) Regulations 2006 \(S.I. 2006/2014\)](#), regs. 1, **8(b)(ii)**

- F35** Reg. 11(2A) inserted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by The Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations 2006 (S.I. 2006/2014), regs. 1, **8(c)**
- F36** Reg. 11(5) inserted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by The Maternity and Parental Leave (Amendment) Regulations 2002 (S.I. 2002/2789), regs. 1(1), **10(c)**
- F37** Words in reg. 11(5) substituted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by The Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations 2006 (S.I. 2006/2014), regs. 1, **8(d)**

Modifications etc. (not altering text)

- C1** Reg. 11 modified (1.9.2013) by 1996 c. 18, s. **205A(3)(a)** (as inserted by Growth and Infrastructure Act 2013 (c. 27), ss. **31(1)**, 35(1); S.I. 2013/1766, art. 2)

Requirement to notify intention to return after additional maternity leave

^{F38}**12.**

- F38** Reg. 12 omitted (24.11.2002 with effect in accordance with reg. 2(1) of the amending S.I.) by virtue of The Maternity and Parental Leave (Amendment) Regulations 2002 (S.I. 2002/2789), regs. 1(1), **11**

^{F39}**Work during maternity leave period**

12A.—(1) Subject to paragraph (5), an employee may carry out up to 10 days' work for her employer during her statutory maternity leave period without bringing her maternity leave to an end.

(2) For the purposes of this regulation, any work carried out on any day shall constitute a day's work.

(3) Subject to paragraph (4), for the purposes of this regulation, work means any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

(4) Reasonable contact from time to time between an employee and her employer which either party is entitled to make during a maternity leave period (for example to discuss an employee's return to work) shall not bring that period to an end.

(5) Paragraph (1) shall not apply in relation to any work carried out by the employee at any time from childbirth to the end of the period of two weeks which commences with the day on which childbirth occurs.

(6) This regulation does not confer any right on an employer to require that any work be carried out during the statutory maternity leave period, nor any right on an employee to work during the statutory maternity leave period.

(7) Any days' work carried out under this regulation shall not have the effect of extending the total duration of the statutory maternity leave period.]

- F39** Reg. 12A inserted (1.10.2006 with effect in accordance with reg. 2 of the amending S.I.) by The Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations 2006 (S.I. 2006/2014), regs. 1, **9**

Changes to legislation:

There are currently no known outstanding effects for the The Maternity and Parental Leave etc. Regulations 1999, PART II.