

# Statutory Maternity Leave and Pay

All qualified employees in the UK have the right to Statutory Maternity Leave, and some employees are eligible for Statutory Maternity Pay (SMP). Below is an overview of statutory maternity leave and pay requirements.

## STATUTORY MATERNITY LEAVE

### The Law

England, Wales and Scotland	Northern Ireland
The Employment Rights Act 1996	The Employment Rights (Northern Ireland) Order 1996
The Maternity and Parental Leave etc. Regulations 1999	The Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999

### Overview

Employees across the UK are entitled to a total of **52 weeks** of Statutory Maternity Leave—26 weeks of Ordinary Maternity Leave and 26 weeks of Additional Maternity Leave. Employers are free to offer additional maternity leave beyond statutory requirements.

Total Statutory Maternity Leave	Ordinary Maternity Leave	Additional Maternity Leave
52 Weeks	26 Weeks	26 Weeks

While employees can take less than their entitled maternity leave, it is compulsory to take at least two weeks of maternity leave once the baby is born (four weeks for factory workers). The earliest an employee can take leave is 11 weeks before the expected due date of the child.

### Eligibility

In order to take Statutory Maternity Leave, employees must:

1. Have an employment contract and
2. Give the employer proper notice.

### Notice

An employee must give her employer notice that she plans to take Statutory Maternity leave at least 15 weeks (or as soon as is reasonably practicable) before the expected due date. The notice should include:

1. The expected week of child birth
2. Date on which she intends Ordinary Maternity Leave to start, and
3. If requested by the employer, a certificate from a registered medical practitioner or midwife stating the expected week of birth.

Once notice is given, the employer has 28 days to provide written confirmation of the leave start and end date. Employees can change the start date with 28 days' notice and can change their return to work date with 8 weeks' notice.

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## Employment Rights

While on maternity leave, employees retain their employment rights, such as employment terms and conditions protection, holiday accrual and return to work. Employees can work up to 10 days during maternity leave in order to 'keep in touch' with the workplace. Type of work and pay for these optional 'keep in touch' days should be agreed upon before work begins.

Employees also have the right to return to their jobs if they take Ordinary Maternity Leave. However, if the employee takes Additional Maternity Leave (the additional 26 weeks allotted after Ordinary Maternity Leave), the employee has the right to return to her job or a similar job. The similar job must have the same or better terms and conditions as the original job. If the employee unreasonably refuses the similar job, the employer can take the refusal as a resignation.

An employee's redundancy rights do not change while on maternity leave. Selection for redundancy must be in a fair manner and redundancy procedures remain the same. If there is suitable available job, the employee has a right to be offered alternative employment.

## STATUTORY MATERNITY PAY (SMP)

### The Law

England, Wales and Scotland	Northern Ireland
Social Security Contributions and Benefits Act 1992	Social Security Contributions and Benefits Act (Northern Ireland) 1992
The Statutory Maternity Pay (General) Regulations 1986	The Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987

### Overview

Under the above regulations and subsequent amendments, employees can be eligible for SMP for up to 39 weeks. For the first six weeks, an employee is paid 90 per cent of her average weekly earnings (AWE) before tax. Then for the remaining 33 weeks, the employee is paid either £138.18 or 90 per cent of her AWE, whichever is lower. Taxes and National Insurance are deducted from these amounts. A maternity pay calculator is provided by GOV.UK at [www.gov.uk/maternity-paternity-calculator](http://www.gov.uk/maternity-paternity-calculator).

Total Statutory Maternity Pay	Timeframe	Pay Amount
39 weeks	First 6 Weeks	90 per cent of AWE
	Remaining 33 Weeks	the lower of £138.18 or 90 per cent of AWE

### Eligibility

In order to qualify for SMP, employees must:

1. Have worked for the employer for a continuous period of at least 26 weeks up to and including the 'qualifying week' (the 15th week before the expected due date week)
2. Earn at least £111 a week (gross) in an eight-week period up to and including the 'qualifying week'
3. Provide the employer with proper notice
4. Provide proof of pregnancy

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## **Notice and Proof of Pregnancy**

Employees must give the employer at least 28 days' notice when seeking SMP. Employers should confirm in writing within 28 days:

1. Whether the employee is eligible for SMP
  - If the employee does not qualify for SMP, employers should give the employee details and reasons for the denial within 7 days of making the decision (Form SMP1, which can be found at [www.dwp.gov.uk/advisers/claimforms/smp1\\_print.pdf](http://www.dwp.gov.uk/advisers/claimforms/smp1_print.pdf)). If an employee does not qualify for SMP, she may be able to get Maternity Allowance instead as a benefit.
2. How much pay the employee will receive
3. When the pay will start and stop.

Employees also need submit proof of pregnancy within 21 days of the SMP start date. This is typically a maternity certificate (MATB1) or a doctor's letter provided by a doctor or registered midwife. Doctors and midwives typically give these documents 20 weeks before the due date.