



## Maternity Rights in Scotland

### Maternity Rights

- Maternity leave
- Maternity pay
- Health and safety

### Maternity Leave

What is maternity leave?

- Maternity leave is the right to take up to 12 months leave from work when you take time off to have a baby. To be eligible the employee should give notice of their pregnancy in a specific form and specify when they want their leave to start.

Who is entitled to maternity leave?

- You are entitled to maternity leave if you are an **employee**, this usually means you have consistent hours of regular work.
- You are not entitled to maternity leave if you are a **worker** who is not an employee. That might be because, for example, you are on a zero-hour contract, you are a casual worker, or you work for an agency (unless you have an agreement stating you are employed by the agency)
- You are not entitled to maternity leave if you are **self-employed**. If you are not sure whether you are an employee, a worker, or self-employed, you can get advice from your local Citizens Advice Bureau at <https://www.citizensadvice.org.uk/scotland/about-us/get-advice-s/>

How long is maternity leave?

- You are entitled to take 12 months off as maternity leave. If you wish to return sooner, you can arrange this with your employer. You must take 2 weeks off after having a baby (4 weeks if you work in a factory).
- You do not have the right to more than 12 months off as maternity leave. If you want more than 12 months off, you will need to agree this with your employer.
- Any time off after 12 months of maternity leave will not be considered maternity leave. This means you will not have access to maternity leave rights. If you plan to arrange time off after 12 months of maternity leave you should clarify if you will be paid during this time and if it would count as a break in your employment. This arrangement should be put into writing.

Do I get time off for antenatal (pre-pregnancy) appointments?

- If you are entitled to maternity leave then you are entitled to paid time off for antenatal appointments that are recommended by a doctor, nurse, or midwife for example parenting classes, relaxation classes and medical appointments.
- You must request permission from your employer for these appointments and you may need to show them an appointment card. Your employer must be reasonable but can in some circumstances refuse to let you attend an appointment. Follow this link

for more information on you or your partners right to antenatal appointments  
<https://www.citizensadvice.org.uk/scotland/work/rights-at-work/parental-rights/rights-while-youre-pregnant-at-work/>.

What if I am not entitled to maternity leave?

- It is a legal requirement to take 2 weeks off after having a baby (4 weeks if you work in a factory). This is a legal requirement even if you are not entitled to maternity leave.
- You may be entitled to maternity pay or maternity allowance even if you are not entitled to maternity leave. Please see sections below for information on maternity pay and maternity allowance.

## **Maternity Pay**

What types of maternity pay could I be entitled to?

- Statutory maternity pay: the standard type of maternity pay, this is the minimum your employer should pay you if you are entitled to maternity pay.
- Contractual maternity pay: this is offered by some employers as an alternative to statutory maternity pay – you can find out if your employer offers this by reviewing your contract or company employment policy.
- Maternity allowance: you may be able to claim this from the government if you cannot claim it from your employer

Am I eligible for statutory maternity pay?

- Your employer must pay you statutory maternity pay if; you worked for them in the 15<sup>th</sup> week before your due date, you worked for them for 26 weeks before that and your pay is, on average, more than £120 per week before tax.

Am I eligible for contractual maternity pay?

- Contractual maternity pay is offered by some employers as a benefit of working for them. The amount can vary but it must be more than what you would otherwise get as statutory maternity pay.
- To find out if you get contractual maternity pay you should check your contract or ask your employer.
- Some employers may offer contractual maternity pay even when you would not be eligible for statutory maternity pay. In this case you may be able to get maternity allowance as well.

Am I eligible for maternity allowance?

- If you are not eligible for statutory maternity pay you might be eligible for maternity allowance from the government rather than your employer. You are usually eligible for maternity allowance if you have been employed/self-employed for 26 weeks out of the 66 weeks before your due date.
- You must have earned at least £30 per week for at least 13 of those weeks.



- You may be eligible for maternity allowance if you have not been employed/self-employed, but you have been assisting a spouse or partner with a business they run.
- Eligibility for maternity allowance can be complicated so you should check what you're entitled to by following this link - <https://www.gov.uk/maternity-paternity-pay-leave/y>

What if I am not entitled to maternity pay/allowance?

- If you are not eligible for maternity pay/allowance, then you should explore what other benefits you may be entitled to, for example, universal credit. [Follow this link](#) to view the Citizens Rights Project's factsheet on social security rights.

## **Pregnancy and Baby Payment**

You might also be able to get a Pregnancy and Baby Payment, which helps with the costs of having a baby. You can read details of who can get this payment, and how to claim, here: <https://www.mygov.scot/best-start-grant-best-start-foods/best-start-apply>

## **Health and Safety**

What should me and my employer do to keep me safe at work?

- After you have informed your employer in writing that you are pregnant, they must check for any health or safety risks to you or your baby. This is called a 'risk assessment' and your employer should tell you what they find, for example, long hours, heavy lifting, and exposure to toxic substances.
- You should write to your employer stating any advice you have been given from your doctor or midwife about staying safe at work.

What happens if my workplace is not safe?

- If your employer identifies risks, they should change your conditions to remove all risks.
- If these conditions are unchangeable, your employer should offer you different work that you can do (this work must not pay less or have worse benefits than your usual job)
- You are entitled to stay at home if your employer cannot remove the risk. You can stay at home until the risk is removed and your employer must keep paying you in full.

**For more information on your maternity rights, please follow these links.**

- Citizens Advice Scotland – <https://www.citizensadvice.org.uk/scotland/work/rights-at-work/parental-rights/rights-while-youre-pregnant-at-work/>
- Maternity Action – <https://maternityaction.org.uk/>

**PLEASE NOTE:** this factsheet only gives a summary of the rights you might be entitled to. It does not give a full description of your legal rights and should not be regarded as legal advice. If you want



more detailed information on your legal rights, and how it might affect your personal circumstances, you should take advice from a qualified lawyer or other advisor.

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