

Employment angles: (legal tips from Ken Allison, a consultant and speaker who specialises in exploding the myths and removing the anxieties about employment law)

Changing times for maternity regulations!

There is both good news and bad news, depending on your perspective!

As from October 5th women on maternity leave will have the right to more of their contractual benefits than previously, but the government is delaying further plans to increase paid maternity leave from 39 to 52 week, and allow fathers to take a share of it.

As well as protecting the interests of young children, our maternity leave and sex discrimination regulations are designed to ensure that women are not disadvantaged in the workplace, and ensure that we maximise their talent. They are not universally popular, specially in small businesses!

What the October 5th changes mean in practice, and a few general points to remember:-

- Women have always had the right to continue to enjoy all their contractual benefits (except pay) during the first 26 weeks of their maternity leave, and this right is now extended to the whole 52 weeks of their maternity leave if they take the maximum entitlement. This will particularly affect the right to accrue holidays, company cars, and other fringe benefits such as gym memberships, mobile phones, private health care etc.
- The law is a bit vague with regard to pension rights, so either continue to pay them anyway, or get some advice!
- All women have the right to 52 weeks maternity **leave** providing they inform their employer at least 15 weeks before the expected week of childbirth (EWC), and they are usually entitled to 39 weeks maternity **pay** providing they have at least 26 weeks continuous employment before the minimum 'notification point'.
- In practice many women will inform their employer earlier than the minimum in order to benefit from other rights such as to attend antenatal care.
- On receipt of notification, an employer has 28 days to acknowledge it, and must tell the employee what their expected date of return to work will be (assuming 52 weeks from when the employee starts their leave).
- Women can vary the timing of the start of their maternity leave providing they give at least 28 days notice.
- With the probable exception of certain health and safety requirements, women are not under any obligation to inform their employer, or a prospective employer, that they are pregnant. Asking a women, whether she is pregnant, intending to become pregnant, or 'victimising' her for not declaring her pregnancy, will almost certainly amount to sex discrimination.
- These rules apply, with some variations, to people who are adopting children.
- As can be seen, the maternity regulations are complex, and almost always changing. If you are not sure of your position as an employer, you should always seek advice. For on line information, go to <http://www.businesslink.gov.uk>

All reasonable efforts have been taken to ensure that the advice contained in this article represents both best practice, and the law as it stands at the time of publication. It should not be relied on as a substitute for taking advice about specific situations.

Ken Allison
Paradigm Partners
0161 928 3213
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