

ADVICE NOTE

Information & advice for members of the
Scottish Secondary Teachers' Association



Maternity Leave

What are the general arrangements?

All employees are now entitled to 52 weeks Maternity Leave (ML), regardless of length of service. The 52 weeks comprise 26 weeks of Ordinary Maternity Leave and 26 weeks Additional Maternity Leave.

When can my maternity leave start?

Maternity Leave can start no earlier than the 11th week prior to the expected week of childbirth. The pregnant teacher herself decides on the actual date. Maternity Leave may now start on any day of the week. During the ML period all the employee's contractual terms and conditions, with the exception of remuneration, continue to apply.

Must I take Maternity Leave if I am pregnant?

An employee must take at least 2 weeks compulsory maternity leave. In the absence of any other arrangement, ML must start on the day of childbirth.

When must I inform my employer that I intend to take maternity leave?

An employee must inform their employer no later than 21 days prior to the start of the maternity leave.

What must I tell my employer?

An employee must inform their employer in writing of:

1. The fact that she is pregnant
2. The expected week of childbirth
3. The date on which maternity leave is to start.

At this stage it is not necessary to inform the employer as to when ML will end. It is generally better not to give any indication as to how much ML is to be taken at this stage.

Do I need to prove that I am pregnant?

Yes. An employee must submit form MAT B1 (maternity certificate) to their employer. This can be obtained from your GP or midwife when you are about 20 weeks pregnant.

Do I need to tell my employer the date of birth?

Yes. The employee should notify her employer, as soon as reasonably practicable, of the date of the birth of the child.

CONTINUES OVER PAGE...



Want more info? Call to speak to one of our professional officers on 0131 313 7300, visit our website www.ssta.org.uk or email us at info@ssta.org.uk

Maternity Leave

CONTINUED...

Maternity Pay

What arrangements are there for paid maternity leave?

An employee who has at least 26 weeks continuous service at the beginning of the 15th week before the Expected Week of Childbirth (EWC) will be entitled to be paid:

- (a) Occupational Maternity Pay (OMP) and Statutory Maternity Pay (SMP) at the appropriate rate for the first 13 weeks. Taken together, these payments will be equal to the employee's normal salary and, where eligible,
- (b) SMP for the remaining 26 weeks period, provided that the employee's average weekly earnings are not less than the lower earnings limit for National Insurance contribution liability.
- (c) For the remaining 13 weeks of maternity leave the employee will receive no pay.

An employee who has less than 26 weeks continuous service before the beginning of the 15th week before the EWC will not be entitled to occupational maternity pay. However she may be entitled to Maternity Allowance payable through the Department of Work and Pensions.

Return from Maternity Leave

If I wish to return to work before the end of my Maternity Leave how much notice do I need to give my employer?

An employee must give her employer a

minimum of 28 days notice in writing if she wishes to return to work before the end of her maternity leave period. An employer may postpone her return to work for up to 28 days if the appropriate notice has not been given but not to a date later than 52 weeks from the start of the maternity leave period.

Do I need to give notice if I intend to return to work at the end of the 52 week maternity leave period?

No. It is advisable, however, to remind the head teacher of the date of your return.

Antenatal Care

Am I allowed time off with pay to attend antenatal care?

Yes. An employee is allowed to take such reasonable time off to attend antenatal care though an employer may require the employee to produce evidence of such appointments.

Stillbirth

What happens if I have a stillbirth?

In the event of a stillbirth after 24 weeks of pregnancy an employee is entitled to maternity leave and pay as if there had been a live birth.



Want more info? Call to speak to one of our professional officers on 0131 313 7300, visit our website www.ssta.org.uk or email us at info@ssta.org.uk

Maternity Leave

CONTINUED...

Sickness Leave and Maternity Leave

What happens if I am ill before my maternity leave starts?

Where an employee is absent from work due to illness before the start of the maternity leave period such absence will generally be treated as normal sickness absence.

However if the illness is due to a pregnancy related condition and occurs less than 4 weeks before the expected date of childbirth then the employee will be deemed to have started maternity leave at the start of the relevant period of illness.

What happens if I am unable to return to work due to illness at the end of my maternity leave?

Such absence will be treated as normal sickness leave.

Leave Accrued Prior to Maternity Leave

What happens about the leave I accrued before going on Maternity Leave?

An employee who is entitled to paid Maternity Leave shall be entitled to receive pay in lieu of the leave accrued for the period up to the day before the commencement of that Maternity Leave.

Where an employee gives written notice to her

employer that she does not wish to return at the end of her maternity leave she shall receive a payment in lieu of leave accrued but not taken (see also section below relating to leave accrued during ML).

Accrual of leave during Maternity Leave

Do I accrue leave during Maternity Leave itself?

You do. Leave will continue to be accrued during maternity leave for each day the employee would normally have been at work, i.e. at 0.2051 per day of work missed while on maternity. Please see separate advice note on Maternity Leave and Accrual of Holidays.

How will I find out how much accrued leave I am entitled to?

The employer must tell you in a statement or two statements provided for this purpose. If the ML spans two leave years (which run 1 September to 31 August) the statement relating to leave accrued during the first leave year should be provided at the end of the first leave year. If the ML is contained within one leave year the statement is provided when the teacher has notified the employer as to the intended date of return from ML. Where a second statement is needed, the second is provided in the same way.

When can I take my accrued leave?

On return from ML, the leave must be taken



Want more info? Call to speak to one of our professional officers on 0131 313 7300, visit our website www.ssta.org.uk or email us at info@ssta.org.uk

Maternity Leave

CONTINUED...

where possible in that leave year. If it cannot be taken during that time (because there is not enough time left in the current leave year) the leave must be carried forward. It is also possible to carry forward the leave by agreement with the employer. The leave should generally be taken to “take account of the needs of the service” and normally during the term of the return to work (or into the next term, if necessary). Effectively, therefore, the period during which the accrued leave is taken should be agreed with the head teacher.

Can I take the leave in the form of a cash payment?

You cannot insist on this. The employer might offer it. It is also possible to receive part leave and part cash. There is a requirement, however, that the teacher must receive at least 28 days’ statutory leave during any leave year. This condition cannot be breached.

What happens if I do not return to work after my maternity leave?

In this case you are entitled to have payment for the whole of the leave accrued during ML.

Do I accrue leave during the period when I am taking my accrued leave?

You do not. This must be kept firmly in mind. If you take for example 40 days of accrued leave because you were on ML for one complete year, then you do not accrue leave on those 40 days.

Pension

What happens to my pension contribution during Maternity Leave?

The employer will continue to make full pension contributions during a period of paid Maternity Leave.

Right to Return to Work

Do I have the right to return to my old job?

If you are a permanent employee you have the right to return to the post in which you were employed prior to your maternity leave under conditions of service which are not less favourable.

If however, you are a temporary employee you do not have the right to return to work where your contract would have expired during the period of your maternity leave.

Keeping in Touch Days

What are Keeping in Touch days?

During maternity leave an employee is allowed up to 10 days at work (in agreement with your employer) with normal pay without bringing the maternity leave to an end. There is a separate SSTA advice note available on this matter .



Want more info? Call to speak to one of our professional officers on 0131 313 7300, visit our website www.ssta.org.uk or email us at info@ssta.org.uk

