

Types and amount of maternity pay

Maternity pay starts as soon as your employee starts maternity leave.

5. Pay set out in the employment contract

The employee's contract should state:

- how much pay they get when on maternity leave
- how long they get this pay for

Pay set out in the employment contract is known as 'enhanced' or 'contractual' maternity pay, if it's above the legal minimum for maternity pay.

Offering enhanced maternity pay can help your business attract and keep the best employees.

The legal minimum for maternity pay

If your business does not offer enhanced maternity pay, it must pay the following.

During the first 6 weeks of maternity leave

Pay them 90% of their average weekly earnings (before tax).

During the next 33 weeks of maternity leave

Pay whichever of these is lower:

- 90% of their average weekly earnings (before tax)
- Statutory Maternity Pay (SMP) – currently £151.20 a week

Unless the contract says otherwise, you do not have to provide maternity pay after this period has ended.

Eligibility

An employee is eligible for SMP if both of the following apply:

- they've worked continuously for your business for at least 26 weeks, ending with the 15th week before the week the baby is due
- their average weekly earnings are at least £120 a week, up to the end of the 15th week before the baby is due

A worker might also be eligible for SMP.

If an employer offers enhanced maternity pay, it must always be higher than SMP.

Calculating Statutory Maternity Pay

You can use the [maternity pay calculator on GOV.UK](#).

If they're not entitled to Statutory Maternity Pay

If the employee is not entitled to SMP, you must give them the 'SMP1' form within 7 days of your decision.

You can find more information about the [SMP1 form on GOV.UK](#).

Maternity Allowance

A pregnant employee or worker might be eligible for Maternity Allowance, if they cannot get enhanced maternity pay or SMP.

Maternity Allowance is paid by the government. It lasts for up to 39 weeks.

[Find out more about Maternity Allowance on GOV.UK](#).

Keeping records

You must keep records of SMP payments. You can find out more about:

- [keeping SMP records on GOV.UK](#)
- [help with statutory pay on GOV.UK](#)

Repayment if they do not return to work after maternity leave

If they do not return to work after maternity leave, the employee might have to repay maternity pay depending on the type of pay and what their contract says.

They do not return to work and have taken Statutory Maternity Pay

The employee does not need to repay any SMP they've taken.

They do not return to work and have taken enhanced maternity pay

The employee must repay some or all of their enhanced maternity pay if the [written terms of their employment](#) say so.

If this money does need to be repaid:

- the written terms must be clear about the circumstances
- you should remind the employee informally about this repayment (such in any regular meetings you have with them) before they start getting this money

Questions about Statutory Maternity Pay

You can call the [HM Revenue and Customs \(HMRC\) enquiry line](#) if:

- you and someone else disagree about how much SMP they should get, or for how long
- you cannot pay it (for example, because you're insolvent)

Agency workers

[Find out more about maternity pay for agency workers.](#)

The law on discrimination

By law, an employee is protected against discrimination from the start of their pregnancy until they either:

- end maternity leave
- return to work
- leave their job

The employee is protected against discrimination resulting from:

- their pregnancy
- illness related to their pregnancy, including related absence they take or plan to take
- maternity pay they take or plan to take
- the employer not wanting them to return to work because they're breastfeeding

[Find out more about pregnancy and maternity discrimination](#) (PDF, 524KB, 25 pages).