

Human Resources

Maternity Leave/Benefit



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Maternity Leave/Benefit

If you become pregnant while in employment in Ireland, you are entitled to take maternity leave. The entitlement to a basic period of maternity leave from employment extends to all female employees in Ireland (including casual workers), regardless of how long you have been working for the organisation or the number of hours worked per week. You can also avail of additional unpaid maternity leave. The Maternity Protection Act 1994 and the Maternity Protection (Amendment) Act 2004 provide your statutory minimum entitlements in relation to maternity at work including maternity leave.

Under the Maternity Protection (Amendment) Act 2004 you are entitled to 26 weeks' maternity leave paid by the State (should you qualify for Maternity Benefit) together with 16 weeks additional unpaid maternity leave. Under this Act at least 2 weeks have to be taken before the end of the week of your baby's expected birth and at least 4 weeks after. You can decide how you would like to take the remaining weeks. Generally, employees take 2 weeks before the birth and the remaining weeks after. If you qualify for Maternity Benefit at least 2 and no

more than 16 weeks must be taken before the end of the week the baby is due. You must give your employer at least 4 weeks' written notice of your intention to take maternity leave and you must also provide your employer with a medical certificate confirming the pregnancy. If you intend to take the additional 16 weeks' maternity leave you must provide your employer with at least 4 weeks' written notice. Both these notices can be given at the same time.

How the payment is made

Maternity Benefit can either be paid directly into your bank or building society account (a current or deposit account, not a mortgage account) or you can choose to have it paid directly into your employer's bank account. Payment is made each week in advance.

Maternity Benefit is paid by the Department of Social Protection to individuals who have a certain number of paid PRSI contributions on their social insurance record and who are in insurable employment up to the first day of their maternity leave.

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The PRSI contributions can be from both employment or self-employment - the PRSI classes that count for Maternity Benefit are A, E, H and S (self-employed).

If you are employed you must have:

- At least 39 weeks PRSI paid in the 12-month period before the first day of your maternity leave, or
- At least 39 weeks PRSI paid since first starting work and at least 39 weeks PRSI paid or credited in the relevant tax year or in the tax year immediately following the relevant tax year. (The Relevant Tax Year is the second last complete income tax year before the year in which your maternity leave starts.) or,
- At least 26 weeks PRSI paid in the relevant tax year and at least 26 weeks PRSI paid in the tax year immediately before the relevant tax year. If you do not meet these PRSI conditions and you were self-employed before starting work as an employee, you can use your Class S contributions to qualify for Maternity Benefit. If you are self-employed you must be in insurable employment and have:

- 52 weeks PRSI contributions paid at Class S in the relevant tax year. For example, if you are going on maternity leave in 2013, the relevant tax year is 2011, or
- 52 weeks PRSI contributions paid at Class S in the tax year immediately before the relevant tax year, or
- 52 weeks PRSI contributions paid at Class S in the tax year immediately following the relevant tax year.

PRSI Class S contributions for a particular year are not awarded until you have paid tax due for that year. Your income tax and PRSI liabilities (for any year you were self-employed) must be paid to qualify for Maternity Benefit.

If you do not meet these PRSI conditions and you were in insurable employment before becoming self-employed, you can use your PRSI contributions (Class A, E and H) in that employment to qualify for Maternity Benefit. You may also be required to submit your accounts or a statement from your accountant for the current year to prove that you are self-employed and liable to pay a Class S contribution.

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From 6 January 2014 the minimum and maximum rates of Maternity Benefit and Adoptive Benefit have been standardised at €230 per week for new applicants.

Rate of payment for claims beginning on or after 6 January 2014:

Maternity Benefit	Weekly rate
Standard payment	€230

With effect from July 1st 2013, Maternity Benefit is treated as taxable pay, however USC and PRSI are not payable.

Payment from employers during maternity leave

Your entitlement to pay and superannuation during maternity leave depends on the terms of your contract of employment. Employers are not obliged to pay women on maternity leave. However an employee's contract could provide for additional rights to payment during the leave period, so that, for example, the employee could receive full pay less the amount of Maternity Benefit payable.

Public holidays and annual leave

You are entitled to leave for any public

holidays that occur during your maternity leave (including additional maternity leave). The right of employees to leave for public holidays is set down in Section 21 of the Organisation of Working Time Act 1997.

Apart from pay and superannuation, time spent on maternity leave (including additional maternity leave) is treated as though you have been in employment, and this time can be used to accumulate annual leave and public holiday entitlement

Stillbirths and miscarriages

If you have a stillbirth or miscarriage any time after the 24th week of pregnancy, you are entitled to full maternity leave. From 1 March 2007 this means a basic period of 26 weeks and 16 weeks of additional maternity leave. If you have satisfied the PRSI requirements, Maternity Benefit is payable for the 26 weeks of the basic maternity leave.

To apply for Maternity Benefit following a stillbirth, you need to send a letter from your doctor with the Maternity Benefit application form, confirming the expected date of birth, the actual date of birth and the number of weeks of pregnancy.

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Health and safety leave

An employer should carry out separate risk assessments in relation to pregnant employees and those who have recently given birth or are breastfeeding. If there are particular risks, these should be either removed or the employee moved away from them. If neither of these options is possible, the employee should be given health and safety leave from work which may continue up to the beginning of maternity leave. During health and safety leave, employers must pay employees their normal wages for the first 3 weeks, after which Health and Safety Benefit may be paid.

Father's entitlement to maternity leave

Fathers are entitled to maternity leave if the mother dies within 40 weeks of the birth. In these circumstances, the father is entitled to a period of leave, the extent of which depends on the actual date of the mother's death. If the mother dies within 24 weeks of the birth he has an optional right to the additional maternity leave. If the mother's death is over 24 weeks after the birth, the father is entitled to leave until 40 weeks after the birth. The leave starts within 7 days of the mother's death.

Postponing maternity leave

Section 7 of the Maternity Protection (Amendment) Act 2004 provides for postponement of maternity leave in strict circumstances, that is, if your baby is hospitalised. This right to postpone leave applies whether you are on maternity leave, or on additional unpaid maternity leave. Note, your employer has the right to refuse your application to postpone your maternity leave.

Returning to work

Under Section 26 of the Maternity Protection Act 1994 you are entitled to return to work to the same job with the same contract of employment. Section 27 of the Act states that if it is not reasonably practicable for your employer to allow you to return to your job, then they must provide you with suitable alternative work. This new position should not be on terms substantially less favourable than those of your previous job. Otherwise, you are entitled to be treated as if you had been at work during your maternity leave. Your employment conditions cannot be worsened by the fact that you have taken maternity leave, and if pay or other conditions have improved while you have been on maternity leave then you are entitled to these benefits

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when you return to work.

You must give your employer at least 4 weeks' written notice of your intention to return to work. It is important to comply with these notice requirements, as failure to do so may cause loss of rights.

PRSI contributions: you will automatically be awarded PRSI credits while you are getting Maternity Benefit. If you avail of unpaid additional maternity leave you must get your employer to complete an application form for maternity leave credits after you return to work.

If you are breastfeeding you may be entitled to some time off or a reduction in hours without loss of pay for up to 26 weeks after the birth.

If you decide not to return to work after your period of maternity leave, you are required to give your employer notice in the usual manner. You are protected against unfair dismissal for claiming your rights under maternity protection legislation.

Medical visits

Once your pregnancy is confirmed you may take reasonable time off for medical visits connected with the pregnancy. There is no maximum or

minimum amount of time off specified for these visits. Rather, you are entitled to as much time off as is necessary to attend each visit. This includes the time required to travel to and from the appointment and the time taken for the appointment itself.

You will need to provide your employer with medical evidence confirming the pregnancy, giving 2 weeks' notice of your medical visits. You should show your appointment card if requested by your employer at any time after your first appointment. You may also take time off for medical visits after the birth for up to 14 weeks following the birth. You are entitled to be paid while keeping these medical appointments both before and after the birth.

Ante-natal classes

You may also be entitled to take paid time off to attend some ante-natal classes. Your entitlement is for one set of ante-natal classes except for the last 3 classes of the set. Fathers are entitled to paid time off to attend the last 2 classes in the set of ante-natal classes.

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Early birth:

If your baby is born more than 4 weeks before your due date, you will have fulfilled the notice requirements if you give your employer written notice within 14 days of the birth.

Medical certification:

Section 11 of the Maternity Protection Act 1994 provides that if you are certified by your doctor as needing to start maternity leave for medical reasons, your maternity leave will start on the earlier date as specified on the medical certificate. In this case you are considered to have complied with the notice requirements.

Hospitalisation of baby

If your baby is in hospital and you have been getting Maternity Benefit for at least 14 weeks (including at least 4 weeks since your baby was born) you can postpone payment of your remaining 12 weeks of benefit for up to 6 months. To postpone payment of your Maternity Benefit you need to apply in writing to the Maternity Benefit Section in the Department of Social Protection. When your baby is discharged from

hospital you must notify the Maternity Benefit Section in writing and payment of your remaining 12 weeks Maternity Benefit will continue within seven days

Insurance from employment in another country

If you were previously insurably employed in a country covered by EU Regulations or in a country with which Ireland has a Bilateral Social Security Agreement and you have paid at least one full rate PRSI contribution in Ireland, you may combine your insurance record in that country with your Irish PRSI contributions to help you qualify for Maternity Benefit. You must have paid at least one full-rate PRSI contribution in Ireland within 16 weeks of the end of the week in which your baby is due.

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If you are already getting a social welfare payment

Half-rate Maternity Benefit may be payable if you are getting any one of the following payments:

- One-Parent Family Payment
- Widow's and Surviving Civil Partner's (Contributory) Pension
- Widow's and Surviving Civil Partner's (Non-Contributory) Pension
- Deserted Wife's Benefit or Allowance
- Prisoner's Wife's Allowance
- Death Benefit by way of Widow's/Widower's/ Surviving Civil Partner's or Dependent Parents' Pension (under the Occupational Injuries Scheme)

If you are providing full-time care to another person, you may qualify for half-rate Carer's Allowance with your Maternity Benefit.

Under the Maternity Protection Act 1994, a woman who qualifies for Maternity Benefit is entitled to claim Family Income Supplement (FIS).

Disqualification from Maternity Benefit

You can do voluntary work, public representative work (for example, a councillor or TD) and courses of education while you are getting Maternity Benefit. However, your payment will be stopped if you engage in insurable (paid) employment.

If you intend to return to employment earlier than you stated on your application form, you must notify the Maternity Benefit Section at least 2 weeks before your new 'return to work date'. You will not be paid Maternity Benefit for any period you spend outside the EU. If you are an EU citizen, you can get Maternity Benefit for any period of your maternity leave spent in another EU country. You cannot receive payment for any period of time spent outside the EU. If you are not an EU citizen you will only get Maternity Benefit for periods you spend in the Republic of Ireland.

If you do not apply for Maternity Benefit within 6 months of the birth of your baby, you may lose benefit.

Squires Gilbride - Chartered Accountants & Advisors are located in Dublin, Ireland.

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