

A SHORT GUIDE TO EMPLOYMENT LAW
November 2011

Statutory Minimum Notice Periods

Employer

Unless the employee's contract of employment provides for a longer period of notice from the employer, the following statutory period of minima will apply :

<i>Period of continuous employment</i>	<i>Minimum notice</i>
Less than 2 years (but one month or more)	1 week
At least 2 years but less than 3 years	2 weeks
Thereafter 1 extra week's notice for each complete year of employment up to a maximum of 12 weeks.	

Employee

Unless the employee's contract of employment provides for a longer period of notice from the employee, the minimum period of notice to be given by the employee is 1 week once employed for 1 month or more.

Statutory Redundancy Payments

A statutory redundancy payment is calculated by reference to an employee's age and length of employment. For each year of continuous employment which consists wholly of weeks in which the employee was aged:

Between 18 & 21 inclusive	½ week's pay
Between 22 & 40 inclusive	1 week's pay
41 and over	1½ week's pay

Only the 20 most recent years of employment can be taken into account.

A week's pay currently has an upper limit of £400 gross.

The qualifying period for redundancy payment is two years continuous employment.

Minimum Wage

From 1 October 2011

Adult rate (over 21)	£6.08 per hour
Development rate (18 – 20)	£4.98 per hour
School leavers (16 – 17)	£3.58 per hour
Apprentices	£2.60 per hour

Maternity Facts

All pregnant employees are entitled to **paid time off** for ante-natal care.

All female employees have **2 weeks compulsory maternity leave** from the date of childbirth (4 weeks if you work in a factory).

All pregnant employees are entitled to:

52 weeks maternity leave starting no earlier than 11th week before EWC*.

Statutory Maternity Pay for 39 weeks:

- 6 weeks @ 90% of employee's average weekly earnings (or SMP flat rate if higher)
- 33 weeks @ £128.73 (SMP flat rate).

All contractual benefits throughout the maternity leave, excluding remuneration.

Right to return to work after ordinary maternity leave to same job and on same terms and conditions. After additional maternity leave if it is not possible to return to same job, equivalent job must be offered (if returning early notify employer a minimum of 8 weeks in advance).

'Keeping in touch' days. An employee can agree with her employer to work for up to 10 days during her leave without bringing it to an end.

* **Expected Week of Childbirth**

Statutory Sick Pay

- currently stands at £81.60 per week for employees earning £95 (gross) per week or more
- it is payable from and including the 4th qualifying day of absence onwards
- maximum entitlement is for 28 weeks
- any amount paid out as SSP, SMP or SPP may be recovered by the employer from HM Revenue and Customs depending on the level of their National Insurance Contributions

Compensation Limits

Employment rights	Maximum award
Unfair dismissal basic award (service)	£12,000** (calculated using age and length of service)
Compensatory award	£68,400 (where the EDT*** was on or after 1 Feb 2011)
Additional award where order for reinstatement or re-engagement is made and not complied with	minimum 26 weeks pay (10,400*) maximum 52 weeks pay (£20,800*)

Statutory redundancy pay £12,000* (calculated using age and length of service)

Discrimination

Race, Sex, Disability, sexual orientation,
Religion or belief & Age discrimination No limit

Breach of Contract

Tribunal claims Damages limited to £25,000

Civil Court claims No limit

** *Based on actual week's pay (max £400 gross)*

*** *Effective Date of Termination*

Paternity Facts

1 or 2 consecutive weeks leave **to be taken within 56 days of the actual date of birth, or up to 56 days after the first day of the week in which the birth was expected** whichever is later

Entitled to employees who:

- Have or expect to have parental responsibility
- Are the biological father of a child, the mother's husband or partner and;
- Have 26 weeks continuous employment ending with 15th week before EWC*

Current rate of pay is £128.73 a week or 90% of average weekly earnings if less (same as SMP flat rate)

Formalities

- Employee to complete self certificate 28 days before they want SPP to start
- Notice to be given by the end of the 15th week before EWC*, unless not reasonably practical
- Must **state** expected date of birth, length of leave and start date

Additional Paternity Leave

- Applies to parents of babies due on or after **3 April 2011**
- Enables eligible employees where their spouse/partner are returning to work early, to take leave in their place
- An eligible employee can only start additional leave:
 - 20 or more weeks after birth; and
 - After his/her partner has returned to work.
- Minimum of 2 weeks
- Maximum of 26 weeks
- The latest additional paternity leave can end is 52nd week after their partner/spouse's maternity leave began

Parental Leave Facts

- Available to mothers and fathers and those with parental responsibility with one year's continuous employment
 - 13 weeks unpaid leave enabling employee to care for each child, to be taken by child's 5th birthday or in the 5 years following adoption
 - 18 weeks unpaid leave in total for parents of children with disabilities, to be taken by child's 5th birthday
 - 21 days notice needed from employee
 - Leave to be taken in blocks of 1 week, unless the child is disabled
 - Maximum 4 weeks leave per year, per child
 - Employer can postpone leave for up to 6 months if business could not cope
 - Employer cannot postpone leave immediately after the birth or adoption
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Flexible Working Facts

Apply for a change in terms and conditions of employment which relates to hours, times and/or place of work; to enable employee to care for child or adult

Available to:

- Mothers and fathers and those with parental responsibility who have or expect to have responsibility for the upbringing of a child aged 17 or under (or under 18 if disabled)
- Employees who are carers of a spouse, civil partner, partner or adult "near relative", or other adult who lives at their address
- Those in continuous employment of 26 weeks at date of request

Formalities

- Apply to employer in writing with business case
- Employer must set up meeting within 28 days of request
- Inform employee of decision in writing within 14 days of meeting
- Record agreement in writing

The employee has right of appeal against decision **within 14 days of being notified of the decision**, whilst the employer can refuse for specific reasons only

The employee can enforce rights in the Employment Tribunal. The maximum amount of award – 8 weeks pay (limit on week's pay - £400 gross)

Working Time Facts

- Limit of 48 hours averaged over 17 week period
 - Workers can opt out of this limit in writing but can withdraw consent on notice
 - All workers entitled to 5.6 weeks paid holiday per year. This can include paid bank holidays. The entitlement for part time workers is calculated on a pro-rata basis
 - Employers can stipulate shutdown times
 - Employers may not pay in lieu of untaken holiday, except at end of employment when worker has right to be paid in lieu.
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