

The law relating to maternity rights is changing.

Employees whose expected week of childbirth commences on or after 5th October 2008 will be entitled to additional rights.

Previously, employers were only required to continue providing all benefits during the first 26 weeks of an employee's ordinary maternity leave. During the next 26 weeks of additional maternity leave employers could withdraw certain benefits, such as private use of a company car or mobile phone, medical expense cover and gym membership.

Under the new regulations employees will generally be entitled to their full benefit package for the whole of their maternity leave, in other words for up to 52 weeks. Special rules apply to some benefits as follows.

Statutory Maternity Pay ("SMP")

This is available to employees who have been employed for at least six months at a point 15 weeks before the expected week of childbirth. Current rates are 6 weeks at 90% of the employees' normal pay and then 33 weeks at **£117.18** a week or 90% of normal weekly earnings if lower.

Pensions

Only those employees who are entitled to SMP are also entitled to continue to receive contributions to their pension plans. As with SMP, this entitlement lasts for a total of 39 weeks.

Company Cars

If the company car is provided purely for business use employer's can take it back during maternity leave. However, if there is any element of personal use permitted then under the new arrangements the employee is entitled to retain the car for the whole of maternity leave period.

Holidays

It is generally thought that employees cannot be treated as taking holidays during maternity leave. This can mean that she may lose some of her holiday entitlement if the holiday year ends whilst she is on maternity leave.

Practical solutions to this problem may be to encourage the employee to take time off as holiday before the commencement of her maternity leave, or to ask her to end her maternity leave early but then immediately take time as paid holiday.

This article is for general information purposes only and does not constitute legal advice. Appropriate legal advice should be obtained before taking any steps regarding maternity leave.

@howell-jones solicitors October 2008