

## **RIGHTS FOR WORKING PARENTS IN NORTHERN IRELAND**

Employers must be aware that the rights of women have changed in relation to ordinary and additional maternity leave by virtue of the Employment (Northern Ireland) Order 2002 and the Maternity and Parental Leave etc. (Amendments Number 3) Regulations (Northern Ireland) 2002 have introduced many new measures relating to maternity and paternity rights, adoptive leave and flexible working arrangements. Every Northern Ireland employer must implement the following changes which the new legislation has enacted.

### **MATERNITY LEAVE AND PAY**

Women who are expecting babies at the present time will benefit from the Maternity Leave changes.

Pregnant employees are entitled to 26 weeks ordinary maternity leave (previously 18 weeks), regardless of length of service. Women who have completed 26 weeks continuous service at the beginning of the 14<sup>th</sup> week before their expected week of confinement are entitled to take additional maternity leave of 26 weeks, which starts at the end of ordinary maternity leave (counting from the Sunday at the beginning of the week in which the baby was born).

Women are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to remuneration throughout the 26 weeks of ordinary maternity leave. During additional maternity leave, the employment contract continues and some contractual benefits and obligations remain in force, for example, contractual redundancy rights and notice. However, additional maternity leave is unpaid.

Employers can still recover Statutory Maternity Pay. Employers can claim back 92% of the payments they make, while those eligible for small employer's relief are entitled to 100% of the payments.

### **PATERNITY LEAVE AND PAY**

Up until the implementation of the Employment (Northern Ireland) Order, 2002 men were entitled to two days' paternity leave for the birth of each child. There is now a completely new right to Paternity Leave. The leave is not just available to a child's biological father; it may be taken by a partner of a different sex or the same sex as the child's mother, as long as that person has the main responsibility for bringing up the child, apart from the child's mother.

When an employee is eligible for Paternity Leave he will be entitled to take one week, or two consecutive weeks, within 56 days of the date of the child's birth. Paternity leave will be paid at a flat rate of £100 or 90% of the employee's average earnings, whichever is less.

## **ADOPTION LEAVE AND PAY**

The new legislation provides a statutory entitlement to Adoption leave and pay. In order to qualify for both leave and pay an employee must be *newly matched* with the child for adoption by an approved adoption agency. Hence, this does not include an employee with whom a child has had a previous or existing relationship e.g. adopting of a partner's child. It should be noted that the same period of leave is given despite the number of children being placed for adoption at that time.

## **EMPLOYERS BEWARE!**

Employers must ensure that staff and works handbooks, which should be subject of staff training, acknowledge employees rights and explain the procedures that employees need to follow to take advantage of both Maternity leave, Paternity leave and Adoption leave. Employers should acknowledge that in the event that that a pregnant woman becomes ill or is absent from work with a pregnancy related illness on or after the 4<sup>th</sup> week before her expected week of confinement, this will automatically trigger her Maternity leave.

It is of fundamental importance that a woman on ordinary Maternity leave be entitled to the continued benefit of her terms and conditions of employment (apart from those relating to remuneration). As a general rule of thumb employers should alert new mothers to the fact that they will not be permitted to return to the work place before the duration of their ordinary Maternity leave or additional Maternity leave unless 28 days written notice of their intention to do so is given to the Employer. Employers are bound to ensure that expectant mothers have access to suitable rest facilities in the work place, which are fully accessible during normal working hours. When an employer is carrying out a risk assessment of the work place this should take into consideration any work place hazards that might pose a risk to new or expectant mothers and or their babies or unborn babies. An employee who is taken on to replace another employee who is absent from work on Maternity leave that they have been employed to fill in for that employee and that the contract of employment will be terminated once the usual employee has returned to work once her Maternity leave has ended.

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