

## Maternity and Adoption Leave & Pay Provisions

### 1. Introduction.

#### 1.1 The Occupational Maternity/Adoption Provisions.

Occupational Maternity/Adoption Provisions are available to employees who are on leave due to pregnancy and/or childbirth, or to an individual employee or one member of a couple who adopt a child regardless of their circumstances or sexual orientation.

All information is available on both the Employee's Guide to Maternity and Adoption and the Manager's Guide to Maternity and Adoption.

Glasgow Life's provisions exceed the statutory requirements of the Employment Act 2002, Work and Families Act 2006, and the Sex Discrimination Act 1975 (Amendment) Regulations 2008 apply to all employees regardless of the number of hours worked per week.

### 2. Conditions/Notification..

#### 2.1 Maternity.

To establish entitlement to Maternity Leave and Pay, the employee must complete a **MATAD2** Form on or before the 15th week before the Expected Week of Confinement (EWC) to advise of her intention to take Maternity Leave and to confirm:

- That she is pregnant;
- The week her baby is due (EWC)
- The date she wants to start her Maternity Leave;
- Attach a MATB1 certificate;

#### 2.1.1 Adoption.

To qualify for Adoption Leave and Pay an employee must be "newly" matched with a child (up to the age of 18) for adoption by an approved Adoption Agency. The provisions do not cover instances where the child is not newly matched for adoption, for example where a step-parent adopts a partner's children.

Only one member of a couple, where they jointly adopt, will be entitled to Adoption Leave/Pay.

To establish entitlement to Adoption Leave and Pay, the employee must complete a **MATAD2** Form within 7 days of being notified by their Adoption Agency that they have been matched with a child. This must include: When the child is expected to be placed with them; and The date on which the employee wants to start their Adoption Leave. Confirmation that they are the only person claiming Adoption Leave and Pay in respect of the child. Attach the Matching Certificate.

## 2.2 Certification

The employee must provide their Manager with a Maternity Certificate (Form Mat B1) from a registered medical practitioner or midwife stating the expected date of childbirth, or a Matching Certificate from the Adoption Agency, along with the **MATAD2**.

The Manager will respond to the employee within 28 days of receipt of the above notification, using letters **MATAD4, MATAD5 or MATAD6**, which sets out in writing the date on which the employee is expected to return to work if they take their full entitlement to Maternity/Adoption Leave.

Employees will be able to change the date on which their leave starts, providing they inform their Manager at least 28 days in advance of the new date (unless this is not reasonably practicable).

**2.3** In addition to the notification and certification conditions set in parts 2.1 and 2.2 the employee must continue to be pregnant at the 24th week of pregnancy.

## 3. LEAVE

**3.1** Subject to meeting the conditions detailed at part 2, the following will apply: All employees regardless of continuous service are entitled to 52 weeks Maternity/Adoption Leave.

### 3.2 Maternity.

An employee's Maternity Leave starts:

- On the date she intends her leave to start (this date can be no earlier than the 11th week before the EWC), Or
- The first day after the beginning of the fourth week before the EWC on which she is absent from work on sick leave wholly or partly because of pregnancy Or
- The day on which childbirth occurs
- Whichever is the earliest.
- Maternity leave can start on any day of the week.
- All employees must take a minimum of two-weeks.

### **3.2.1 Adoption.**

An employee's Adoption Leave starts:

- From the date of the child's placement or
- From a fixed date which can be up to 14 days before the expected date of placement.
- Only one period of leave will be available irrespective of whether more than one child is placed for adoption as adoption as
- part of the same arrangements.
- If the child's placement ends during the Adoption Leave period, the employee will be able to continue Adoption Leave for up to eight weeks after the end of the placement but not exceeding the end of the Adoption Leave Period.
- Adoption Leave cannot continue beyond the week of the child's 18th birthday.

### **3.3 Ante-natal Care.**

A pregnant employee is entitled to reasonable time off without loss of pay to attend antenatal care. The employee should provide evidence of appointments to their Manager and should try to arrange these appointments outside working hours if possible.

Ante-natal care can include medical examinations, dental appointments, relaxation and parent craft classes.

### **3.4 Keeping in Touch Days -**

#### **Entitlement.**

All employees, by agreement with their Manager, can work up to 10 day's under their contract of employment Whilst on Maternity/Adoption Leave. The Keeping In Touch days may be undertaken at any stage during Maternity/Adoption Leave excluding the first two weeks after a baby is born.

#### **Payment/Time off In Lieu (TOIL).**

As the Keeping In Touch days are contractual, the employee is entitled to TOIL or payment for that work without it having any affect on SMP/SAP if agreement is reached with their Manager.

#### **Other contact during Maternity/Adoption Leave.**

The Manager should maintain contact with the employee (and vice versa) to discuss the employee's plans to return to work, provide updates on important developments at work, and to inform the employee of relevant promotional opportunities or job vacancies that arise during Maternity/Adoption leave.

## **4. Pay Provisions.**

**4.1** Employees who have less than 26 weeks' continuous service at the beginning of the 15<sup>th</sup> week before the EWC will be entitled to Maternity Allowance only (MA) only.

**4.2** Employees who have completed 26 weeks' continuous service at the beginning of the 15<sup>th</sup> week before the EWC are entitled to the following;

**4.3** Statutory Maternity Pay (SMP)/ Statutory Adoption Pay at 90% of a weeks average pay for the first 6 weeks leave. Average pay is calculated by counting back 15 weeks before the EWC; find the nearest pay day on or before this date; and count back a further 8 weeks.

**4.4** OMP/OAP at 50% of a weeks average pay plus SMP/SAP or MA where appropriate for the remaining 33 weeks Leave.

No deduction will be made except when the combined pay and SMP/SAP or MA and any dependents' allowances (if the employee is not eligible for SMP) exceeds full pay.

The Additional Maternity/Adoption Leave period is unpaid. **4.5** To receive OMP/OAP as detailed in para 5.0, the employee must sign an undertaking stating that they will physically return to work with the Company for a period of at least 3 months.

**4.6** In the event of the employee not returning to work for at least 3 months, they will be required to refund the Company with the appropriate amount of OMP/OAP paid (up to 33 weeks).

**4.7** An employee who is unsure of their intention to return to work, may choose to defer payment of the 33 weeks at five-tenths pay until they return to work. In these circumstances there is no requirement for the employee to declare their intention to return to work.

**4.8** SMP/SAP and MA are statutory payments governed by legislation and are based on criteria, which include length of continuous service and earnings. This is paid by the government or 90% of average pay, dependent on what is lower, further details available from Jobcentre Plus. SMP/SAP is payable by the employer whereas MA is paid by the Department of Work and Pensions.

**4.9** Where an employee is not entitled to SMP/SAP, the Manager must provide the employee with a completed Inland Revenue Form SMP1/SAP1 along with her MATB1 within 7 days of the decision the he/she is not entitled to SMP/SAP (this will enable the employee to claim MA if applicable). The employee may be able to claim Maternity Allowance /Incapacity Benefit through Jobcentre Plus.

**4.10** In determining the "average pay" of an employee the Manager will include: Overtime payments made to employees whose terms of employment require them to work in excess of the normal hours, and

Regular agreed payments for Non-standard working hours (eg weekend working, shifts, short-notice additional hours etc).

Pay increases due to the employee.

## 5. Summary of Maternity/Adoption Leave and Provisions..

5.1 Qualifying Conditions:	Entitlement.
Less than 26 weeks continuous service the 15th week before EWC:	Up to 52 weeks leave By MA, where appropriate.
26 weeks continuous service by the 15th week of EWC:	Up to 52 weeks Leave 39 weeks pay: 6 weeks at 90% inclusive of SMP/SAP/MA 33 weeks at 50% average pay plus SMP/SAP/MA, where appropriate.

**5.2** For employees not intending to return to work. SMP/SAP or MA will apply.

## 6. Maternity/Adoption Leave and Pay Provisions – General.

**6.1** If an employee gives birth after the beginning of the 15th week before the EWC but before her Maternity Leave has started, she must ensure someone does notify her manager within 28 days of childbirth of the date she gave birth.

**6.2** Maternity Leave and Pay (if applicable) is unaffected if the employee gives birth after the EWC, or if she gives birth before her EWC but after her Maternity Leave has started.

**6.3** If an employee is on pregnancy related sick leave within 4 weeks of her EWC, she will be deemed to have started her Maternity Leave and will be entitled to Maternity Pay as appropriate.

**6.4** Maternity/Adoption Pay will finish when an employee returns to work before exhausting their full entitlement to Maternity Pay, unless the work undertaken is part of the agreed KIT days arrangement.

**6.5** An employee on Maternity Leave, whose child is still-born or does not live, does not need to reduce the period of her Maternity Leave in these circumstances. The usual return to work provisions apply.

**6.6** An employee who resigns from employment in or after the 15th week before the EWC will not be entitled to OMP. However, she may still be eligible for SMP.

**6.7** An employee who cannot carry out her normal duties due to her being pregnant, recently given birth, or breast feeding has the right to be offered suitable alternative work, or if such work is not available, to be suspended on normal pay.

## **7. Maternity/Adoption Support Leave and Pay Provisions.**

### **7.1 The Maternity/Adoption Support Provisions.**

The Maternity/Adoption Support Provisions allow employees up to 2 weeks paid Maternity/Adoption Support Leave, and a further 11 weeks unpaid Additional Maternity/Adoption Support Leave to assist and support a mother adoptive parent with the care of the newborn child or a newly placed adopted child.

The provisions are available to all employees regardless of the number of hours worked subject to satisfying the specified conditions detailed below.

Details of Maternity/Adoption Support Pay covered in part 7.6. The provisions take account of and comply with the Statutory Provisions as detailed in the Employment Act 2002, the Work and Families Act 2006, and the Sex Discrimination Act 1975 (Amendment) Regulations 2008 and in a number of respects go beyond the statutory minimum.

### **7.2 Conditions.**

To qualify for the Maternity/Adoption Support provisions, an employee must: have completed at least 26 weeks continuous service at the beginning of the 15th week before the Expected Week of Childbirth (EWC) or in the case of adoption have completed at least 26 weeks continuous service by the end of the week in which the employee is notified that they have been matched with a child and:

- be the biological father of the child or the mother's husband or partner or
- be married to or the partner of the child's adopter or
- be the nominated carer in circumstances where there is no father, husband or partner living with the mother/adoptive parent or taking responsibility for the upbringing of the child.

### **7.3 Notification.**

In order to establish an entitlement to Maternity/Adoption Support Leave and Pay an employee shall inform the Head of Service in writing of their intention to take Maternity/Adoption Support Leave:

- In the case of birth in or before the 15th week before EWC or
- In the case of adoption no more than 7 days after the date on which the adoptive parent is notified of having been matched with a child.

The notification must include:

- The expected week of childbirth or the expected date of placement
- The date the employee wishes their leave to commence and the length of the period of leave
- A statement declaring that they meet the qualifying conditions as to the relationship with the child and the child's mother.
- Employees will be able to alter the date on which their leave commences providing they inform their Head of Service in writing at least 28 days in advance of the new date, unless this is not reasonably practicable.

## **7.4 Certification.**

The employee shall also submit to the Company a Maternity Certificate (Form Mat B1) from a registered medical practitioner or midwife stating the expected date of childbirth or in the case of adoption a Matching Certificate from the Adoption Agency and a declaration confirming the employee meets the conditions as to the relationship with the child and the child's mother/adoptive parent.

## **7.5 Leave.**

An employee's Maternity/Adoption Support Leave must be taken during the period of 56 days beginning with the date on which the child is born or the first day of the EWC, whichever is the later or in the case of adoption the date on which the child is placed with the adoptive parent.

An employee can choose to take either 1 week or 2 consecutive weeks, however an employee cannot take two non-consecutive weeks of leave. Leave may commence on any day of the week.

An employee can then choose to take an additional 11 weeks unpaid Maternity/Support Leave.

Only one period of leave will be available to employees irrespective of whether more than one child is born as a result of the same pregnancy or more than one child is placed for adoption as part of the same arrangements.

An employee will require to notify their Manager as soon as is reasonably practicable of the date on which the mother gave birth or a child was placed with the adoptive parent if this is different from the date previously notified by the employee.

## **7.6 Pay.**

Pay in respect of Maternity/Adoption Support Leave will be 1 or 2 weeks full pay (against which payments made by way of Statutory Paternity Pay (SPP) or equivalent, if applicable will be offset).

Where an employee is excluded from SPP they will be provided with an Inland Revenue SPP1 form together with the MATB1 or Matching Certificate. If an employee subsequently receives an allowance in respect of their period of leave from the Department of Work and Pensions they will be required to inform their Head of Service who will offset this against the payment of full pay.

If employees are considering taking other leave in conjunction with Maternity/Adoption Support Leave e.g. Annual Leave, Parental Leave they should where reasonably practicable request this at the same time taking account of the notification requirements detailed under each of these provisions.

## **8. RETURN TO WORK.**

**8.1** Maternity/Adoption Leave will normally continue for no longer than 52 weeks. However, the employee may postpone their return to work for a further period by using Annual Leave and/or Parental Leave.

**8.2** Alternatively, an employee who is unable to return to work due to sickness can receive sickness allowance if the Maternity/Adoption Leave has ended and the provisions of the Sick Pay Scheme are satisfied.

Employees intending to return to work before exhausting their full entitlement to Maternity/Adoption Leave are required to notify their Manager, preferably in writing at least 28 days in advance of their return. They should include confirmation that they are fit to return to work.

If an employee does not provide the appropriate notice, his/her Manager may postpone their return to a date that will secure the full period of notice. This postponement cannot extend beyond the end of the employees full Maternity/Adoption Leave entitlement.

**8.3** Upon their return to work, an employee will normally return to the post held prior to his/her Maternity/Adoption Leave. However, a return to employment elsewhere within the organisation will satisfy the requirements, in which case the discretion referred to shall rest with a Director of the Company.

**8.4** In the case of redundancy where it is not practicable for the employee to return to their post, they will be offered a suitable alternative where one exists.

**8.5** Suitable alternative employment may also be offered in exceptional circumstances other than redundancy (e.g., a general re-organisation), result in a change in the post held prior to their Leave.

## **9.0 Return to work when Employee terminates employment.**

**9.1** Where an employee terminates her employment due to pregnancy or childbirth and the child does not live, she will be entitled to return to work. She will not however, be entitled to return to the same post at the same grade and salary as applied immediately prior to the termination of employment, unless the Company determines that this is practicable.

**9.2** An employee shall not be entitled to return to employment with the Company in accordance with this paragraph unless a suitable vacancy exists; and she submits in writing a self certificate declaring that she is fit to return to work.

## **10. Application of other scheme provisions to Maternity/Adoption Leave.**

**10.1** Maternity/Adoption leave shall not be treated as sick leave to be taken into account in calculating an employee's sick leave entitlement under the Sick Pay Scheme.

**10.2** Absence due to pregnancy or childbirth, which occurs outwith the period of Maternity Leave (whether before or after the period of Maternity Leave), will be treated in accordance with the provisions of the Annual Leave, Parental Leave or Sick Pay Scheme.

**10.3** Employees who have not started their Maternity/Adoption Leave are entitled to Statutory Sick Pay and Occupational Sick Pay up until the baby is born, unless the Manager considers the employee to be on Maternity/Adoption Leave in accordance with part 3b.



**10.4** Where an employee has been absent on Maternity/Adoption Leave in accordance with these provisions, that period of leave shall be taken into account when calculating the employee's period of notice or further Maternity/Adoption Leave.

**10.5** Annual leave entitlement will not be reduced in accordance with The Conditions of Service Part 7.

**10.6** The Manager should agree with the employee prior to the start of Maternity/Adoption Leave the proportionate period of annual leave entitlement to be taken prior to the start of Maternity/Adoption Leave. Similarly, the Manager should advise the employee of the opportunity to consider using leave before their return to work.

**10.7** An employee may want to extend their overall leave period by combining Annual Leave, Parental Leave etc. and taking this before the start and/or at the end of the Maternity/Adoption Leave Period. The employee should request all of the leave at the same time if possible, whilst taking into account the notification requirements detailed under each of the separate provisions.

**10.8** Adoption Leave cannot be taken in conjunction with paid Maternity Support Leave. When a designated Public Holiday occurs during the paid period of Maternity or Adoption Leave, the employee upon their return to work and at the convenience of the Service, will be granted a day in lieu.

## **11. Definitions.**

### **11.1 Childbirth.**

The birth of a living child or after 24 weeks of pregnancy, the birth of a child whether living or dead.

### **11.2 Continuous Service.**

Continuous service for the purposes of qualifying for entitlement to Maternity/Adoption Pay will include continuous previous service with any public authority to which the Redundancy Payments Modification Order (Local Government) 1983 (as amended) applies.

### **11.3 A Week.**

A week is the period of 7 days beginning with midnight on Saturday/Sunday. This definition does not apply to the calculation of a period of continuous employment.

### **11.4 Expected Week of Childbirth.**

Means the period of 7 days, beginning with midnight on Saturday/Sunday, in which the childbirth is expected to take place.