



Maternity Rights

Introduction

This guide gives an overview of maternity rights in Jersey. At the moment those rights are very limited. However, in 2008, the Employment Forum issued a Recommendation to the Social Security Minister suggesting the introduction of a platform of statutory maternity rights. An overview of the Recommendation is included at the end of this guide.

Employment (Jersey) Law 2003

This law contains a basic platform of employment rights including the right not to be unfairly dismissed. The Law also contains a few maternity provisions. The Law states that every employee must be given a written statement of the terms and conditions of employment. This statement must include any terms and conditions relating to maternity leave. As a result, if an employee has a contractual right to a minimum period of maternity leave this must be stated in the employment contract. Alternatively, the contract may refer the employee to another document where the information is contained, e.g. an employee handbook.

In most cases the employment contract will continue to subsist during the period of maternity leave. This means that under the Law the woman will continue to accrue continuous service. This is important if a woman is subsequently dismissed or becomes entitled to a redundancy payment as the period of maternity leave will be included when working out how long the woman has worked for the employer and, therefore, the level of compensation payable.

There is no statutory right to be absent from work for ante-natal appointments. Nor is there a statutory right to maternity leave. However, it is likely that dismissing a woman because she is pregnant, about to take maternity leave or on maternity leave would be considered unfair by the Employment Tribunal. The remedies for unfair dismissal are set out in the guide to Discrimination in Employment.

The extent to which a woman is entitled to be paid during her period of maternity leave is a matter to be agreed with the employer. In other words, there is no legal obligation on the employer to pay a woman maternity pay. The same applies to other contractual provisions such as the accrual of holiday entitlement, pensions and benefits in kind.

At the end of her maternity leave a woman is entitled to return to the job that she is contractually entitled to do. In most cases this will be the same job that she did before she went on maternity leave. However, the woman's contract may state that the employer has the right to offer alternative work. If the work is not of a similar level

with comparable pay and conditions the woman may be able to claim constructive dismissal.

The right to return to work on a part-time basis must be agreed with the employer. At the moment there is no obligation on an employer to agree to part-time work.

Maternity Benefits

The Social Security Department administers various maternity benefits most of which are subject to having the requisite contribution record. In summary the benefits are:

1. Maternity Grant – a one off payment of around £500 per child.
2. Maternity Allowance lasts for 18 weeks and can be claimed from 6 weeks before the birth to 12 weeks after the birth. The current level of allowance is around £172 per week, but can be increased if there is an adult dependant.
3. Home Responsibility Protection is a system of credits that can protect your right to a pension while you are at home looking after a child.

More detail about maternity benefits can be found on www.gov.je/socialsecurity/benefits or you can pick up a leaflet at the Social Security office.

Employment Forum Recommendation

In June 2008, the Employment Forum made a Recommendation to the Minister for Social Security on maternity, paternity and family friendly working.

The Recommendation can be found on www.gov.je/chiefminister/publicconsultations/past+consultations/.

The Employment Forum recommended the introduction of a platform of rights to be introduced in two phases. Here is a summary of the recommendations:

- A right to time off work to attend essential ante-natal appointments.
- Eight weeks maternity leave for all employees with an additional 10 weeks where the woman has a 15 monthly qualifying period of service. In phase 2 women with qualifying service will be entitled to a total of 26 weeks leave.
- All women to receive full pay for 2 weeks up to the social security contribution ceiling. For women with qualifying service this will increase to 8 weeks full pay in phase 2. The remainder of the maternity period will be unpaid.
- Other than pay, all terms and conditions of employment (including any benefits in kind) will continue to apply during the period of maternity leave.
- A woman will have a right to return to her previous job following her maternity leave unless there has been a redundancy situation.
- Two weeks unpaid paternity leave.
- Adoption leave similar in duration to maternity leave.

Employment Advice

Advice on your employment rights can be obtained from the Jersey Advisory and Conciliation Service (JACS). Their contact details are as follows:

Trinity House,
West's Centre
Bath Street,
St Helier, JE2 4ST.

Telephone (01534) 730503
Fax (01534) 733942
Email jacs@jacs.org.je
Web www.jacs.org.je

A copy of the Employment (Jersey) Law 2003 can be reviewed on the Jersey Legal Information Website at www.jerseylaw.je.

Complaints of unfair dismissal must be made to the Employment Tribunal. Information about the tribunal can be found at www.jerseyemploymenttribunal.org.