

Maternity and Paternity Allowances at Work

Background/Context

Currently on St Helena, there is no provision within the Employment Rights Ordinance for maternity and paternity pay. Rather organisations decide whether or not to offer paid maternity and/or paternity leave. If offered, organisations also determine what their maternity and/or paternity leave policies include.

Without maternity and paternity pay being statutory, there is a risk that employees taking time off to have a baby or adopt are vulnerable to poverty.

Please see below local examples of those that offer maternity and paternity pay, including a United Kingdom (UK) comparison:

Organisation	Maternity Policy	Conditions		Paternity Policy	Conditions
	Eligibility	Allowance	Pay	Eligibility	Allowance
A	An employee with not less than 6 months continuous service at the Expected Date of Delivery (EDD)	Up to 26 weeks	12 weeks full pay, 6 weeks half pay and 8 weeks unpaid	Completed 6 month's continuous service at the time of application for this leave.	10 days
B	Completed 1 year of service or pro-rota basis	16 weeks	16 weeks full pay		
C	Completed 26 weeks continuous service at the 15 th week before the expected week of childbirth Employed less than 26 weeks at the 15 th week before the expected week of childbirth	32 weeks	14 weeks full pay and 18 weeks unpaid 14 weeks half pay and 18 weeks unpaid	Completed 26 weeks' continuous service at the time of application of this leave.	10 days
D	Completed 26 weeks continuous service at the end of their qualifying week (irrespective of hours worked), provided they are still pregnant 11 weeks before the start of the expected week of childbirth	26 weeks	12 weeks full pay, 6 weeks half pay and 8 weeks unpaid	Completed 26 weeks' continuous service at the time of application of this leave. Whose wife or partner gives birth to a child, or who is the biological father of the child or expected to have, responsibility for the upbringing of the child and making the request to help care for the child or to support the child's mother.	10 days
United Kingdom Statutory Maternity Pay	Completed 26 weeks continuous service.	Up to 52 weeks. Ordinary Maternity Leave -	Statutory Maternity Pay (SMP) is paid for up to 39 weeks.	The statutory weekly rate of Paternity Pay is £145.18, or 90% of your average weekly earnings (whichever is lower).	1 or 2 weeks

		first 26 weeks.	90% of your average weekly earnings (before tax) for the first 6 weeks		
		Additional Maternity Leave - last 26 weeks	£145.18 or 90% of your average weekly earnings (whichever is lower) for the next 33 weeks		

Within St Helena, working women who become pregnant could be faced with the threat of suspended earning and increase health and mental health risks due to inadequate safeguards for their income. Equally, for working men paternity leave is often overshadowed by maternity leave, social norms still prioritize a man's commitment to work above his time commitment to his family, and so taking time off can be difficult. A man's use, or non-use, of parental leave could impact his relationship with his child, as well as the well-being of the child's mother, and perhaps the couple's relationship as a whole. Additionally, the frequency of use of paternal leave impacts gender equality in the workplace and society. Enabling both paid maternity and paternity leave enables transitioning into the parental role, helps foster better parent-child relationships, support for both parents, reduces health and mental health risks and equalise opportunities among different income groups. Simply put, maternity and paternity leave benefits everyone.

The Global Context

Maternity Leave

The International Labour Office (ILO) created the first global standard in 1919 aimed at protecting working women before and after childbirth: the Maternity Protection Convention. The standard was revised in 1952 and now calls for a minimum 12-week leave although a 14-week leave is recommended. In countries which provide cash benefits through social security, the ILO standard says that a woman should be paid at a rate of not less than two-thirds of her previous insured earnings, with full health benefits.

Currently, 119 countries meet the ILO standard of 12 weeks with 62 of those countries providing for 14 weeks or more. Just 31 countries from the study mandate a maternity leave of less than 12 weeks.

The advance notice required for taking maternity leave varies from country to country. In Australia, federal legislation stipulates that a woman must inform her employer that she is pregnant and will be taking time off at least ten weeks before leaving. In Austria, a worker is required to inform her employer of her pregnancy and of the likely date of birth as soon as she herself knows, and is also required to inform the employer of the date that her prenatal leave will begin four weeks before leaving.

In Ireland and the United Kingdom, notification must follow a strict procedure or the woman could lose the protection of the courts in any dispute. In other countries, pregnant women enjoy greater rights – in Denmark, France, Greece and Italy, a woman automatically enjoys protection of maternity leave laws simply by becoming pregnant, no matter how and when the employer learns of it. In Finland, a woman is required to inform her employer only if she wishes to take leave more than 30 days before the expected date of birth.

In some countries, leave entitlement may depend on the number of children already in the family, the frequency of births, or both, length of service or working hours. In Nepal, a woman may take just two maternity leaves in her working life, and in Barbados, Egypt, Grenada, Jamaica and Zimbabwe, just three. In the Bahamas and Tanzania, women are allowed a maternity leave only once every three years.

A minimum length of service with the same employer is the most common condition of maternity leave. Some examples include a minimum of three months of employment in Switzerland; six months in Libya, Syria

(in agriculture) and Somalia; six months during the year preceding the birth in Egypt and the Philippines; one year in Australia, Bahamas, Jamaica, Mauritius, Namibia, New Zealand and United Arab Emirates, and two years in Gambia and Zambia.

Paternity Leave

The length of paternity leave varies from country to country. Among those with national provisions, the duration ranges from one day in Tunisia to 90 days in Iceland, Slovenia and Finland (54 working days). In 53 per cent of the total (87 countries), statutory paternity leave is not provided. Some 36 countries (21 per cent) provide less than 1 week of leave (including Argentina, Kazakhstan, Greece, Morocco and the United Republic of Tanzania), 25 countries (15 per cent) grant between 7 and 10 days (including, Benin, Bosnia and Herzegovina, Latvia, the Philippines and Ecuador), 14 countries (8 per cent) provide 11–15 days' leave (including Azerbaijan, France, Kenya and the Bolivarian Republic of Venezuela). Only five countries, all among the Developed Economies (Finland, Iceland, Lithuania, Portugal and Slovenia) provide a paternity leave of more than two weeks.

Key Messages

- Paid maternity leave is crucial to protect the health and economic security of women and their children.
- There has been a gradual global shift towards maternity leave periods that meet or exceed the ILO recommended standard of 14 weeks.
- The ILO maternity leave income replacement standard stands at two-thirds of previous earnings.
- Adequate cash benefits during leave sustain a mother's economic independence and can help to constrain traditional gender division of labour in the household.
- Very long leave periods, especially without job protection, may damage women's attachment to and advancement in paid work, resulting in wage penalties.
- When leave is too short, mothers may not feel ready to return to work and may drop out of the workforce. Limits on the duration of job protection and a low benefit level may also force women to return to work before the end of the maximum benefit period.
- Access to family leave for the care of new-born and young children is important for a worker's ability to reconcile work and family life.
- Fathers' leave, take-up of family responsibilities and early interaction with their children are directly related to successful child development.
- Recognition of men's right to parenthood, as well as their responsibility to share unpaid care and household work, will help to break down traditional social attitudes, resulting in greater equality for both men and women at work and at home.
- In 1994, statutory paternity leave provisions existed in 40 of the 141 countries for which data were available at the ILO. By 2013, legislation on paternity leave was provided in 79 countries of the total (167).
- Paternity leave is paid in 71 countries, although employer liability is the prevalent source of funding. As with maternity leave, risk pooling through social insurance or public funds can help to mitigate potential discrimination against or disadvantages to men with family responsibilities at work and can boost fathers' leave take-up rates.
- Since partner presence and support have an important influence on a mother's decision to breastfeed, parental leave, which is available to fathers, can have significant benefits for maternal and child health.

Consultation

Employers and employee representatives were consulted during a six week period in October-November 2018 regarding the introduction of 14 weeks maternity leave and 2 weeks paternity leave.

Overall, whilst at least 14 weeks leave was generally not contested, how much of the leave would be paid with full pay was an area of extensive discussion:

- The business owner of a cleaning firm said that if they were to have someone go on maternity leave, they would need to recruit and pay a replacement. That for a small firm, this can be a significant burden on costs, and 14 weeks paid leave would be very difficult for them to provide.
- A small retailer currently provides maternity pay (half-pay) 2 weeks before and 6 weeks after birth. They said that 14 weeks full pay would be difficult for them to afford as they would have to employ someone to cover on a temporary basis as well as pay the maternity pay. In order to attract someone for such a short time, they would have to increase the hourly pay offering. Amongst all their other costs including insurances, their profit margins are very small, and tightening them still would be a significant risk for the viability of their business.
- We spoke to a firm who currently has a maternity and paternity pay allowance, as well as entitlement to leave for antenatal visits, which would not significantly need to change should the areas stipulated in the consultation be enacted. However, the firm believed that a qualifying period was necessary, and contractually, because of the 6 months probationary period before they are confirmed in service, it makes sense that they aren't eligible for maternity and paternity leave until then. Furthermore, this avoids the situation whereby a new staff member goes off on maternity leave without many weeks service, and then does not return to work after (which has happened in the past). The firm suggested that 26 weeks eligibility would be reasonable.
- A firm also suggested that a notice period is necessary in order for them to plan cover for the position, and suggested 11 weeks' notice period would be sufficient. We discussed what would happen in the event of an unexpected birth, and they said that in that event there would still be sick pay and other provisions available. The firm noted that an employer who is back at work who doesn't want to be there doesn't tend to be productive so there is a presumption in favour of granting leave when it is asked for.
- A firm asked what the role government has in supporting new mothers, and it was mentioned that the IRB currently exists for low income families. However, there could potentially be more done for families which aren't eligible for IRB.
- A firm said they supported the proposals for paid paternity pay. When asked about sharing maternity and paternity pay, they said this could be possible on agreement between business and business, however, it would be difficult to police. They suggested the way forward was to make it necessary for employers to consider shared leave, but if it was chosen to not be granted, then the reasons be explained to the applicant.
- A firm accepted that some small businesses might not be able to afford 14 weeks paid maternity pay and that there could be different rules for different size businesses. They asked what we might do to categorise what is a small business, as they noted that some businesses in St Helena may have a small number of employees but relatively high revenues and/or profits.

The consultation period was useful in that it identified the ability of business to absorb new costs. Statutory maternity, paternity and adoption pay would be new for St Helena, and it was very much the view of the Employment Rights Committee to introduce something fairly light touch to balance the affordability of the business with the rights of the parents.

Recommendation/Delivery

St Helena should establish legislation to protect and support maternity, paternity and adoption at work, in order to reduce the vulnerability of new parents to poverty. Therefore the following is recommended:

- Maternity Leave/Pay – allowance of at least 14 weeks leave of which at least 4 weeks are at full pay.
- Paternity Leave/Pay – allowance of at least 2 weeks paid leave at full pay.
- Adoption Leave/Pay – allowance of at least 2 weeks paid leave at full pay.

(A week is the same amount of days that you normally work in a week - for example, a week is 5 days if you only work Mondays to Fridays).

It is recommended that the full amount of previous earnings is paid during the statutory paid leave period.

It is recommended that the full pay allowance is provided after 26 weeks of service.

Parents should have the right to request additional Maternity/Paternity leave and/or the ability to return to work on a part time basis. Requests should be made to the employer at least 28 days in advance of the expected return date in order that the employer can fully consider such requests.

One of the persistent challenges is the effective implementation of legislation, to ensure that all workers are able to benefit from these essential labour rights. Implementing a paid leave policy to promote the health of children and families, gender equality, and support women's career advancement will help to encourage residents to live and work on St Helena.