

Parts of the Work and Families Bill come into force wef 1st October 2006.

The Regulations introducing changes to maternity and adoption leave come into force on the 1 October 2006, although the amendments will only take effect in relation to employees whose expected week of childbirth, or expected date of adoption, is on or after **1 April 2007**.

Maternity Leave

- The Work and Families Bill increases statutory maternity pay from six to nine months.
- The qualifying condition for additional maternity leave of 26 weeks' service by the end of the 15th week before the expected week of childbirth will be removed. Under the revised scheme, all women will be entitled to take both six months' ordinary and six months additional maternity leave, providing a right to one year's maternity leave in total.
- The distinction between the two different kinds of leave (ordinary and additional maternity leave) is to be retained, so as to continue to provide for slightly different rights on returning to work.
- The Regulations now make specific provision for the situation where an employee changes her mind about the date she intends to return where she has already notified an early return date. An employee who wants to return even earlier will have to give notice 21 days before the new date. If she wants to postpone her early return she will have to give notice 21 days before the original early return date.
- Under the new provisions, a woman will be able to start to receive her SMP on any day of the week, instead of Sunday, as is currently the case. SMP will start on the day she specifies in her notice, provided she starts her leave on this day.

Adoption Leave

- There is no change to the amount of leave or the qualifying conditions for a person adopting. To qualify for any adoption leave, a person must have 26 weeks' service by the notification week. If they qualify they are entitled to both ordinary and additional adoption leave.
- Statutory adoption pay will be increased from six months to nine for those who are expecting to have a child placed with them on or after 1 April 2007.

- An employee who wishes to return to work before the end of their adoption leave will have to give eight weeks' notice, instead of the current 28 days.
- The Regulations now make specific provision for the situation where an employee changes their mind about the date they intend to return where they have already notified an early return date. An employee who wants to return even earlier will have to give notice 8 weeks before the new date. If they want to postpone their early return they will have to give notice 8 weeks before the original early return date.

Reasonable contact

- The Regulations make it clear that an employer and employee are allowed to make reasonable contact during maternity and adoption leave, to discuss issues such as the return to work.

'Keeping in touch days'

- The Regulations also introduce 'keeping in touch days', whereby an employee on maternity or adoption leave can agree with their employer to work for up to ten days during the statutory maternity or adoption leave period, without that work bringing the period of maternity or adoption leave to an end. Working for part of a day will count as one day.
- Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.
- This provision is designed to facilitate an employee working during this period. An employer cannot insist that an employee carries out any work and he/she is protected from suffering a detriment or being dismissed for refusing to do so. Equally, an employer cannot insist on being given any work to do.
- An employee will be paid their normal rate of pay for any work done under the contract of employment and this will be offset against any statutory maternity or adoption pay due for each day.

The DCC Maternity Leave and Adoption Leave policies are now being amended to take account of these changes. Further notification will be given through Insider when the new policies are available to view on Source.

An article will also be published in INBrief but please make colleagues aware of this material who do not have access to an electronic copy.

For further information contact the ER helpdesk on 01392 385555, for schools contact 01392 384567.