

Leave

An employer must usually tell their staff the dates of their statutory leave year as soon as they start working, e.g. it might run from 1 January to 31 December.

Workers must take their statutory leave during this time. If a leave year isn't set out in a contract then it will start:

- On the 1st day of a new job (if started after 1 October 1998)
- On 1 October (if started on or before 1 October 1998)

The leave year and holiday entitlement is not affected by maternity, paternity or adoption leave. The employee still builds up ('accrues') holiday over these periods.

Leave entitlement when starting a new job

If a worker starts their job part-way through a leave year, they're only entitled to part of their total annual leave for the current leave year. What they get depends on how much of the year is left.

Accrual system

An employer can use an accrual system to work out a worker's leave during the first year of the job. Under this system, a worker gets one twelfth of their leave in each month. So by the third month they'd be entitled to a quarter of their total leave, e.g. seven days out of 28 for a five-day week.

Carrying over leave

Workers don't have an automatic right to carry over leave they haven't taken but in some cases they may be able to.

A worker working five days a week, can carry over up to eight days leave out of the 28 day entitlement to the next year, if this is written in their contract.

If a worker gets more than 28 day's leave, their employer may allow them to carry over any additional untaken leave. Check the employment contract, company handbook or intranet site to see what the rules say.

If a worker can't take leave because of being on some other type of leave (for example, sick leave or maternity leave), they may be able to carry-over some or all of the untaken leave into the next leave year.

In sickness cases, employers may not be required to allow workers to carry over the additional statutory leave which exceeds the 4 week entitlement.

Booking time-off

The general notice period for taking leave is at least

twice as long as the amount of leave a worker wants to take (eg two day's notice for one day's leave) unless the contract says something different.

An employer can refuse a leave request but they must give as much notice as the amount of leave requested, eg two weeks notice if the leave requested was two weeks.

Although employers can refuse to give leave at a certain time, they can't refuse to let workers take the leave at all.

Part leave days

Some workers may be entitled to a part leave day – eg if they're part-time or have a half day's leave to take. How a part day should be taken is up to the employer.

When leave can and can't be taken

Employers can:

- Tell their staff to take leave, eg bank holidays or Christmas
- Restrict when leave can be taken, eg at certain busy periods
- There may be rules about this in the employment contract or it may be what normally happens in the workplace. The notice period for this is at least twice as long as the leave they want their staff to take.

Taking holiday before leaving a job

During their notice period the worker may be able to take whatever is left of their statutory annual leave.

How much they get depends on how much of the holiday year has passed.

Taking more leave than the entitlement

If a worker has taken more leave than they're entitled to, their employer must not take money from their final pay unless it's been agreed beforehand in writing. The rules in this situation should be outlined in the employment contract, company handbook or intranet site.

Getting paid instead of taking holidays

The only time someone can get paid in place of taking statutory leave (known as 'payment in lieu') is when they leave their job. Employers must pay for untaken statutory leave (even if the worker is dismissed for gross misconduct).

If an employer offers more than 5.6 weeks annual leave, they can agree separate arrangements for the extra leave.

Maternity pay and leave

When you take time off to have a baby you might be eligible for:

- Statutory Maternity Leave
- Statutory Maternity Pay
- Paid time off for antenatal care
- Extra help from the government

There are rules on when and how to claim your paid leave and if you want to change your dates.

Employment rights when on leave

Your employment rights are protected while on Statutory Maternity Leave. This includes your right to:

- Pay rises
- Build up (accrue) holiday
- Return to work

Leave

Statutory Maternity Leave is 52 weeks. It's made up of:

- 26 weeks of Ordinary Maternity Leave
- 26 weeks of Additional Maternity Leave

You don't have to take 52 weeks but you must take two weeks' leave after your baby is born.

Start date and early births

Usually, the earliest leave can start is 11 weeks before the expected week of childbirth.

Leave will also start:

- The day after the birth if the baby is early
- Automatically if you've been off work for a pregnancy-related illness in the 4 weeks before the due date

Change your dates or returning to work

You must give your employer at least eight weeks' notice if you want to change your return to work date.

Pay

Statutory Maternity Pay (SMP) is paid for up to 39 weeks. You get:

- 90% of your average weekly earnings (before tax) for the first 6 weeks
- £136.78 or 90% of your average weekly earnings (whichever is lower) for the next 33 weeks

SMP is paid in the same way as your wages (eg monthly or weekly). Tax and National Insurance will be deducted.

Start date

SMP usually starts when you take your maternity leave.

It starts automatically if you've been off work for a pregnancy-related illness in the four weeks before the due date.

How to claim

Statutory Maternity Leave:

At least 15 weeks before your due date, tell your employer when the baby is due and when you want to start your maternity leave. Your employer can ask for this in writing.

Your employer must write to you within 28 days confirming your start and end dates.

Use the maternity planner to work out when you must claim your maternity leave.

Statutory Maternity Pay (SMP):

Tell your employer you want to stop work to have a baby and the day you want your SMP to start. You must give them at least 28 days notice (in writing if they ask for it) and proof that you're pregnant.

Your employer must confirm within 28 days how much SMP you'll get and when it will start and stop.

If they decide you're not eligible, they must give you form SMP1 within seven days of making their decision and explain why.

Proof you're pregnant

You need to give your employer proof of the pregnancy to get SMP. You don't need it for maternity leave.

Within 21 days of your SMP start date (or as soon as possible if the baby is born early) give your employer either:

- A letter from your doctor or midwife
 - Your MATB1 certificate - doctors and midwives usually issue these 20 weeks before the due date
- You won't get SMP if you don't give your employer proof that the baby is due.