Maternity & Adoption Leave in Guernsey

Overview
The Maternity Leave and Adoption Leave (Guernsey) Ordinance 2016 came into force on 1 April 2016. The new law introduces statutory rights to maternity and adoption leave, maternity and adoption support leave, time off for antenatal care and the right for employees to return to work on no less favourable terms following maternity leave.

The law applies to any employee whose due date (or, in the case of adoption, the expected placement date) falls on or after 7 August 2016.

Maternity leave
Maternity leave lasts for a maximum of 26 weeks. The length of leave to which an employee is entitled depends on her length of service as follows:

- 12 weeks’ basic maternity leave (BML) is available to all employees.
- 14 weeks’ additional maternity leave (AML) is available to employees with 15 months’ continuous service as at the start of the 11th week before the due date.

Conditions for maternity leave
The person requesting leave must be employed under a contract of service and have given her employer at least 3 months’ notice (or such notice as is practicable) of her pregnancy, due date, and the intended start and end dates of her maternity leave.

The employee must also produce, on request, a doctor’s or midwife’s certificate confirming the pregnancy and the due date.

Start date and early birth
The earliest that maternity leave can start is:

- 8 weeks before the due date (BML).
- 11 weeks before the due date (AML).

Leave will also start if childbirth occurs or if the employee is off work for a pregnancy related reason within 6 weeks of her due date.

Compulsory maternity leave
An employee must take the 2 weeks immediately following childbirth as compulsory maternity leave. It is a criminal offence (punishable by a fine) to allow an employee to work during this period.

Changing date for return to work
An employee must give at least 21 days’ notice if she wishes to change her return to work date.

Right to return
An employee has the right to return to her pre-maternity leave job or (if that is impracticable) to a suitable and appropriate job.

Terms and conditions must be no less favourable with no break in continuity.
in respect of seniority, pension and similar rights.

In a redundancy situation, an employee on maternity leave must be offered any suitable alternative employment ahead of others.

Antenatal rights
Pregnant employees have the right to take time off during working hours for certified ante natal appointments.

On-going rights and obligations
The following rights and obligations continue to subsist (by law) during maternity leave:

- Implied term of trust and confidence
- Contractual notice
- Contractual compensation (if any) for redundancy
- The benefit of disciplinary and grievance procedures
- Duties of confidentiality
- Exclusivity of service
- Any rules relating to acceptance of gifts/benefits

If her contract gives more favourable rights to maternity leave than granted by statute, the employee may take advantage of the contractual rights.

Keeping in touch days
An employee may return to work for up to 10 days in total without impacting her maternity leave. One month’s notice (or as much notice as is practicable) is required.

Maternity support leave
Two weeks’ maternity support leave is available to the spouse/partner/nominated “other” of an employee entitled to BML.

Maternity support leave is conditional on the employee having 15 months’ continuous service at the beginning of the 11th week before the due date.

Adoption leave/adoption support leave
Similar rights to adoption leave and adoption support leave exist under the law for the principal carer and the spouse/partner/nominated “other” of a child placed for adoption as exist for the birth mother and her spouse/partner/nominated “other”.

In the case of additional adoption leave and adoption support leave, eligibility is conditional on the employee having 15 months’ continuous service at the beginning of the 11th week before the expected placement date (rather than the due date).

Contacts
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