

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Work

Chapter 3: Equality of terms

Section 74: Maternity equality clause: pay

Effect

252. This section sets out how and when a maternity equality clause affects a woman's pay while she is on maternity leave.
253. Firstly, the maternity equality clause is designed to ensure that any pay increase a woman receives (or would have received if she had not been on maternity leave) is taken into account in the calculation of her maternity-related pay where her terms do not already provide for this.
254. Secondly, a maternity equality clause will operate to ensure that pay, including any bonus, is paid to the woman at the time she would have received it if she had not been on maternity leave.
255. Thirdly, a maternity equality clause will provide for a woman's pay on her return to work following maternity leave to take account of any pay increase which she would have received if she had not been on statutory maternity leave.

Background

256. This section is designed to replicate the effect of provisions previously in the Equal Pay Act 1970.

Examples

- Early in her maternity leave, a woman receiving maternity-related pay becomes entitled to an increase of pay. If her terms of employment do not already provide for the increase to be reflected in her maternity-related pay, the employer must recalculate her maternity pay to take account of the increment.
- A woman becomes entitled to a contractual bonus for work she undertook before she went on maternity leave. The employer cannot delay payment of the bonus and must pay it to her when it would have been paid had she not been on maternity leave.