



Equality Act 2010

2010 CHAPTER 15

PART 5

WORK

CHAPTER 3

EQUALITY OF TERMS

Pregnancy and maternity equality

74 Maternity equality clause: pay

- (1) A term of the woman's work that provides for maternity-related pay to be calculated by reference to her pay at a particular time is, if each of the following three conditions is satisfied, modified as mentioned in subsection (5).
- (2) The first condition is that, after the time referred to in subsection (1) but before the end of the protected period—
 - (a) her pay increases, or
 - (b) it would have increased had she not been on maternity leave.
- (3) The second condition is that the maternity-related pay is not—
 - (a) what her pay would have been had she not been on maternity leave, or
 - (b) the difference between the amount of statutory maternity pay to which she is entitled and what her pay would have been had she not been on maternity leave.
- (4) The third condition is that the terms of her work do not provide for the maternity-related pay to be subject to—
 - (a) an increase as mentioned in subsection (2)(a), or
 - (b) an increase that would have occurred as mentioned in subsection (2)(b).

Changes to legislation: Equality Act 2010, Section 74 is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) The modification referred to in subsection (1) is a modification to provide for the maternity-related pay to be subject to—
- (a) any increase as mentioned in subsection (2)(a), or
 - (b) any increase that would have occurred as mentioned in subsection (2)(b).
- (6) A term of her work that—
- (a) provides for pay within subsection (7), but
 - (b) does not provide for her to be given the pay in circumstances in which she would have been given it had she not been on maternity leave,
- is modified so as to provide for her to be given it in circumstances in which it would normally be given.
- (7) Pay is within this subsection if it is—
- (a) pay (including pay by way of bonus) in respect of times before the woman is on maternity leave,
 - (b) pay by way of bonus in respect of times when she is on compulsory maternity leave, or
 - (c) pay by way of bonus in respect of times after the end of the protected period.
- (8) A term of the woman's work that—
- (a) provides for pay after the end of the protected period, but
 - (b) does not provide for it to be subject to an increase to which it would have been subject had she not been on maternity leave,
- is modified so as to provide for it to be subject to the increase.
- (9) Maternity-related pay is pay (other than statutory maternity pay) to which a woman is entitled—
- (a) as a result of being pregnant, or
 - (b) in respect of times when she is on maternity leave.
- (10) A reference to the protected period is to be construed in accordance with section 18.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 40A inserted by [2023 c. 51 s. 1](#)
- s. 120(9) inserted by [2023 c. 51 s. 2\(b\)](#)
- s. 124A inserted by [2023 c. 51 s. 3](#)