



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).

Status: This is the original version (as it was originally enacted).

- (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.