
STATUTORY INSTRUMENTS

2005 No. 2467

**The Employment Equality (Sex
Discrimination) Regulations 2005**

Terms and conditions of employment during maternity leave

8. In the 1975 Act, after section 6 (discrimination against applicants and employees), insert—

“Exception relating to terms and conditions during maternity leave

6A.—(1) Subject to subsections (2) and (5), section 6(1)(b) and (2) does not make it unlawful to deprive a woman who is on ordinary maternity leave of any benefit from the terms and conditions of her employment relating to remuneration.

(2) Subsection (1) does not apply to benefit by way of maternity-related remuneration.

(3) Subject to subsections (4) and (5), section 6(1)(b) and (2) does not make it unlawful to deprive a woman who is on additional maternity leave of any benefit from the terms and conditions of her employment.

(4) Subsection (3) does not apply to—

- (a) benefit by way of maternity-related remuneration,
- (b) the benefit of her employer’s implied obligation to her of trust and confidence, or
- (c) any benefit of terms and conditions in respect of—
 - (i) notice of the termination by her employer of her contract of employment,
 - (ii) compensation in the event of redundancy,
 - (iii) disciplinary or grievance procedures, or
 - (iv) membership of a pension scheme.

(5) Neither of subsections (1) and (3) applies to—

- (a) benefit by way of remuneration in respect of times when the woman is neither on ordinary maternity leave nor on additional maternity leave, including increase-related remuneration in respect of such times; or
- (b) benefit by way of maternity-related remuneration that is increase-related.

(6) For the purposes of subsection (5), remuneration is increase-related so far as it falls to be calculated by reference to increases in remuneration that the woman would have received had she not been on ordinary or additional maternity leave.

(7) In this section—

“maternity-related remuneration”, in relation to a woman, means remuneration to which she is entitled as a result of being pregnant or being on ordinary or additional maternity leave;

“on additional maternity leave” means absent from work in exercise of the right conferred by section 73(1) of the Employment Rights Act 1996;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“on ordinary maternity leave” means absent from work in exercise of the right conferred by section 71(1) of that Act (ordinary maternity leave) or in consequence of the prohibition in section 72(1) of that Act (compulsory maternity leave);

“remuneration” means benefits—

- (a) that consist of the payment of money to an employee by way of wages or salary, and
- (b) that are not benefits whose provision is regulated by the employee’s contract of employment.”.