



Employment Protection (Consolidation) Act 1978

1978 CHAPTER 44

PART III

MATERNITY

General provisions

33 Rights of employee in connection with pregnancy and confinement

- (1) An employee who is absent from work wholly or partly because of pregnancy or confinement shall, subject to the following provisions of this Act.—
 - (a) be entitled to be paid by her employer a sum to be known as maternity pay ;
and
 - (b) be entitled to return to work.
- (2) Schedule 2 shall have effect for the purpose of supplementing the following provisions of this Act in relation to an employee's right to return to work.
- (3) An employee shall be entitled to the rights referred to in subsection (1) whether or not a contract of employment subsists during the period of her absence but, subject to subsection (4), she shall not be so entitled unless—
 - (a) she continues to be employed by her employer (whether or not she is at work) until immediately before the beginning of the eleventh week before the expected week of confinement;
 - (b) she has at the beginning of that eleventh week been continuously employed for a period of not less than two years; and
 - (c) she informs her employer (in writing if he so requests) at least twenty-one days before her absence begins or, if that is not reasonably practicable, as soon as reasonably practicable.—
 - (i) that she will be (or is) absent from work wholly or partly because of pregnancy or confinement, and

Status: This is the original version (as it was originally enacted).

- (ii) in the case of the right to return, that she intends to return to work with her employer.
- (4) An employee who has been dismissed by her employer for a reason falling within section 60(1)(a) or (b) and has not been re-engaged in accordance with that section, shall be entitled to the rights referred to in subsection (1) of this section notwithstanding that she has thereby ceased to be employed before the beginning of the eleventh week before the expected week of confinement if, but for that dismissal, she would at the beginning of that eleventh week have been continuously employed for a period of not less than two years, but she shall not be entitled to the right to return unless she informs her employer (in writing if he so requests), before or as soon as reasonably practicable after the dismissal takes effect, that she intends to return to work with him.
- In this subsection "dismiss " and " dismissal" have the same meaning as they have for the purposes of Part V.
- (5) An employee shall not be entitled to either of the rights referred to in subsection (1) unless, if requested to do so by her employer, she produces for his inspection a certificate from a registered medical practitioner or a certified midwife stating the expected week of her confinement.
- (6) The Secretary of State may by order vary the periods of two years referred to in subsections (3) and (4), or those periods as varied from time to time under this subsection, but no such order shall be made unless a draft of the order has been laid before Parliament and approved by resolution of each House of Parliament.