



Employment Rights Act 1996

1996 CHAPTER 18

[^{F2}PART VIII

^{F1}CHAPTER I

MATERNITY LEAVE

- ^{F1}[^{F2} 71
- (1) An employee may, provided that she satisfies any conditions which may be prescribed, be absent from work at any time during an ordinary maternity leave period.
 - (2) An ordinary maternity leave period is a period calculated in accordance with regulations made by the Secretary of State.
 - [^{F3}(3) Regulations under subsection (2)—
 - (a) shall secure that, where an employee has a right to leave under this section, she is entitled to an ordinary maternity leave period of at least 26 weeks;
 - (b) may allow an employee to choose, subject to prescribed restrictions, the date on which an ordinary maternity leave period starts;
 - [^{F4}(ba) may allow an employee to bring forward the date on which an ordinary maternity leave period ends, subject to prescribed restrictions and subject to satisfying prescribed conditions;
 - (bb) may allow an employee in prescribed circumstances to revoke, or to be treated as revoking, the bringing forward of that date;]
 - (c) may specify circumstances in which an employee may work for her employer during an ordinary maternity leave period without bringing the period to an end.]
- [Provision under subsection (3)(ba) is to secure that an employee may bring forward the
- ^{F5}(3A) date on which an ordinary maternity leave period ends only if the employee or another person has taken, or is taking, prescribed steps as regards leave under section 75E or statutory shared parental pay in respect of the child.]
- (4) Subject to section 74, an employee who exercises her right under subsection (1)—

Status: Point in time view as at 31/12/2020.

Changes to legislation: Employment Rights Act 1996, Section 71 is up to date with all changes known to be in force on or before 23 June 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)

- (a) is entitled [^{F6}, for such purposes and to such extent as may be prescribed,] to the benefit of the terms and conditions of employment which would have applied if she had not been absent,
 - (b) is bound [^{F7}, for such purposes and to such extent as may be prescribed] by any obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1)), and
 - [^{F8}(c) is entitled to return from leave to a job of a prescribed kind.]
- (5) In subsection (4)(a) “terms and conditions of employment”—
- (a) includes matters connected with an employee’s employment whether or not they arise under her contract of employment, but
 - (b) does not include terms and conditions about remuneration.
- (6) The Secretary of State may make regulations specifying matters which are, or are not, to be treated as remuneration for the purposes of this section.
- [^{F9}(7) The Secretary of State may make regulations making provision, in relation to the right to return under subsection (4)(c) above, about—
- (a) seniority, pension rights and similar rights;
 - (b) terms and conditions of employment on return.]]

Textual Amendments

- F1** Pt. VIII (ss. 71-80) substituted for Pt. VIII (ss. 71-85) (15.12.1999) by 1999 c. 26, s. 7, **Sch. 4 Pt. I**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with Sch. 3 para. 10)
- F2** Pt. 8 (ss. 71-80) substituted for Pt. 8 (ss. 71-85) (15.12.1999) by 1999 c. 26, s. 7, **Sch. 4 Pt. 1**; S.I. 1999/2830, art. 2(1)(2), **Sch. 1 Pt. 2** (with transitional provisions in Sch. 3 para. 10)
- F3** S. 71(3) substituted (27.6.2006 for certain purposes, otherwise 1.10.2006) by **Work and Families Act 2006 (c. 18)**, ss. 11, 19, **Sch. 1 para. 31**; S.I. 2006/1682, art. 2(c), 3(c)(d)
- F4** S. 71(3)(ba)(bb) inserted (30.6.2014) by **Children and Families Act 2014 (c. 6)**, ss. 118(2)(a), 139(6); S.I. 2014/1640, art. 3(1)(b)
- F5** S. 71(3A) inserted (30.6.2014) by **Children and Families Act 2014 (c. 6)**, ss. 118(2)(b), 139(6); S.I. 2014/1640, art. 3(1)(b)
- F6** Words in s. 71(4)(a) inserted (24.11.2002) by **Employment Act 2002 (c. 22)**, s. 17(2)(a); S.I. 2002/2866, arts. 2(1), 3, Sch. 1 Pt. 1 (with Sch. 3 para. 3)
- F7** Words in s. 71(4)(b) inserted (24.11.2002) by **Employment Act 2002 (c. 22)**, s. 17(2)(b); S.I. 2002/2866, arts. 2(1), 3, Sch. 1 Pt. 1 (with Sch. 3 para. 3)
- F8** S. 71(4)(c) substituted (24.11.2002) by **Employment Act 2002 (c. 22)**, s. 17(2)(c); S.I. 2002/2866, arts. 2(1), 3, Sch. 1 Pt. 1 (with Sch. 3 para. 3)
- F9** S. 71(7) substituted (24.11.2002) by **Employment Act 2002 (c. 22)**, s. 17(3); S.I. 2002/2866, arts. 2(1), 3, Sch. 1 Pt. 1 (with Sch. 3 para. 3)

Modifications etc. (not altering text)

- C1** S. 71 restricted (15.12.1999) by S.I. 1999/3312, reg. 9
- C2** S. 71 modified (E.) (1.9.2003) by **The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964)**, art. 3, **Sch.**
- C3** Ss. 70, 71 modified (W.) (12.5.2006) by **The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006 (S.I. 2006/1073)**, arts. 1(1), 3, {Sch. }

Status:

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