

Maternity/Adoption Leave

(TCE034 FEB18)

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1. Introduction

This policy sets out the maternity and adoption rights and obligations for eligible employees wishing to take maternity leave or those wishing to take adoption leave when a child is newly placed for adoption.

2. Eligibility

What service do I need to qualify for maternity/adoption leave and pay?

For maternity leave regardless of your length of service with The Crown Estate, you are entitled to up to 52 weeks' maternity leave. This is made up of a maximum of 26 weeks' ordinary maternity leave plus a further 26 weeks' additional maternity leave. The law requires that you take a minimum of 2 weeks' maternity leave from the date of the birth.

For adoption leave regardless of your length of service with The Crown Estate, you are entitled to up to 52 weeks' adoption leave. This is made up of a maximum of 26 weeks' ordinary adoption leave plus a further 26 weeks' additional adoption leave.

The amount of maternity/adoption pay you receive will depend on your length of service and on whether or not you intend to return to work following your maternity/adoption leave.

Are there any other eligibility requirements?

For adoption leave you must be the primary adopter. Adoption leave and pay will not normally apply if you are becoming a special guardian, adopting a stepchild or having a child through a private adoption agreement.

3. Maternity leave

What do I need to do to notify you that I am pregnant?

You must inform your manager, in writing and no later than 15 weeks before your Expected Week of Childbirth (EWC), of the following:

- the fact you are pregnant;
- the EWC - this is normally confirmed in the form of a MATB1 issued by your GP or midwife approximately 20 weeks before your due date;
- the date on which you would like to start your maternity leave;
- whether or not it is your intention to return to work.

We encourage you to let us know what your intentions are at your earliest opportunity, by discussing your particular maternity leave and benefits queries in confidence with your manager, HR Advisor (HRA) or HR Business Partner (HRBP).

When can I start maternity leave?

You may start your maternity leave at any time from the 11th week before the EWC. Your HRA or HRBP will acknowledge receipt of your written notice and will write to you within 28 days confirming the date on which your maternity leave will end and the actual date you will be expected to return to work.

Can I change my maternity leave start date?

If you decide to change the start date of your maternity leave, you should notify your HRA (SJM)/ HRBP (Windsor), in writing, giving at least 8 weeks' notice of your revised date. They will respond to you within 28 days of receiving this notification confirming your revised start date and end date.

How soon should I notify HR once I have given birth?

Please notify your line manager and HR contact as soon as reasonably practicable after the birth.

What happens if my baby is born early?

If your baby is born before the commencement of your maternity leave, your maternity leave will begin automatically on the day after the birth. If this happens you should contact your manager, HRA/HRBP as soon as reasonably practicable and confirm in writing the actual birth date. They will then write to you confirming the new end date of your maternity leave.

What happens if I fall sick before starting maternity leave?

If you fall sick with a pregnancy-related illness after the beginning of the 4th week before the EWC, maternity leave will automatically start on the day after the first day of absence. You do not qualify for sick pay whilst on maternity leave.

4. Maternity pay

There are two types of maternity pay:

- **Statutory Maternity Pay (SMP):** Subject to the eligibility criteria below, this is money we pay to you on behalf of the Department of Work and Pensions for up to 39 weeks. No SMP can be paid until your MATB1 has been received by HR.
- **Occupational Maternity Pay (OMP):** OMP is paid for a total of 26 weeks at full pay if you have the required length of service with The Crown Estate. Note that OMP includes SMP and is not paid in addition to SMP.

How do I qualify for SMP?

You need to have at least 26 weeks' continuous service with The Crown Estate up to the end of the 15th week before the EWC (Qualifying Week) and you must still be pregnant (or have given birth) 11 weeks before the start of the EWC to be eligible to receive SMP. In addition your average weekly earnings in the 8 weeks up to and including the Qualifying Week must be at least the equivalent of the lower earnings limit for Class1 National Insurance contributions. You are also required to provide a copy of your MAT B1 form.

SMP is paid for a total of 39 weeks as follows:

- the first 6 weeks are paid at the higher SMP rate (90% of average weekly earnings before tax);
- the remaining 33 weeks are paid at the lower SMP rate or 90% of average weekly earnings, whichever is the lower.

Maternity pay is treated as earnings and is therefore subject to PAYE and National Insurance deductions.

How do I qualify for OMP?

You need to have been continuously employed by The Crown Estate for at least 1 year ending with the Qualifying Week in order to be eligible to receive OMP under The Crown Estate's OMP Scheme. You are also required to return to work at The Crown Estate, in a full or part time capacity, for at least three months following maternity leave.

OMP is paid as follows:

- the first 26 weeks of SMP are topped up to full pay (based on your average earnings in the eight weeks prior to the Qualifying Week, including the flexible benefits allowance, if applicable) by OMP;
- the following 13 weeks are paid at the lower SMP rate (or 90% if your average weekly earnings are less).

What if I don't qualify for SMP?

If you have less than 26 weeks' continuous service by the Qualifying Week or your average weekly earnings are below the level at which National Insurance is payable, you will not qualify for SMP but you may qualify for Maternity Allowance which is paid through Job Centre Plus. If you are not entitled to SMP Payroll will advise you and will forward to you the SMP1 Exclusion Form so that you can apply to the Department of Works and Pensions for the Maternity Allowance.

5. Risk assessment for pregnant employees

When should a risk assessment be completed?

The Crown Estate has a duty of care towards the health and safety of all employees and acknowledges the importance of protecting from avoidable risk, pregnant and breastfeeding employees and their children. Your HRA (SJM)/ HRBP (Windsor) will arrange for a risk assessment of your working environment to be undertaken.

What happens if I am unable to undertake my normal work activities?

If following an assessment of your normal work activities, you are unable to carry out your usual duties due to possible risk to your baby, adjustments will be made to remove any hazard during the period of pregnancy. Where this is not possible for operational reasons, we will need to consider suitable alternative work for you. Should this not be possible you will be suspended from work on full pay on medical grounds until the risks to you or your baby's health has passed or suitable alternative work becomes available. These provisions do not apply where your doctor has signed you off sick, but only where you are able to come to work but unable to carry out your particular work activities.

6. Adoption leave

What do I need to do to notify you that I am adopting a child?

You must inform your manager, in writing within 7 days of being matched with a child for adoption (or if that is not reasonably practicable, as soon as it is reasonably practicable) detailing the following:

- the 'date of placement' - when the child is expected to be placed with you;
- the date on which you would like to start your adoption leave

You are also required to provide us with the "matching certificate" provided by the adoption agency.

We encourage you to let us know what your intentions are at your earliest opportunity, by discussing your particular adoption leave and benefits queries in confidence with either your manager or your HRA/HR BP.

When can I start adoption leave?

The earliest point at which you may start your adoption leave is 14 days before the child is placed with you for adoption and no later than the day the child is placed with you for adoption. Your HRA/HRBP will confirm in writing within 28 days of receiving your written notice of your adoption leave start and end dates.

Can I change my adoption leave start date?

If you decide to change the start date of your adoption leave, you should notify your HRA/HRBP, in writing, giving at least 8 weeks' notice of your revised date. They will write to you within 28 days of receiving this notification confirming your revised start date and end date.

7. Adoption pay

There are two types of adoption pay:

- **Statutory Adoption Pay (SAP):** Subject to the eligibility criteria below, this is money we pay to you on behalf of the Department of Work and Pensions for up to 39 weeks.
- **Occupational Adoption Pay (OAP):** OAP is paid for a total of 26 weeks at full pay if you have the required length of service with The Crown Estate. Note that OAP includes SAP and is not paid in addition to SAP.

How do I qualify for SAP?

You need to have at least 26 weeks' continuous service with The Crown Estate up to and including the week the adoption agency told you that you had been matched with a child for adoption (Qualifying Week) to receive SAP. In addition your average weekly earnings in the 8 weeks up to and including the Qualifying Week must be at least the equivalent of the lower earnings limit for Class1 National Insurance contributions.

SAP is paid for a total of up to 39 weeks as follows:

- the first 6 weeks are paid at higher rate SAP (90% of average weekly earnings before tax);
- the remaining 33 weeks are paid at lower rate SAP or 90% of average weekly earnings, whichever is the lower.

Adoption pay is treated as earnings and is therefore subject to PAYE and National Insurance deductions.

How do I qualify for OAP?

You need to have been continuously employed by The Crown Estate for at least one year ending with the Qualifying Week to be eligible to receive OAP under The Crown Estate's OAP Scheme. You are also required to return to work at The Crown Estate, in a full or part time capacity, for at least three months following adoption leave.

OAP is paid as follows:

- the first 26 weeks of SAP are topped up to full pay (based on your average earnings in the eight weeks prior to the Qualifying Week, including the flexible benefits allowance, if applicable) by OAP;
- the following 13 weeks are paid at the weekly SAP rate (or 90% if your average weekly earnings are less).

What if I don't qualify for SAP?

If you have less than 26 weeks' continuous service by the Qualifying Week or your average weekly earnings are below the level at which National Insurance is payable, you will not qualify for SAP.

If you are not entitled to SAP Payroll will advise you and will forward to you the SAP1 form explaining why you can't get SAP.

Are there different arrangements if I am adopting from overseas?

Yes, please consult your HR Business Partner if you are adopting from overseas as the rules are slightly different.

8. Not returning to work after maternity/adoption leave

What happens if I decide not to return to work?

If you have been in receipt of OMP or OAP and then decide not to return for the required period The Crown Estate reserves the right to reclaim the whole or part of the non-statutory element of maternity pay. However, your right to SMP or SAP remains unaffected, regardless of whether or not you return.

9. Ante-natal care and adoption appointments

How much time-off can I have for ante-natal care?

You may have reasonable paid time off work to attend antenatal care as recommended by a doctor or midwife. We ask that you give your manager as much notice as possible of your appointments and provide a copy of the appointment card, if requested.

Time off will be on full pay and you will not be required to make up the hours lost.

Am I entitled to time off for adoption appointments?

You may take paid time off to attend up to 5 adoption appointments (if you are the primary adopter) with your Adoption Agency or Social Worker once you have been accepted as adoptive parents. This will be during the period between being told that you are accepted and the "matching" confirmation. We ask that you give your manager as much notice as possible of appointments and be prepared to provide evidence of appointments.

Time off will be on full pay and you will not be required to make up the hours lost.

Are partners entitled to time off?

Husbands/civil partners/partners of pregnant women, have the right to unpaid time off to attend up to 2 ante-natal appointments.

Secondary adopters have the right to unpaid time off to attend up to 2 adoption appointments.

10. Childcare voucher scheme (only available to employees already in receipt)

This is available only to existing employees already in the scheme, whilst receiving OMP/OAP, your childcare vouchers will continue to be deducted as salary sacrifice. When you have exhausted your OMP/OAP entitlement they will continue to be provided but the costs will be met by The Crown Estate.

11. Tax-free Allowance

The Government has introduced new ways to support working parents with childcare costs. For further information and eligibility please visit the HMRC website [here](#).

12. Contact during your maternity/adoption leave

Your manager will discuss with you the arrangement for keeping in touch during your leave as it is important that you are kept informed of any developments at work. For example, to discuss your plans for returning to work, advising of job vacancies or simply to keep you up to date on developments during your absence.

13. Keeping in touch days (KIT)

What are KIT days?

KIT days allow you to work during your maternity/adoption leave without bringing your maternity or adoption leave to an end.

They may be used for any activity which would ordinarily be classed as work under your contract of employment, including training, attending a conference, a team meeting or any activity undertaken for the purposes of keeping in touch with the workplace. They can be undertaken at any stage during maternity/adoption leave apart from the first two weeks after the birth.

How many KIT days can I work?

By agreement with your manager, you may undertake up to 10 days' paid work during your maternity/adoption leave without bringing your maternity/adoption leave to an end.

What payment will I receive when I work a KIT day?

If you work a KIT day during a period of full pay, no additional payment will be made but if you work during a period of SMP/SAP only, your pay will be 'topped up' so that you receive full pay for the hours worked in addition to your SMP/SAP for that week. If you work for less than a full day, this will count as one KIT day for the purposes of the 10 maximum days, although payment will only be made for actual hours worked.

Do I have to work KIT days?

No, KIT days are optional and can only take place by agreement between both you and your manager. You cannot be penalised for refusing to take up a KIT day. Similarly, you do not have a right to work a KIT day if your manager does not agree to it. It should be noted that any work undertaken as a KIT day would not extend the statutory maternity/adoption period in any way.

14. Contractual rights during and on return from maternity/adoption leave

In general what contractual rights do I maintain during leave?

During your maternity/adoption leave The Crown Estate will maintain all contractual rights except for pay. You will receive OMP/OAP and/or SMP/SAP instead, provided you meet the qualifying requirements. Please note that any financial benefits linked to salary such as flexible benefits allowance, will be calculated on actual monies received.

What about annual leave?

You will continue to accrue annual leave, Bank Holidays and Privilege Days for the entire period of maternity/adoption leave in accordance with your leave entitlement as set out in your contract of employment. We therefore recommend that all or as much of any outstanding annual leave you have is taken before starting maternity/adoption leave subject to agreement with your manager in the usual way.

You may choose to take annual leave accrued during your maternity/adoption leave at the end of your paid leave period; you will then be put back on the payroll but your actual physical return will not be until the end of your maternity/adoption period. You should discuss this with your manager and book leave through MyView in the usual way. You cannot automatically use accrued leave to extend your maternity/adoption leave without approval from your manager.

If you wish to return from maternity/adoption leave on reduced hours you will need to discuss with your manager how your accrued leave can be most conveniently taken. For example, it may be appropriate to take that leave before the reduced hours come into effect at the end of your maternity/adoption leave.

Will I maintain continuous service?

Where you exercise your right to return to work, all periods of time that you take off work as maternity/adoption leave are subsequently counted as continuous service for the purposes of calculating any service-related statutory rights. Thus once you return to work, your length of service is calculated as if you had never been absent.

What about my pension?

When you are in receipt of SMP, The Crown Estate will continue to make contributions on your behalf into the relevant pension fund (if you are a member). Your contributions will be deducted from your SMP and will be based on the amount of SMP that you receive.

During any period of ordinary or additional maternity leave when you are not receiving any salary or SMP, no pension contributions will be made by The Crown Estate. This service will not be pensionable.

If you return to work and wish to make up any contributions, you may be able to and we would recommend that you contact the Pension Advisor to discuss further.

Will I be able to return to the same job?

On resuming work after ordinary maternity/adoption leave, you are entitled to return to the same job on the same terms and conditions of employment as if you had not been absent.

On resuming work after Additional Maternity/Adoption Leave, you are entitled to return to the same job on the same terms and conditions of employment unless it is not reasonably practicable. If it is not reasonably practicable, The Crown Estate may offer you alternative work which is suitable and appropriate in the circumstances, on terms and conditions which are no less favourable.

15. Notification to return or not to return to work

I intend to return to work at the end of 52 weeks'; do I need to notify my manager?

If you intend to return to work at the end of your full 52 weeks' maternity/adoption leave entitlement you are not required to give notice of your return. Although there is no legal requirement for you to give advance notice of your intention to return at the end of your full maternity/adoption leave period, you are encouraged to keep your manager informed of your intentions so that appropriate cover and workloads can be planned.

Can I return earlier than my maternity/adoption leave end date?

If you decide to return prior to the end of your full maternity/adoption period you should give your manager and HRA (SJM)/HR Business Partner (Windsor) at least 8 weeks' notice, in writing, of your intended date of return. If you fail to give the required notice, The Crown Estate may postpone your return for up to 8 weeks or until your maternity/adoption leave entitlement has been exhausted.

What should I do if I do not wish to return to work?

If you do not wish to return to work at the end of your maternity/adoption leave, you should give The Crown Estate written notice as per your contract and before the end of your maternity/adoption period. If a resignation date is not specified your resignation will be effective from the end of your paid maternity/adoption leave period. If you have received OMP/OAP you should contact your HRA or HRBP to make arrangements to pay this back.

What happens if I am ill when I am due to return?

If at the end of your leave you are unable to return to work due to illness you should notify The Crown Estate in the usual way and in accordance with The Crown Estate's Managing sickness absence policy and you will then transfer from maternity leave to sick leave.

Normal conditions governing sickness absence will then apply.

I would like to request to vary my hours or work pattern, what steps should I take?

If you are thinking of varying your present pattern or hours of work on return from maternity/adoption leave you should discuss it with your manager at the earliest opportunity and at least 8 weeks before your return date. If you have 26 weeks service at the date of application you are entitled to apply to work flexibly. Whilst there is no automatic right to return to work on flexible hours, The Crown Estate will consider all applications made under the Flexible Working policy.

16. Fixed term

I am on a fixed term contract, what am I entitled to?

If you are on a fixed term contract and your contract expires whilst you are on maternity adoption leave, or prior to the completion of 3 months' work on return, you should contact your manager and HRA (SJM)/ HRBP in advance of the contract end date for guidance.

Where a fixed term contract ceases after the Qualifying Week or during paid maternity/adoption leave, OMP/OAP will cease with effect from the contract end date. The Crown Estate will calculate the amount and will pay the lump sum during the month of leaving.

17. Transfer of maternity leave to Shared Parental Leave

What is SPL?

Shared parental leave enables mothers to commit to ending their maternity leave and pay and to share the untaken balance of leave and pay as shared parental leave and pay with their partner.

To be able to take shared parental leave, you and your partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. This includes the mother curtailing her maternity leave.

I am interested in learning more about SPL, where can I obtain some further details?

Please refer to our policy on shared parental leave for full details. You should ensure that your partner is liaising with their own employer when making requests for shared parental leave.

18. General

This policy does not form part of your contract of employment and The Crown Estate reserves the right to amend the policy from time to time. In addition, any statutory entitlements and obligations will be governed by the applicable statutory provisions in force from time to time and this policy is intended to serve only as a general guide to such rights and obligations.

19. Other related policies

Related policies include:

- Shared Parental Leave and Pay
- Flexible Working
- Parental Leave
- Dependant Leave
- Paternity Leave

Maternity/Adoption Leave

Policy & Procedure



20. Document Control

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