

**RULES ADOPTED BY THE ADMINISTRATION BOARD IN RELATION TO  
MATERNITY/PATERNITY PROVISION AND SIMILAR ISSUES**

**A. Paid Maternity Leave**

- 1. Subject to the eligibility criteria in paragraph 2 below, a clergywoman should receive 22 weeks' paid maternity leave on full stipend and 17 weeks' paid at the rate of Statutory Maternity Pay (equivalent to 90% of stipend or the standard rate set by the Government<sup>1</sup>, whichever is lower) (see section B).**
- 2. To qualify for this, it is necessary to:**
  - a) be in paid service at the time maternity leave begins;
  - b) stop work at the earliest after the start of the 11th week before the expected week of childbirth (EWC);
  - c) give notice to the Vestry Secretary, the Paying Officer and Diocesan Office in writing of the intention to take maternity leave before the end of the Notification Week (the 15<sup>th</sup> week before the EWC). The Paying Officer should then confirm the date in writing, including the date when the clergywoman is expected to return to work. The clergywoman can change her mind about the dates but should give 28 days' notice of any changes, which should again be confirmed by the Paying Officer in writing. The Vestry Secretary should also be kept informed throughout the process by the clergywoman;
  - d) give an undertaking of the intention to return to work after the birth;
  - e) be pregnant at the 11<sup>th</sup> week before the EWC, or have had the baby.

Women whose babies are stillborn, or who miscarry after the 24<sup>th</sup> week of pregnancy, still qualify for the full scheme terms.

**B. Maternity Pay**

- 1. Maternity Pay**
  - a) should be paid as full stipend for 22 weeks from the commencement of maternity leave and at a rate equivalent to the rate of Statutory Maternity Pay (90% of stipend or the standard rate set by the Government, whichever is lower) for seventeen weeks, for the period of continuous absence before and after confinement;
  - b) can start any time from the 11<sup>th</sup> week before the baby is due;
  - c) must start from the date the baby is born if it has not already done so;
  - d) is taxable and attracts National Insurance deductions;
  - e) should be partly reclaimed by the Paying Officer on behalf of the congregation from the Government. Rates of recovery can be checked online but at the time of adoption of these Rules is at the rate of 103% of Statutory Maternity Pay for employers which qualify for the Small Employers' Relief (applicable where the employer paid less

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<sup>1</sup> SMP Standard Rate is updated each year in April. See [www.gov.uk/maternity-pay-leave/](http://www.gov.uk/maternity-pay-leave/) for the up to date rate.

than £45,000 in Class 1 National Insurance in the last complete tax year before the qualifying or matching week). Other employers can normally reclaim at the rate of 92% of Statutory Maternity Pay.

The clergywoman must give at least 28 days' notice of the date of starting maternity pay to the Paying Officer and provide medical evidence of pregnancy (form MAT B1 from GP or clinic). The Vestry Secretary should also be kept informed throughout the process by the clergywoman.

2. **Additional Unpaid Maternity Leave**

Clergywomen who express an intention to return to work after maternity leave may take a maximum of 52 weeks maternity leave. Any leave in excess of 39 weeks will be classed as unpaid maternity leave.

3. **Keeping In Touch Days**

Up to 10 'keeping in touch' (KIT) days can be agreed during the maternity leave period. There is no obligation for the clergywoman to do this, so making use of KIT days is entirely voluntary. KIT days should be agreed well in advance and may only be used after the first 2 weeks following the birth. KIT days should be used for one or a combination of the following purposes:

- a) Training or development activities related to the job/role
- b) Update meetings to keep in touch with events and developments
- c) Carry out some agreed tasks.

Payment at the normal stipendiary rate for the hours worked will be made.

4. **Returning to Work**

Clergywomen wanting to return to work after maternity leave will find it advantageous to state the intention of doing so at the outset. If she resigns either before, during or after her maternity leave, but later changes her mind, she has no absolute right to return, although every effort should be made to find a suitable post.

**Under employment legislation all employees effectively have the right to return to work regardless of length of service. Therefore, dioceses shall treat clergy as having the right to return to work regardless of length of service following (ordinary and additional) maternity leave. If it should not be reasonably practicable for the clergywoman to return to her previous duties<sup>2</sup>, suitable alternative duties should be considered. Dioceses should note that some of the rights of incumbents may be greater than those of employees (particularly where the right to return to work is concerned). The right to return to work also includes the right to make a request for flexible working, i.e. to return to duties on a different basis from the existing terms of office, for example to part-time duties. It is incumbent on the appropriate body to give adequate consideration of any such request, and consider it on its own merits, being able to explain the reason for any decision reached in relation to the context and demands of the role and office.**

C. **Paternity Leave and Paternity Pay**

For clergy the recommended entitlement is 2 weeks' leave on full stipend (to be taken as either one period of two full weeks or two blocks of one week), which can be taken at the time of birth, or else it shall be taken in the subsequent 56 days, whichever is more helpful to the family. To qualify, it is necessary to have:

- a) At least 26 weeks' service by the end of the 15<sup>th</sup> week before the expected week of childbirth ("the Notification Week"); and

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<sup>2</sup> Professional advice should be sought before taking such steps.

- b) To be in paid service at the time when the baby is born; and
- c) To be the biological father of the child, or the mother's spouse, or the mother's partner.

The Paying Officer should be able to recover Paternity Pay from the Government at rates similar to maternity pay as referred to above. Paternity leave is in addition to parental leave and time off for dependants.

The cleric has to inform the Paying Officer and Diocesan Office by the end of the Notification Week, in writing of the intended paternity leave dates and the date of the EWC.

If the baby is born early, the leave must still be taken within the period from birth until 56 days from the first day of EWC. The cleric should keep the Vestry Secretary informed throughout the process. He can change his mind about the date of starting Statutory Paternity Pay and Leave, but should give at least 28 days' notice of when he wants to start pay and leave.

Statutory Paternity Pay is paid at the lower of 90% of average earnings or the current rate for Statutory Paternity Pay<sup>3</sup>. If the individual has average weekly earnings below the lower earnings limit for National Insurance purposes, he does not qualify for Statutory Paternity Pay.

Paternity Leave and Pay can also be claimed by an adoptive parent, male or female, where the other parent is claiming Statutory Adoption Leave and Pay. The individual must give the Paying Officer a completed self-certificate as evidence of entitlement to Statutory Paternity Pay.

#### **D. Paid Adoption Leave and Adoption Pay**

These are only available for adopter(s) when the adoption is an agency one. This means an adoption where the child is placed by an adoption agency with adopter(s) who have been assessed and approved as adopters by the same or a different adoption agency.

Subject at all times to the conditions and eligibility criteria set out below, clergy may take:

- 22 weeks' leave on full stipend, followed by 4 weeks' paid at a level equivalent to Statutory Adoption Pay (defined as 90% of stipend or the current rate for Statutory Adoption Pay, whichever is lower)
- 26 weeks' unpaid leave.

Within 7 days of being notified that a child has been matched with them, clergy claiming adoption pay should inform the Vestry Secretary, the Paying Officer and Diocesan Office:

- when the child is expected to be placed;
- when the adoption leave is to start; and,
- provide a letter from the adoption agency confirming the proposed placement.

**Either parent may receive Statutory Adoption Pay (SAP), but not both. The other parent (mother or father) may receive Statutory Paternity Pay subject to the conditions set out above.**

Leave can be from the date of placement or a fixed date up to 14 days before the expected date of placement.

The Paying Officer should be able to recover Adoption Pay from the Government at rates similar to maternity pay as referred to above..

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<sup>3</sup> See [www.gov.uk/maternity-pay-leave/](http://www.gov.uk/maternity-pay-leave/) for the up to date rate.

The conditions and eligibility criteria in relation to adoption pay and leave referred to above are as follows, bearing in mind that these are only available in agency adoptions:-

- a) Individuals with more than 26 weeks' service, ending with the week in which they are notified of being matched with a child for adoption, are entitled to SAP and Leave for any child who is 'placed' with them for adoption (i.e. begins living with the employee permanently, with a view to being formally adopted in the future). The individual must have earnings above the lower earnings limit for National Insurance purposes to receive SAP.
- b) The individual should inform the Diocesan Office of: (i) his/her intention to take adoption leave within 7 days of being notified by the adoption agency that he/she has been 'matched' (i.e. an adoption agency has decided that the person is suitable to adopt a particular child). (ii) when the child is expected to be placed, and when adoption leave is to start. If possible, this should be at least 28 days before they want to start receiving SAP (when the child is 'placed').
- c) An individual is entitled to up to 52 weeks' Adoption Leave. This consists of ordinary adoption leave of 26 weeks during which they will be entitled to SAP followed by up to 26 weeks of additional adoption leave, during which no payment is made.
- d) The individual can choose to start their leave either from the date of the child's placement, or from a fixed date which can be 14 days before the expected date of placement.
- e) Only one period of leave is available irrespective of whether there is more than one child placed for adoption as part of the same arrangement. If the child's placement ends during adoption leave the adopter can continue adoption leave for up to 8 weeks after the end of placement.
- f) Adoption Leave is not available to an individual who is not newly matched with a child for adoption, in other words, if adoption leave is not taken at the time of matching and placement, it is not available at a later time. A step-parent adopting their partner's child would not qualify for adoption pay or leave because such an adoption is not an agency one.
- g) Either the adopting mother or the adopting father (but not both) may claim Statutory Adoption Leave and Pay. However, one parent can claim SAP while the other claims Statutory Paternity Pay or Parental Leave.
- h) The Diocesan Office must confirm the date the employee is expected to resume work within 28 days in writing.
- i) If the individual does not want to take their full leave entitlement, they must give 28 days' notice of when they intend to start working again.
- j) An individual can change his or her mind about the date of starting SAP and Leave, but should give at least 28 days' notice of when he or she wants his or her paid adoption leave to start.
- k) Parents may also take Parental Leave, see below.

In treating clergy as if they were employees in this instance, it is expected that SAP eligibility will be on a similar basis.

## **E. Parental Leave and Time Off for Dependants**

It is recommended that clergy office-holders should be able to have parental leave and time off for dependants, subject to the conditions and eligibility criteria applicable to employees as conferred by law and as set out below.

### **1. Parental Leave**

Clergy (the 'individual') are entitled to 18 weeks of unpaid parental leave for each of their children. The clergy office-holder must also either be:

- a) Named on the child's birth certificate;
- b) Named on the child's birth certificate after adoption (i.e. the child's birth certificate which is from the Adopted Children's Register – this is the official birth certificate for an adopted child, not his or her original certificate), or
- c) Have legal parental responsibilities and/or rights for the child.

Parental leave can start once the child is born or placed for adoption with the individual. In the case of adoption, each parent can take a total of 18 weeks' parental leave and it may be taken at any time up to the child's fifth birthday, or until five years after placement. In the case of a disabled child the parental leave can be taken up to the child's 18<sup>th</sup> birthday.

21 days' notice of a request for Parental Leave must be given, in writing, to the Vestry Secretary and Diocesan Office. If an individual wishes to take Parental Leave immediately after the birth or adoption of a child, the individual must give, in the case of childbirth, 21 days' notice before the beginning of the Expected Week of Childbirth. In the case of adoption, the individual must give, whenever possible, 21 days' notice of the expected week of placement. Leave may be postponed for up to six months from the date requested where it is considered that an individual's absence would be unduly disruptive. It would be exceptional for a decision to postpone parental leave to be made, and would only be made after consultation with the Diocesan Office, who may take professional advice. Leave cannot be postponed where an individual gives notice to take Parental Leave immediately after the time a child is placed with the family for adoption or the birth of a child. If, because of postponement, the period of Parental Leave falls after the child's 5<sup>th</sup> birthday, the individual is entitled to take leave after that date.

Parental leave is subject to a maximum of 4 weeks in any one calendar year, and taken in blocks of one week or more. Any parental leave of less than a week block will be counted as a week for calculating leave remaining. The exception to this rule is where parental leave is for the care of a disabled child; in this instance parental leave can be taken in units of single days and is counted as the actual days taken.

Any leave beyond that initial period of 18 weeks is subject to the agreement of both the Vestry and Diocesan Bishop.

Clergy should notify the Vestry Secretary and Diocesan Office in writing of their intention to take Parental Leave.

*Right to Return to the Same or Similar Job:* At the end of any Parental Leave of up to 4 weeks' duration, an individual is guaranteed the right to return to the same role as before. If the leave is for a longer period than 4 weeks, the individual is entitled to return to the same role, or, if that is not reasonably practical, to a similar role, with similar or better conditions.

If Parental Leave follows Additional Maternity Leave, and it would not have been reasonably practical for the woman to return to her previous role, and it is still not reasonably practical at the end of Parental Leave, she is entitled to return to a similar role which has the same or better status, terms and conditions as the old role.

## 2. **Time off for Dependants**

Clergy should be able to take a reasonable amount of paid time off during their working hours to deal with unexpected or sudden problems affecting their dependants and to make any necessary longer term arrangements for their care.

It is expected that, in most cases, the amount of leave will be less than one day, or one or two days at the most.

The reasons why leave may be applicable are as follows:

- To care for a dependant who falls ill or who has been involved in an accident or assaulted;
- When a dependant is having a baby;
- To make long-term arrangements for a dependant who is ill or injured;
- To deal with the death of a dependant;
- To deal with an unexpected disruption or breakdown in care arrangements for a dependant (e.g. when the child minder or nurse fails to turn up);
- To deal with an incident involving the employee's child during school hours.

Clergy should notify the Vestry Secretary as soon as possible that they are about to take or have taken time off to care for their dependants, and let the Vestry Secretary know how long they expect to be away from work.

For the purpose of the right to time off, a dependant is defined as follows:

“A partner, child or parent of the employee, or someone who lives with the employee as part of their family e.g. elderly aunt or grandparent”

In cases of illness or injury, or where care arrangements break down, a dependant may also be someone who reasonably relies on the cleric for assistance. This may be where the cleric is the primary carer or is the only person who can help in an emergency.

## **F. Pensionable Service**

All unpaid Maternity, Paternity, Adoption and Parental leave should be pensionable, and pension contributions should continue to be paid during this period, as, under the present rules of the scheme, death in service payments can only be made during pensionable leave.

## **G. Continuous Service**

When in the above provisions a period of continuous service is required as a condition of eligibility to any of the benefits, service as a cleric within the Scottish Episcopal Church or in another province of the Anglican Communion, where such service falls immediately prior to the period of service in which benefit is to be claimed, shall be counted for this purpose. Similarly, immediately prior service in Scotland with another organisation shall be so treated provided, as a condition of such service, the individual in question was required to hold a licence or other form of authorisation from a bishop of the Scottish Episcopal Church.

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