



**Bulletin 156**

**December 2009**

### **EMPLOYEES ON FAMILY LEAVE MAY BE ENTITLED TO FULL NOTICE PAY**

It may surprise you to learn that some employees who are on family leave (maternity, paternity, adoption and parental leave) are entitled to receive full pay during their notice period.

In the main, during an employee's notice period they should receive what they would normally receive if they were not under notice (unless the contract states otherwise). This would mean that an employee on maternity leave would receive any maternity pay (statutory or contractual) that she would have received during the notice period.

However, by virtue of section 87(4) Employment Rights Act 1996 this general position does not apply where the contractual notice the employer is required to give is not at least one week more than the minimum statutory notice entitlement.

By way of illustration:

- If a woman on maternity leave who has worked for a company for 4 years is only entitled to her minimum statutory notice period of 4 weeks she would receive full pay during her statutory notice period even if her statutory or contractual maternity pay has expired.
- If the same woman was entitled to a contractual notice period of 1 calendar month's notice (i.e. her contractual period of 1 month is less than a week more than her statutory notice) she would receive full pay for her statutory notice period (i.e. the first 4 weeks after notice is given). For the remaining few days of notice she will be entitled to her maternity pay. If her maternity pay has expired she would receive nothing for these few days.
- If the same woman has a generous contractual notice period of 3 months she will only receive her maternity pay (statutory or contractual) during her notice period. If her statutory or contractual maternity pay has expired she would receive nothing.

#### **🔑 Practical Tips**

Be careful when paying notice pay to an employee on family leave. However, many employers choose to pay full notice pay when notice pay is given during family leave regardless of this legislation.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact: Paul Chamberlain in Manchester on 0161 836 8864, Andrew Cross in Liverpool on 0151 600 3062 or Kevin James in Preston on 01772 229847.

If you no longer wish to receive the bulletin please let us know by return e-mail to [helen.calvert@brabnerscs.com](mailto:helen.calvert@brabnerscs.com)

This bulletin is for general guidance purposes only and should not be used for any other purpose.

Brabners Chaffe Street is a Limited Liability Partnership



**LIVERPOOL**

Horton House, Exchange Flags, Liverpool L2 3YL  
0151 600 3000

**MANCHESTER**

55 King Street, Manchester M2 4LQ  
0161 836 8800

**PRESTON**

7-8 Chapel Street, Preston PR1 8AN  
01772 823921

email: [law@brabnerscs.com](mailto:law@brabnerscs.com) [www.brabnerschaffestreet.com](http://www.brabnerschaffestreet.com)