

# Changes to redundancy protections for employees post-maternity leave

14 February 2023  Chantice Kyle

New rules are likely to come into force which increase protection for employees against redundancy from the moment they disclose their pregnancy until their child is 18 months old.

Under Regulation 10 of the Maternity and Paternity Leave Regulations 1999, employers have an obligation to offer suitable alternative employment, where a vacancy exists, to a parent who is on maternity leave if their job is at risk of redundancy. The current protection is limited to the duration of the maternity leave. However, under these proposed new rules, the period of protection from redundancy would be extended to protect pregnant employees from the moment they inform their employer of their pregnancy until 18 months after the birth.

According to a study by the Equality and Human Rights Commission, around 54,000 new parents a year lose their jobs because they're pregnant, while 3 in 4 working mums experience maternity discrimination.

In response to the view that current safeguards provide limited protection to prevent dismissals during maternity leave, a private members bill, the Protection from Redundancy (Pregnancy and Family Leave) Bill 2022-23 was introduced to Parliament and passed the first stage in the House of Lords on 6 February.

If implemented, the Secretary of State will be able to introduce new rules about the management of redundancies during and after a protected period of pregnancy/maternity, adoption leave or shared parental leave.

The Bill has passed all four stages in the House of Commons, the first stage in the House of Lords and is now listed for further debate on 3 March 2023. It has government support and full backing from the House of Commons, meaning it is likely to become law in England, Wales and Scotland (but not Northern Ireland where employment law is devolved).

## Advice to Employers:

- The existing protections already give employees on maternity leave priority for redeployment in redundancy situations. The new Bill will extend these protections further from the moment an employee informs their employer of their pregnancy to post maternity leave, until their baby is 18 months old.
- The Bill still has to progress through the House of Lords, so it is unlikely the new rights will come into force until 2024 at the earliest.
- Failure to offer suitable alternative employment in redundancy situations may result in the employee's dismissal being automatically unfair.
- Ensure you conduct redundancy consultations in a fair and consistent manner to avoid claims of unlawful discrimination on the grounds of pregnancy and/or maternity.
- Be aware of your obligations towards pregnant employees and parents on maternity, adoption or shared parental leave.

## Key contact

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