



# **Health and safety at work: workers who are pregnant, have recently given birth or are breastfeeding (amend. Directive 92/85/EEC)**

## **Introduction**

For small businesses, maternity and paternity leave in their current form are perceived as barriers to employment. For businesses without employees, these two pieces of legislation attract the highest levels of concern when they are thinking of taking on an employee. For businesses with staff, **50 per cent** of FSB members rated maternity leave as complex to administer. More than half (**53 per cent**) gave paternity leave the same rating.<sup>1</sup>

Over the last two years a growing number of organisations have reflected on the potentially damaging effects of increasing maternity rights for women, which include the difficulties created by the loss of expertise of a member of staff, the impact that being away from the workplace has on keeping skill sets and expertise up to date, the hiring and training of maternity cover and the increased cost in company expenditure in relation to statutory and company maternity policy payments. Paternity leave and flexibility at work have taken a front seat as a solution to this problem in the United Kingdom.

As a result of the financial crisis small businesses have found themselves at the eye of the perfect storm. Caught between contracting markets, late payments, increasing overheads and a sharp decline in access to finance, many viable small businesses have failed. According to the accountancy firm BDO Stoy-Haywood, an estimated 120 small businesses were closing daily at the height of the financial crisis in the United Kingdom alone.

With this in mind, now is not the time for the EU to be proposing more rigid rules on maternity and paternity leave.

## **The proposal**

Edite Estrela MEP, a member of the Women's Rights and Gender Equality Committee of the European Parliament, is the rapporteur for the *pregnant workers, workers who have recently given birth or are breastfeeding* report (the so-called Maternity Leave Directive). Maternity leave is currently set by a 1992 EU directive, which sets a minimum duration of 14 weeks. The new proposal published by the European Commission extends that to 18 weeks with a non-compulsory recommendation that it is on full pay. However, the Women's Rights and Gender Equality Committee voted in February to increase this to 20 weeks, all of which would be on compulsory full pay. The same committee proposed that the two week Paternity leave allowance also be on full pay.

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<sup>1</sup> FSB Employment Survey July 2009



**What do these proposals mean in practice?**

Current situation in the United Kingdom	Proposal
Two weeks compulsory leave after giving birth (four weeks in certain occupations).	Six weeks compulsory leave after giving birth.
Statutory Maternity Leave (SML) is for 52 weeks. A woman may be entitled to receive Statutory Maternity Pay (SMP) for up to 39 weeks of this leave.  The first six weeks leave are paid at 90 per cent of average gross weekly earnings with no upper limit, followed by 33 weeks at the lower of either SMP (£124.88 per week) or 90 per cent of average gross weekly earnings. The remaining 13 weeks unpaid.	<b>Workers on maternity leave must be paid their full salary (during ordinary maternity leave of at least 20 weeks), which must be 100 per cent of their last monthly salary or their average monthly salary.</b>
Two weeks paternity leave, paid at SMP.	Member states must give fathers the right to <b>fully paid</b> paternity leave of at least two weeks within the period of maternity leave.

**Cost implications for the United Kingdom**

As a result of the proposals contained within this report, the existing cost to the United Kingdom of maternity and paternity leave combined will increase by an additional £2.59 billion, taking the annual total to a staggering £4.38 billion.<sup>2</sup>

Current costs	Additional costs
Maternity leave: £1.75 billion	Maternity leave: £2 billion
Paternity leave: £43 million	Paternity leave: £370 million
Adoption leave: No figure available	Adoption leave: £220 million
<b>Total: £1.79 billion</b>	<b>Total: £2.59 billion</b>

**The impact of employment legislation on small businesses**

According to a survey of FSB members<sup>3</sup>, **61 per cent** of members stated, that when it came to employment law, they found it difficult to keep up-to-date with the number of different regulations and requirements. Over **50 per cent** of members downsizing or closing their businesses rated “regulatory burden” as a “very important” influencing factor because of the difficulty of deciding how to comply with regulation, and the paper work and cost that increases as a result of compliance. On the specifics of parental leave members stated:

- **50 per cent** of members find maternity leave legislation complex to follow
- **53 per cent** of members find paternity leave legislation complex to follow
- **50 per cent** of members without employees stated that they were very concerned about maternity leave when contemplating taking on staff
- **49 per cent** of members without employees stated they were very concerned about paternity leave when contemplating taking on staff

<sup>2</sup> Figures provided by the Department for Business Innovation and Skills (BIS)

<sup>3</sup> FSB Employment Survey July 2009



## **Federation of Small Businesses**

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These new proposals will only add to this burden and make it harder for women of child bearing age to get work, particularly in small businesses.

### **Conclusion**

We all want adequate, flexible maternity and paternity leave but it should be for elected governments in dialogue with parents and their employers to decide how much their economy can afford to give and how it is to be delivered. These proposals should be about setting minimum EU standards for the health and safety of pregnant workers - not adding new payroll costs for overburdened companies and national social security systems.

This is yet another example of how well-intentioned EU employment law is actually exacerbating our unemployment crisis. In the present economic climate we should be making it easier for people to gain employment, not placing obstacles in their way.

The FSB therefore calls on the European Parliament to reject these proposals when they come before Plenary on 18 October 2010 and instead undertake a complete review of maternity and paternity leave. Maternity and paternity leave needs to be more easily understood by both parents and employers and to be tailored to the individual needs of parents. A complete reform of maternity and paternity leave – at no extra cost in payment terms to the employer or the Member State – would create a more open dialogue between parents and employers and allow for a more flexible system for all.

### **For further information please contact:**

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