



What you need to know if you're pregnant or planning a pregnancy:

Advice for internationally educated
nurses and midwives coming to work
in the NHS in Scotland

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Introduction

Moving to a new job in a new country is a major decision and, if you're pregnant or planning a pregnancy, it's important to have all the information you need to inform this decision. This guide provides information about maternity rights in the NHS in Scotland and what support is available to NHS employees. It's designed to be used alongside discussions with your new employer to help you make informed decisions about moving to the UK.

Maternity rights will be consistent across all NHS Boards in Scotland as this is governed by UK law. However, the support available may be different in different areas or Boards so it's important to gather all the information you need to inform your own decisions.

In Scotland, if a candidate has started the recruitment pre-employment process, it is against employment law for an employer to withdraw the job offer because the candidate is pregnant.

If you are pregnant during the process of moving to Scotland to work in the NHS, you are unlikely to qualify for NHS maternity leave or maternity pay. This is because to qualify for maternity leave and other benefits as an NHS employee, you must satisfy certain conditions, which we explain in this guide.

If you are pregnant at the point of a job interview or job offer, we recommend that you consider and plan how you will support your child and yourself before travelling to the UK.

Although you are under no obligation to tell your employer you're pregnant until 15 weeks prior to your due date, if you're pregnant during any stage of the recruitment process we recommend letting your employer know as soon as possible. This is so they can provide you with support and advice, including information on what support is available in your Board or area.

Pregnancy, maternity leave and maternity pay

Completing pre-employment checks

As part of the standard pre-employment checks for all new NHS staff, you will be asked to complete an Occupational Health self-declaration form. The information you share on this form will be confidential between the Occupational Health team and you. It advises the Occupational Health team of any health conditions, disabilities, or whether you are pregnant so they can provide you with relevant health guidance, undertake workplace risk assessments, and make reasonable adjustments for you where needed.

If you are pregnant at the point of your job interview or job offer, you don't need to wait for this form to tell your new employer that you're pregnant.

Although you are under no obligation to tell your employer you're planning a pregnancy or that you're pregnant until 15 weeks prior to your due date, we recommend letting your employer know as soon as possible so they can provide you with advice and support.

Informing your new employer that you are pregnant will also allow you to discuss whether you would like to stay in your home country during your pregnancy and to give birth there. We know from experience that some people prefer to do this so that they can have support from their family and friends.

Risk assessments

If you are pregnant, you have recently given birth, or you are breastfeeding when you arrive in Scotland to start work, your employer must carry out a risk assessment of your working conditions. Should this risk assessment, or a medical practitioner, consider that you or your child are at risk were you to continue with your normal working duties, then your employer should provide you with suitable alternative work for which you will receive the normal rate of pay.

For more information on risk assessments, please speak to your employing Health Board.

Maternity leave and maternity pay

If you move to Scotland to work in the NHS while pregnant, you are unlikely to qualify for NHS maternity leave or maternity pay because you won't satisfy certain qualifying conditions that are outlined in this section. In some cases, you might qualify for statutory maternity leave but not statutory or NHS maternity pay.

This is one of the reasons we recommend that you talk to your employer about your pregnancy and that you consider how you will support your child and yourself if you move to the UK while pregnant. Although you're under no obligation to tell your employer you're pregnant until 15 weeks prior to your due date, if you are able to let them know as soon as possible, they can provide you with support and advice to help you make informed decisions.

Please speak to your employing board about their maternity policy.

Maternity leave

A pregnant employee working for the NHS has the right to apply for up to 52 weeks of maternity leave. This leave is split into two periods:

1. Ordinary Maternity Leave which is 26 weeks.
2. Additional Maternity Leave which is another 26 weeks.

Maternity leave is the same for full and part-time employees.

In UK law, there is a requirement to take a minimum of two weeks off work after the birth of your baby. This is called Compulsory Maternity Leave.

To be eligible for ordinary and additional maternity leave under the NHS maternity policy the following conditions must be met:

1. Usually you must present relevant documentation that you are pregnant by the end of the 15th week before the baby is due.
2. You must give written confirmation of the date you intend to start maternity leave which cannot be earlier than the beginning of the 11th week before the expected week of childbirth.

The policy also advises that you should provide:

1. An authenticated medical certificate showing the expected week of childbirth.
2. You must give written confirmation that you intend to return to work following maternity leave for at least three months in accordance with Agenda for Change 15.14 (ii) (c).

Employment rights are protected whilst on maternity leave, this includes the right to:

1. A pay rise
2. Build up (accrue) annual leave
3. Return to work.

Maternity pay

As previously mentioned, if you arrive in Scotland and start work with the NHS whilst pregnant, or if you become pregnant shortly after starting work it is unlikely you will meet the conditions to qualify for maternity pay.

There are two types of maternity pay: NHS Occupational Maternity Pay and Statutory Maternity Pay (SMP). In some circumstances, a maternity allowance is available where an employee is not able to claim maternity pay but that this too has strict eligibility criteria.

To be eligible for NHS maternity pay you must have:

- a) 12 months of continuous employment with the NHS (not necessarily with the same employer), without a break of more than three months, by the time of 11 weeks before your expected week of childbirth and have complied with the NHS' notice requirements.

Under this scheme, you would be entitled to:

- 8 weeks of full pay (less SMP and Maternity Allowances), followed by
- 18 weeks of half-pay (plus SMP and Maternity Allowances), followed by
- 13 weeks of SMP or Maternity Allowance – Maternity Allowance is paid at the rate of £156.66 per week (April 2022 – April 2023) or 90% of your average earnings (if that is less).

b) To qualify for SMP you will need to satisfy various conditions including that you:

- Have been employed for at least 26 continuous weeks with your NHS employer at the beginning of the 15th week before the baby is due.
- Follow local policy and agree with your line manager the date you intend to start your maternity leave.

SMP is paid up to 39 weeks and begins when your maternity leave starts.

Payment for SMP is:

- 90% of employee's average weekly earnings (before tax) for the first 6 weeks
- From week 7, the SMP rate or 90% of the average weekly earnings (whichever is lower) for a total of 33 weeks.

Maternity pay is paid in the same way as your salary (for example, monthly) and tax and National Insurance is deducted.

If you do not qualify for maternity pay, you may be eligible for Maternity Allowance, which is paid directly to individuals by the Department of Social Security. You can read more on the [Gov.UK website](#).

The following links offer further information on maternity leave and pay:

- [UK Government's advice on maternity leave and pay](#)
- [The RCN's 'Having a family toolkit'](#)

Case Study

A new internationally educated staff nurse moves to the UK and joins her new NHS employer on 1 February 2019. She has not been employed by the NHS previously.

She writes to her manager notifying them that she's pregnant on 7 March 2019, which is the fifteenth week before childbirth (due date 15 June 2019).

The nurse requests to start maternity leave from the beginning of the 11th week before the week of her due date on 4 April 2019. This leave is granted as the staff nurse is entitled to full maternity leave.

However, the new staff nurse doesn't qualify for NHS maternity pay or statutory maternity pay as she doesn't have 12 months continuous service (employment) in the NHS or 26 weeks continuous service with her existing employer.

Benefits and support available to NHS employees who are pregnant

Some of the benefits and support available include:

- Health and wellbeing support – your employer can tell you about what services are available to support you.
- Protection of employment terms whilst on maternity leave.
- People living in Scotland receive free prescriptions and will also receive free dental care while pregnant and up to 12 months after their due date – you will need to speak to your doctor or midwife for more details.

As a sponsored skilled worker, you are subject to immigration restrictions for some nationally available benefits and services. To find out more, visit the **Citizens Advice website**.

There are some voluntary organisations that provide information and advice on benefits and rights to work. These include:

- **Gingerbread (supports single parent families)**
- **Maternity Action**
- **Working families.**

If you give birth whilst working in Scotland, your child might not automatically receive British citizenship. To find out more about this, visit the **Gov.UK website**.

Paid time off for antenatal care appointments

In the UK, if you are pregnant, your employer must provide you with reasonable time off for antenatal care appointments (or other appointments advised by a registered medical practitioner, midwife or health visitor) as part of your paid working day. This is regardless of how long you have worked for that employer. Time to attend these appointment times will include travelling and waiting times.

You will need to provide your new employer with proof of appointments, for example, an appointment letter.

Further advice can also be found on the **Acas website**.

Working in the NHS as a new parent

Please contact your employing Health Board to find out about flexible working, paternity leave, childcare and accommodation policies and options.



More information

If you have any questions on the information provided in this resource, please contact your new NHS employer for more information.

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