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**PRESS
RELEASE**



ALL CHANGE ON MATERNITY BENEFITS – WHAT EMPLOYERS NEED TO KNOW

Pictured – Jay Bhayani

Do women on maternity leave accrue holidays? Can they keep their company cars? What about bonuses, health insurance and pension contributions? The law on this subject can be confusing and employers are often given conflicting advice. The law is about to be clarified as new regulations - affecting women whose expected week of childbirth (EWC) falls on or after 5th October 2008 - are about to be brought into force. So what will change?

Currently the legislation provides that an employee is entitled to all of her contractual rights (other than salary) during the first 6 months of leave - ordinary maternity leave (OML). This includes contractual holidays, company cars, car allowances, mobile phones, healthcare, pensions, luncheon and child care vouchers, gym membership and some bonuses such as loyalty, gratuitous and Christmas bonuses for example. (NB – maternity leave and bonus payments are complicated and employers are advised to seek further advice on individual cases). However during the second 6 months of leave – additional maternity leave (AML), the employee is not entitled to these contractual benefits and only statutory rights continue to apply – such as statutory leave, redundancy etc.

The new rules, affecting women whose EWC falls on or after 5 October 2008, will mean that employees will be entitled to their full benefit package throughout both OML and AML, except in relation to pensions contributions, which need to be paid for 39 weeks, in line with statutory maternity pay. This means that employees on maternity leave will accrue their full contractual holiday entitlement – and will need to take this amount of holiday either before or after their maternity leave; will be entitled to be considered for bonuses and must be allowed all other benefits as mentioned above. It is still possible to withdraw a company car at the beginning of any maternity leave if that car is purely for business use (it must be re-issued

when the employee returns to work), but if the employee is entitled to any element of private use it is treated as a benefit and must be allowed. Car allowance that is paid as a benefit and not as part of the salary must also be allowed.

Employees on maternity leave are not currently entitled to salary/wages, shift pay, attendance allowance, overtime pay and call out allowance (unless your contract says otherwise) and this will not change under the new regulations.

For further advice and assistance on current maternity regulations or the new legislation please contact Jay Bhayani at Watson Esam Solicitors on 0114 275 3350 or email jay.bhayani@watson-esam.co.uk.

Further information: Watson Esam is one of the oldest established legal firms in Sheffield practising from its offices in Paradise Square. A medium sized firm with approximately 40 staff, it is well known for delivering first class services to businesses in South Yorkshire. Jay Bhayani is senior partner and head of the firm's employment department. She is a former winner of Yorkshire Lawyer Employment Lawyer award (2005) and was short listed for the Yorkshire and Humberside Institute of Directors Adviser of the Year Award 2007. She specialises exclusively in contentious and non contentious employment law. She has dealt with high profile and complex cases acting primarily for employers. Jay is recognised as one of the leading employment law specialists in Yorkshire and is named in the Legal 500 as such.

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