

Bonus Payments: Are Employees on Maternity Leave Included?

As we move through Q3 and into Q4, Organisations are likely to be considering bonus entitlements for 2026. One query that is often raised by Organisations is whether Employees who are out on maternity leave are entitled to receive a bonus. While the answer will depend on the terms of the bonus arrangement, this is nonetheless an area where Organisations should proceed with caution.

The Maternity Protection Acts 1994–2004 preserve almost all of an Employee's employment rights during maternity leave, with the notable exception of the right to remuneration. However, this does not automatically mean that an Employee on maternity leave has no entitlement to a bonus.

Start with the Employment Contract

The first step is to review the Employee's contract of employment and any applicable bonus scheme.

Organisations should consider:

- Is the bonus contractual or discretionary?
- Is it linked to individual performance, Organisation performance or another defined criterion?
- Does the scheme specify that an Employee must be actively at work on the payment date or for a specified period?

The wording of the contract and any bonus policy will usually determine the starting point for assessing entitlement.

Consider Custom and Practice

Where the contract is silent on bonus payments, Organisations should consider whether an annual bonus has become an established custom and practice over time.

If bonuses have been paid consistently over a number of years using the same methodology, Employees may argue that a contractual entitlement has arisen, even if no written contractual provision exists.

What Is the Bonus Intended to Reward?

Understanding the purpose of the bonus is critical.

Where a bonus rewards:

- individual or team performance
- productivity, or
- achievement of specified business objectives

an Organisation may be entitled to assess the Employee's contribution during the relevant performance period.

However, where the bonus is intended to reward loyalty, length of service or long-term commitment to the Organisation, it should generally be paid in full, as it is not remuneration for work performed during the relevant year.

Consider Whether a Pro-Rata Payment Is Appropriate

Where an Employee has worked for part of the bonus year before commencing maternity leave, it may be appropriate to calculate a pro-rated bonus based on the period worked.

Organisations should carefully examine the rules of the bonus scheme together with any performance criteria. Consideration should also be given to whether Organisational performance targets have been achieved and whether the Employee met any relevant individual objectives before commencing leave.

A calculation of a pro-rated bonus would exclude the statutory minimum period of maternity leave during which Employees must not work (i.e., no less than four weeks before the end of the expected week of confinement and no less than four weeks after the end of the expected week of confinement).

Each case should be assessed on its own facts and in accordance with the terms of the bonus arrangement.

Exercise Discretion Carefully

Even where a bonus scheme provides the Organisation with discretion, that discretion must be exercised reasonably, consistently and in good faith. If the Organisational targets have been achieved, the Employee may query any discretionary non-payment of a bonus.

An arbitrary or unexplained decision to withhold or reduce a bonus could expose the Organisation to legal challenge, particularly where the decision is connected to an Employee's maternity leave.

Organisations should ensure that any decision is supported by objective reasons and is consistent with the contractual terms and the operation of the bonus scheme.

Final Takeaway

Bonus payments during maternity leave are rarely straightforward. The correct approach will depend on the contractual terms, the purpose of the bonus, established workplace practice and the Employee's individual role and circumstances.

Before deciding to reduce or withhold a bonus from an Employee on maternity leave, Organisations should carefully review the relevant documentation and consider obtaining HR or legal advice. A well-reasoned and consistent approach will reduce the risk of contractual disputes, discrimination claims and damage to Employee relations.

How Adare Trusted People Partners Can Help

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- Retirement compliance, including contractual retirement ages, longer working requests and objective justification
- Contracts of Employment, Policies & Procedures, Managing Compliance
- HR Best Practice
- Advice on day-to-day matters
- Dedicated Client Manager
- Mitigation of Risk & Financial Liability
- Help desk support
- Commercial HR advice tailored for your Organisation

Adare is a team of expert-led Employment Law, Industrial Relations and best practice Human Resource Management consultants. If your Organisation needs advice, support, or guidance about employment law compliance, Employee relations or any HR issues, please contact Adare by calling 021 486 1420 or emailing info@adarehrm.ie to learn what services are available to support your business.