

Frequently Asked Questions about Parental Leave and the Employment (Amendment) Act 2021

Produced by Women's Aid Organisation (WAO)

The Employment (Amendment) Act 2021 was passed in Parliament in March 2022, and will take force on 1 January 2023. What does this mean for maternity and paternity leave? This page aims to answer some questions you may have. This only applies to Peninsular Malaysia.

- 1. I earn RM4,000 monthly, and am due to deliver my baby in December 2022. I've been working full-time with my company for a year. Will I be entitled to maternity leave? How many days?**

Yes, you will be entitled to at least 60 days of paid maternity leave.

The new law – which increases maternity leave to 98 days – will not yet be in effect in December 2022. Until then, the existing law – which provides for 60 days maternity leave (regardless of your wage) – still applies. You can try and negotiate with your employer to provide you 98 days.

- 2. I earn RM4,000 monthly, and I'm due to deliver my baby in January 2023. I started working full-time with my company last month. Will I be entitled to maternity leave? How many days?**

Yes, you will be entitled to at least 98 days of paid maternity leave.

The new law comes into force on 1 January 2023, so you will be entitled to 98 days maternity leave. You will be entitled to maternity leave, regardless of your salary level.

- 3. My employer said I am not entitled to maternity leave, as I earn over RM2,000. Is this right?**

No, this is wrong. You are and will be entitled to paid maternity leave regardless of salary level.

Under the old / current law – the Employment Act – you are entitled to at least 60 days of maternity leave. The law states (section 44A of the law) that maternity benefits apply to employees regardless of salary.

As for the new law – the Employment (Amendment) Bill 2021 – the Ministry of Human Resources has stated clearly that maternity leave will still apply to employees regardless of salary level. The new law mandates 98 days of maternity leave, and takes effect on 1 January 2023.

4. My employer is not giving me maternity leave, as I earn over RM2,000. What can I do?

You can report this or seek assistance from the Department of Labour, through their telephone hotline, whatsapp, or email. Contact information is available at jtksm.mohr.gov.my.

There are some conditions you must fulfill to be eligible for maternity leave (including how long you have worked with your employer, and how many children you already have), and if you are not sure if you meet the conditions, you can also ask the Department of Labour.

5. Is paid maternity leave 60 days, 90 days, or 98 days?

Currently, the minimum maternity leave is 60 days.

The new law – the Employment (Amendment) Act 2021 – increases the minimum period from 60 to 98 days. This takes effect on 1 January 2023.

The new law initially proposed to increase maternity leave to 90 days, but this was changed to 98 days.

6. Are there any paternity leave entitlements under the Employment (Amendment) Act 2021?

Yes, the new law introduces 7 days of paid paternity leave.

Currently, there are no entitlements for any paternity leave under the Employment Act 1955, but the new law that takes effect on 1 January 2023 will introduce a 7 day entitlement to paternity leave.

7. When will the new amendments to the Employment Act take effect?

On 1 January 2023.

The new law – the Employment (Amendment) Bill 2021 – passed in Parliament in March 2022. Following this, the Minister of Human Resources announced that the law would take effect starting 1 January 2023.

8. Will paid maternity leave only be for those earning below RM2,000?

Employees are eligible for paid maternity leave regardless of wage levels.

This is the case under the current/old law, and will still be the case under the new law. The Ministry of Human Resources has stated clearly that under the new law, maternity leave will still apply to employees regardless of salary level.

9. What is the Employment (Amendment) Act 2021?

A new law that makes changes to the existing Employment Act 1955. It was passed in the Dewan Rakyat and Dewan Negara in March 2022, and has been gazetted. The law takes effect on 1 January 2023.

The Employment Act 1955 and the Employment (Amendment) Act 2021 only apply to Peninsular Malaysia. Sabah and Sarawak have their own Labour Ordinances.

Sources:

<https://bernama.com/en/general/news.php?id=2064957>

<https://www.malaysiakini.com/news/624747>