

Work-Life-Service

Frequently asked questions about *Mutterschutz* (maternity protection)

What is the *Mutterschutz* (maternity protection)?

The *Mutterschutz* refers to various forms of protection for pregnant or breastfeeding employees and is defined in the [Mutterschutzgesetz](#) (Maternity Protection Act). In everyday language, the term is used synonymously with the statutory maternity protection period (*Mutterschutzfrist*), which begins 6 weeks before the calculated date of birth and ends 8 weeks after the birth.

The *Mutterschutz* includes

- the protection of health in the workplace,
- a special protection against dismissal,
- a working ban before and after the birth (e.g. *Mutterschutzfrist*) as well as
- securing income during the working ban (*Mutterschaftsleistungen*).

How is health protected in the workplace?

Your employer is responsible for ensuring your maternity protection. He/she must observe and implement the statutory maternity protection regulations on health protection, protection against dismissal and the right to benefits. Your employer must take the necessary protective measures based on the risk assessment of the working conditions that he/she has already prepared in advance. You have a legal right to have your working conditions adapted in line with maternity protection.

In principle, you may not work between 8 p.m. and 6 a.m. during pregnancy and as a nursing mother; on-call duty or night shifts are also not permitted.

Work performed by expectant mothers after the end of the 20th week of pregnancy, predominantly in a standing position, is prohibited if it lasts longer than four hours. This prohibition also applies if seating can be used for a short rest.

What special protection against dismissal applies?

You are only protected from dismissal if your employer knows that you are pregnant, have had a child or have had a miscarriage.

From the beginning of your pregnancy until the end of your protection period after childbirth, but at least until four months after childbirth, your employer is not permitted to terminate your employment relationship, with a few exceptions. The same protection against dismissal applies until the expiry of four months in the event of a miscarriage after the twelfth week of pregnancy.

If your employer terminates your employment before you have informed him/her, you still have up to two weeks from the termination to inform him/her. If you miss this deadline through no fault of your own, you should inform him/her immediately so that you are protected against dismissal. The protection against dismissal also applies if you yourself were not yet aware of the pregnancy or were not yet sure. However, you must have already been pregnant when you received the notice of termination.

In what cases is a working ban imposed?

There are three different types enshrined in the *Mutterschutzgesetz*:

The working time ban on employment within the maternity protection period applies to all mothers.

The company working ban can apply to expectant and also nursing mothers (*Still-Beschäftigungsverbot*) as part of a risk assessment by the employer.

The medical working ban can be prescribed or certified individually during pregnancy or breastfeeding in the case of high-risk pregnancies, particular back pain or other health impairments attributable to the pregnancy or postnatal condition.

Maternity benefits secure your income during this period. A distinction is made here between Mutterschaftsgeld and Mutterschutzlohn, see below.

How long is the *Mutterschutzfrist*?

The maternity protection period begins 6 weeks before the calculated date of birth and normally ends 8 weeks after the birth.

If your child is born before the calculated date, the maternity protection period will still last a total of 14 weeks. The days that the child was born earlier are added to the maternity protection period after the birth.

In the case of a medical premature birth (for example, if your child weighs less than 2,500 grams at birth) and in the case of multiples, the maternity protection period does not end until 12 weeks after the

birth, as well as in the case of births of children with disabilities, where you apply to your health insurance company for an extension of the protection period.

If the child is born after the calculated date of birth, 8 weeks of maternity protection period is still granted after the birth. Then the number of weeks is individual – 14 weeks plus the days that the child was born later.

What maternity benefits (*Mutterschaftsleistungen*) are available?

Maternity benefits provide income if you are not allowed to work during your pregnancy or after the birth of your child.

The *Mutterschaftsleistungen* include

- *Mutterschaftsgeld* of the statutory health insurance,
- *Mutterschaftsgeld* of the *Bundesamtes für Soziale Sicherung* (Federal Office for Social Security),
- *Arbeitgeberzuschuss* (employer subsidy) for the *Mutterschaftsgeld*,
- *Mutterschutzlohn*.

Who receives *Mutterschaftsgeld*?

In principle, women who are in an employment relationship at the start of maternity leave, who have statutory, private or family insurance, or who are not allowed to work due to the maternity leave periods are entitled to maternity benefits. The decisive factor is that they either work in Germany or that German law applies to their employment relationship. This can also be the case, for example, if they are employed by a German company but work abroad.

Entitlement to *Mutterschaftsgeld* is retained even if:

- the employer terminates the employment relationship during pregnancy,
- the mother only starts a job during the protection period,
- the employer transfers the expectant mother to another, reasonable position that is less well paid (this is permissible with the mother's consent according to the *Mutterschutzgesetz*).

Mutterschaftsgeld for mothers with statutory health insurance

If you are covered by statutory health insurance, your health insurance fund will pay maternity benefits of up to € 13 per calendar day. The basis for the calculation is the sum of the average net salary of the last 3 months before maternity leave. If your net salary during this period was higher than € 13 per day, your employer will pay you the difference.

If a temporary employment relationship ends during maternity leave, the employer only has to pay its share of the maternity benefit up to this point. After that, the health insurance fund pays maternity benefits in the amount of the sick pay entitlement.

Mutterschaftsgeld for mothers with private or family insurance

In this case, the *Bundesamt für Soziale Sicherung* pays the maternity benefit instead of the health insurance fund. However, instead of € 13 a day, this amounts to only € 210 once. However, the employer's allowance is just as high as for those with statutory health insurance.

Mutterschaftsgeld for self-employed

Mothers who have voluntary statutory health insurance and are entitled to sick pay under the collective agreement receive maternity pay equivalent to the usual sick pay, i.e. 70 percent of the income on which the calculation of contributions was based before the start of the maternity protection period.

Mutterschaftsgeld for employees on parental leave

If you are still on parental leave at the beginning of your maternity leave, you are entitled to a maternity allowance of € 13 per day as a member of a statutory health insurance fund. However, since you do not work during parental leave, your employer will not pay you any allowance.

If you become pregnant again during your parental leave, you should declare in writing to your employer that you will end your parental leave early at the beginning of the *Mutterschutzfrist*. Alternatively, you can interrupt your parental leave and, with the consent of your employer, add the remainder to your new parental leave. In both cases, you will receive the employer's maternity allowance.

The amount of the allowance is not based on the last three months before the start of the new maternity leave period in which you did not receive a salary due to the parental leave. The last three paid months before the start of the first maternity protection period are decisive. This means that you will receive your full net salary again. However, the employer must take the current income tax bracket into account when calculating the allowance. The allowance may therefore be lower if you have changed to a lower income tax bracket.

Mutterschaftsgeld in the event of permissible dismissal during pregnancy

If the employer has permissibly terminated the employment relationship during pregnancy or the protection period after childbirth, the *Bundesamt für Soziale Sicherung* pays maternity benefits. However, instead of € 13 a day, this is only € 210 once. However, the employer's allowance is just as high as for those with statutory insurance.

How to apply for *Mutterschutzgeld*?

For the application to the statutory health insurance, you need a certificate of the expected date of birth. From the 33rd week of pregnancy at the earliest, your gynecologist or midwife can issue you with a certificate of the expected date of delivery. You will receive one certificate free of charge for the health insurance fund and another for submission to your employer.

You then complete the copy for the health insurance fund with your personal details, your bank account details, details of your employment relationship and your employer, and your signature. Send the document to your health insurance company and the other certificate to your employer. The health insurance company will contact your employer and request a certificate of your salary. As soon as the health insurance company receives this, it will pay maternity benefits for the six weeks before the birth.

After the birth, you must submit the birth certificate to your health insurance fund. They will then transfer the maternity benefit for the eight weeks after the birth to your account.

If you are entitled to the reduced maternity benefit through the *Bundesamt für Soziale Sicherung*, you can also submit the application [online](#).

Can I work during the *Mutterschutzfrist*?

Pregnant women do not have to work in the last six weeks before giving birth, but they can work longer if they want to, according to the *Mutterschutzgesetz*. However, during the maternity protection period after giving birth, it is forbidden to work in order to protect the mother and the child.

What is the *Mutterschutzlohn*?

If pregnant employees are prohibited from working outside the general maternity protection period, their pay is regulated by the so-called *Mutterschutzlohn* (maternity protection wage).

The amount of *Mutterschutzlohn* and the *Still-Beschäftigungsverbot* correspond to the average salary for the last three calendar months prior to the start of pregnancy.

If the employment relationship does not begin until after the onset of pregnancy, the average salary is to be calculated from the salary of the first three months of employment.

If a permanent change in your wages occurred during this period, then the average is calculated from the changed wages.

The maternity protection wage is considered a normal wage and you must pay taxes and social security contributions, even for wage components that may previously have been tax-free, such as Sunday and holiday bonuses. As a result, the net *Mutterschutzlohn* may be lower than your previous net wage.

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If you have any further questions, simply contact us at

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