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Maternity rights and benefits: refugees

This is one of a series of information sheets which provide a guide to maternity rights and benefits for pregnant women and new mothers according to their immigration status. This information sheet covers:

- Employment-related maternity rights
- Benefits and tax credits
- Healthcare

Other information sheets cover rights and benefits for asylum seekers, refused (failed) asylum seekers, undocumented migrants, EU and EEA nationals (including A8 and A2), women with no recourse to public funds, and UK citizens and permanent residents.

Immigration status

A refugee is a person whose asylum claim has been successful. They may be granted refugee status with or without indefinite leave to remain, humanitarian protection or discretionary leave. Exceptional leave to remain is no longer granted.

Family members who were in the UK and named as dependants in the claim for asylum should be granted leave in line with the refugee's leave and have the same rights to remain in the UK and claim benefits as the refugee. The refugee's spouse, long-term partner and children under 18 can apply for entry to the UK under family reunion provisions. Family members admitted under these provisions have the same rights as the refugee. Other family members may also be eligible to apply for entry to the UK.

Employment rights

Refugees have the right to work in the UK from the date they were recorded as a refugee by the Secretary of State. They also have the same maternity-related employment rights as other UK residents.

Pregnant employees have the right to paid time off for antenatal care, protection from health and safety risks and the right not to be treated unfairly because of pregnancy or childbirth. Employees have the right to 52 weeks maternity leave from day one of their employment.

Statutory Maternity Pay (SMP) is paid by the employer for 39 weeks to women who meet the qualifying conditions.

Maternity Allowance (MA) is paid by the Job Centre Plus to women who do not qualify for SMP.

Casual or agency workers have the right to health and safety protection and the right not to be treated unfairly because of pregnancy or childbirth. They will also have the right to SMP or MA if they meet the qualifying conditions.

Fathers or partners (including same sex couples) who work are entitled to two weeks paternity leave and may qualify for two weeks' Statutory Paternity Pay or income support.

Benefits and tax credits

Refugees are entitled to claim benefits from the date they were recorded as a refugee by the Secretary of State. They do not have to satisfy the habitual residence or right to reside tests.

Anyone accepted as a refugee before 14 June 2007 can make a backdated claim for Income Support (IS), Housing Benefit (HB), Council Tax Benefit (CTB), Child Benefit (CB) and Child Tax Credit (CTC) to the date of their asylum application. This has now been abolished for IS, HB and CTB and replaced with a system of discretionary loans. CB and CTC can still be backdated.

Asylum seekers who are granted refugee status, humanitarian protection or discretionary leave have 28 days to move from asylum support to mainstream benefits and 28 days to leave Border Agency (UKBA) accommodation. Families with dependant children can remain in UKBA accommodation until suitable housing is found.

The Sure Start Maternity Grant (SSMG) is a one off payment of £500 to buy things for a new baby. It MUST be claimed from the 29th week of pregnancy or within 3 months after the birth. It can be claimed by a pregnant woman or her partner providing they are getting a qualifying benefit such as income support, income-based jobseekers allowance or child tax credit of at least the family element. It can also be claimed by a family member if they are receiving a qualifying benefit in respect of the mother, for example, if the mother is under 16, or under 19 and in education.

Child Benefit can be claimed by a refugee who is responsible for a child, regardless of whether the child lives with them. The child

must be living in the UK and have the right to reside here.

Child Tax Credit (CTC) can be claimed by refugees with children regardless of whether or not they are working. Couples must claim CTC together.

Health in Pregnancy Grant (HIPG) can be claimed for babies due on or after 6th April 2009. This is a one-off payment of £190 which can be claimed after the 25th week of pregnancy. The claimant must be present and ordinarily resident and have the right to reside here.

Housing Benefit and Council Tax Benefit (HB/CTB) are paid to refugees (and other people) on a low income, regardless of whether or not they are working, who need help paying rent and/or council tax.

Income Support is paid to refugees (and other individuals) on a low income who are not in full-time work. It may be claimed by single parents, a parent or partner on unpaid parental or paternity leave and a woman who is incapable of work because of pregnancy from the 29th week of pregnancy until 15 weeks after the birth.

Jobseekers Allowance (JSA) is paid to refugees (and other people) who are unemployed or employed for less than 16 hours a week and looking for full-time work. Contribution-based JSA is paid to those who have paid sufficient National Insurance (NI) contributions. Income-based JSA is means-tested.

How to obtain an NI number

In order to work and claim most benefits, a person must provide an NI number for themselves and anyone else they are claiming for, apart from a child.

An application for an NI number can be made at a local social security office and must be accompanied by sufficient documentary evidence of identity such as a passport, identity card, birth/marriage certificate or other Home Office or Border

Agency documents. It could also include a letter from a solicitor, doctor or advice worker, or a statement from someone who knows the applicant. A person can also be interviewed to establish whether an NI number can be issued. If an NI number is refused or benefit is refused because one of a couple does not have an NI number, they should seek legal advice.

Healthcare

Refugees are entitled to obtain NHS care free of charge. They are entitled to maternity care free of charge. They are entitled to apply for registration with a GP and attend GP appointment free of charge. For more information, see [Entitlement to free NHS maternity care for women from abroad](#).

Family members who are not refugees

In many cases, a refugee's family members will have the same rights to claim benefits as the refugee. However, where a family member is considered to be a 'person subject to immigration control', they are not entitled to Income Support, JSA, HB, HIPG, CTB, Child Benefit or social fund payments, subject to exceptions – see the information sheet for [UK Citizens and permanent residents](#). A 'person subject to immigration control' is a person who is not an EEA national and who requires leave to enter or remain, or has leave to enter or remain with a public funds restriction or is subject to a formal undertaking or is appealing an immigration decision.

Where one of a couple is a refugee (who is not regarded as a person subject to immigration control), the refugee can claim Income Support and JSA for themselves, Child Benefit (regardless of the child's immigration status) and tax credits. JSA can be claimed jointly by a couple. If one of the couple is subject to immigration control a claim can still be made but will be paid at the single rate, not the couple rate.

CTC can be claimed by families with children regardless of whether or not they are working. The claimant must be present and ordinarily resident and have a right to reside here. Where one of a couple is entitled to claim CTC, the claim is made as a couple and treated as if the couple are not subject to immigration control. The claimant can also claim for any children, regardless of their immigration status.

In some circumstances, claiming benefits considered to be 'public funds' may jeopardise the family member's right to remain in the country. Benefits considered to be public funds include, amongst others, Child Benefit, CTC, Working Tax Credit, CTB, HB, HIPG, Income Support, Income-based JSA and Social Fund payments including the Sure Start Maternity Grant.

Useful contacts

Acas

www.acas.org.uk

Information on rights at work - 08457 474747

UK Border Agency

www.bia.homeoffice.gov.uk

Immigration enquiry bureau - 0870 606 7766

Asylum support customer contact centre - 0845 602 1739

Child Poverty Action Group

www.cpag.org.uk

Advice on benefits and tax credits.

For advisors only - 020 7833 4627, any weekday from 2-4pm.

Citizen's Advice Bureau

www.adviceguide.org.uk

General help and advice. You can find your nearest CAB in the phone book.

Community Legal Advice

www.communitylegaladvice.org.uk

Legal advice and access to a legal adviser in your area 0845 345 4345.

Health in Pregnancy Grant Helpline

www.hmrc.gov.uk

0845 366 7885.

Refugee Legal Centre

www.refugee-legal-centre.org.uk

Legal advice and representation for refugees and asylum seekers - 020 7780 3200

Detention Line - 0800 592 398

Emergency Line - 07831 598057

Refugee Council

www.refugeecouncil.org.uk

Information and assistance for refugees and asylum seekers.

Head Office - 020 7346 6700

London Advice Line - 020 7346 6777

East of England – 01473 297 900

West Midlands – 0121 234 1950

Yorkshire and Humber – 0113 386 2210

Working Families

www.workingfamilies.org.uk

Advice on maternity rights and benefits.

Helpline 0800 013 0313.

Maternity Action is unable to provide advice on individual cases.

This information sheet was produced in May 2010. It is important to get up-to-date advice.

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More Maternity Action information sheets

[Maternity rights and benefits: asylum seekers](#)

[Maternity rights and benefits: refused \(failed\) asylum seekers](#)

[Maternity rights and benefits: no recourse to public funds](#)

[Maternity rights and benefits: undocumented migrants](#)

[Maternity rights and benefits: EU, EEA and Swiss nationals \(including A8 and A2\)](#)

[Maternity rights and benefits: indefinite leave, right of abode and British citizenship](#)

[Maternity rights and benefits: which information sheet to use](#)

[Pregnancy and maternity rights for Polish workers \(English language\)](#)

[Pregnancy and maternity rights for Polish workers \(Polish language\)](#)

[Rights at work for fathers and partners- Polish workers \(English language\)](#)

[Rights at work for fathers and partners – Polish workers \(Polish language\)](#)

[Entitlement to free NHS maternity care for women from abroad](#)

[Your rights at work](#) – a series of information sheets about your rights in the workplace

Available at www.maternityaction.org.uk