

# Chapter 62 - Maternity benefits

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# Chapter 62 - Maternity Benefits

## Matters common to statutory maternity pay and maternity allowance

### Introduction

62001 A woman may be entitled to receive

1. SMP or
2. MA

to help her give up work around the time her baby is due. Also, a woman who is a participating wife or civil partner of a S/E earner may be entitled to MA where their expected date of confinement is on or after 27.7.14 (see DMG 62701 et seq).

62002 Both SMP and MA are payable for a maximum period of 39 weeks. SMP is paid to the woman by her employer; MA is claimed from and paid by DWP. From 1.4.99 decisions on entitlement to SMP are made by HMRC. All MA issues are determined by the DM. However, MA is payable for a period of 14 weeks where a woman is a participating wife or civil partner of a S/E earner.

**Note:** From 1.12.14, women whose EWC is on or after 5.4.15 can curtail their 39 week MAP (see DMG 62566 et seq).

62003 Additional provision is made for certain maternity expenses to be met out of the Social Fund. Guidance on these Social Fund payments is in DMG Chapter 39.

62004 - 62010



# Definitions

## Meaning of week

62011 Except where DMG 62013 applies, for the purposes of SMP and MA, including MA for a participating spouse or civil partner of a S/E earner, a week is a period of seven days beginning with Sunday<sup>1</sup>.

*1 SS CB Act 92, s 122(1) & 171(1A)*

62012 Except where DMG 62013 applies, for SMP purposes a week may also be any other period prescribed in relation to any case or class of cases<sup>1</sup>.

*1 SS CB Act 92, s 171(1A)*

62013 For the purposes of deciding the period of the MAP and MPP (see DMG 62502 and 62553), a week is a period of seven days beginning with the day of the week on which the MAP or MPP begins<sup>1</sup>.

*1 SS CB Act 92, s 165(8)*

62014 - 62015

## Meaning of confinement

62016 Confinement is labour

1. resulting in the issue of a living child **or**
2. after 24 weeks of pregnancy resulting in the issue of a child whether alive or dead<sup>1</sup>.

**Note 1:** Where 2. applies the period is a full 24 weeks<sup>2</sup>.

**Note 2:** See DMG 62017 4. and 62020 for guidance where there is a stillbirth.

**Note 3:** This also applies to a participating spouse or civil partner of a S/E earner<sup>3</sup>.

*1 SS CB Act 92, s 35(6), s 171(1); 2 R(G) 4/56; 3 SS CB Act 92, s 35B(10)*

62017 The claimant must prove that she has been confined. Examples of satisfactory evidence of confinement are a

1. certificate of confinement given by a doctor or midwife
2. birth certificate
3. letter or statement signed by a responsible officer of a hospital or home in which the confinement took place
4. certificate of stillbirth issued by a registrar of births<sup>1</sup> (see 62020)
5. certificate to the effect that a woman was delivered of a dead foetus.

*1 Births and Deaths Registration Act 1952, s 11*

62018 The length of pregnancy is immaterial if it results in the birth of a living child. A child who has breathed, no matter for how short a time, is a living child. Conversely, a child who has not breathed is not a living child<sup>1</sup>.

*1 R(G) 3/51*

62019 If there was not a live birth, confinement can be accepted only if the pregnancy<sup>1</sup>

1. lasted for a full 24 weeks<sup>2</sup> or later **and**
2. resulted in the birth of a dead child.

*1 SS CB Act 92, s 35(6) & 35B(10); 2 R(G) 4/56*

62020 DMs should accept

1. a certificate of stillbirth issued by a registrar of births **or**
2. a certificate of registration issued by a doctor or midwife

as evidence of confinement after a full 24 weeks of pregnancy. Where either of these certificates is received no further evidence is required.

**Note:** Where neither of the certificates at **1.** and **2.** is received DMs should consider the guidance at DMG 62021 – 62025.

62021 Pregnancy is terminated otherwise than by confinement if, before a full 24 weeks of pregnancy have elapsed, it is terminated by anything other than the issue of a living child, for example by

1. miscarriage **or**
2. delivery of a dead foetus.

62022 Where a certificate states that the woman was delivered of a dead foetus, it should be accepted as a certificate of confinement provided the delivery occurred after the end of a full 24 weeks of pregnancy. If the foetus died before a full 24 weeks of pregnancy but it is delivered after a period of a full 24 weeks there has still been a confinement.

62023 The DM should note that when deciding whether labour has resulted in the issue of a dead child, the word child is given its ordinary and natural meaning. The important fact is whether the issue was recognizable as a child. If the certificate refers to anything other than a child or a foetus, for example carneous mole or hydatidiform mole, the case should be referred to Medical Services for advice.

62024 In deciding whether pregnancy has lasted for a full 24 weeks the DM must be guided by the medical evidence. When there is a conflict of medical opinion about the duration of a pregnancy, an opinion formed after its termination and based on an examination of the foetus is likely to be more accurate than an opinion based on the appearance of the uterus at examinations made during the pregnancy<sup>1</sup>.

*1 R(G) 12/59*



62025 Pregnancy is expected to last for 280 days (40 weeks) from the first day of the last menstrual period. The end of the period of a full 24 weeks is therefore 16 weeks (112 days) before the expected date of confinement. If, as a result of this calculation, disallowance would be appropriate because the length of pregnancy falls short of a full 24 weeks by one week or less, the case should be referred to Medical Services for advice.

### **Meaning of date of confinement**

62026 The date of confinement is the date on which the child is born or, where there is more than one child, the date on which the last child is born<sup>1</sup>.

**Note:** This also applies to a participating spouse or civil partner of a S/E earner<sup>2</sup>.

*1 SS CB Act 92, s 35(6) & 171(1); 2 s 35B(10)*

62027 - 62500



# Maternity allowance

## Introduction

62501 A woman who does not qualify for SMP may be entitled to MA instead<sup>1</sup>. Entitlement requires, among other things, the satisfaction of conditions about employment and earnings.

**Note:** See DMG 62701 et seq for guidance on MA for a participating spouse or partner of a S/E earner.

*1 SS CB Act 92, s 35*

62502 Although the MAP is a period not exceeding 52 weeks<sup>1</sup>, the actual period now specified is 39 weeks<sup>2</sup>. Where a claim is made in expectation of confinement and if a woman is in employment, the MAP may begin at anytime between the 11th week before the EWC and the day following the actual day of confinement<sup>3</sup>.

**Note:** A MAP can be curtailed (see DMG 62566 et seq).

*1 SS CB Act 92, s 35(2) & s 165(1); 2 SMP (Gen) Regs, reg 2(2);  
3 SS CB Act 92, s 165(2) & (3); SMP (Gen) Regs, reg 2(1)*

62503 The MAP for a woman who is confined before the start of the 11th week before the EWC will be the period of 39 weeks starting with the day following the actual day of confinement<sup>1</sup>.

*1 SMP (Gen) Regs, reg 2(3)*

62504 A woman is not entitled to MA for any week she is entitled to SMP for the same pregnancy<sup>1</sup>.

*1 SS CB Act 92, s 35(1)(d)*

## Provision of NINO

62505 For MA there is a requirement<sup>1</sup> for a claimant to provide sufficient information or evidence to establish their NINO. See DMG Chapter 02 for full guidance.

*1 SS A Act 92, s 1(1A) & (1B)*

62506 - 62510



# Certification

62511 A claim for MA must be supported by evidence of

1. pregnancy and the stage reached in the pregnancy where a claim is made in expectation of confinement<sup>1</sup> **or**
2. confinement where a claim is made following confinement<sup>2</sup>.

*1 SS (Med Ev) Regs, reg 2(3)(a); 2 reg 2(3)(b)*

62512 The evidence of pregnancy and the stage reached in the pregnancy should be

1. a maternity certificate given by a doctor or a midwife no earlier than 20 weeks before the EWC<sup>1</sup> **or**
2. any other evidence given by a doctor or a midwife which is accepted as sufficient by the DM<sup>2</sup>.

*1 SS (Med Ev) Regs, reg 2(3) & Sch 2, Parts I & II; 2 reg 2(3)*

62513 When considering claims for MA made in expectation of confinement the evidence of pregnancy and the stage reached in the pregnancy should usually be a maternity certificate (Mat B1). It is only exceptionally that the DM should accept any other form of evidence from a doctor or midwife.

**Note:** See DMG 62017 for guidance on evidence of confinement.

62514 - 62519



## Conditions of entitlement

62520 A woman is entitled to MA provided she satisfies the conditions<sup>1</sup> that she

1. is pregnant **and**
  - 1.1 has reached the 11th week before the EWC **or**
  - 1.2 was confined before reaching the 11th week before the EWC **and**
2. satisfies the employment condition (see DMG 62521 - 62522) **and**
3. satisfies the earnings condition (see DMG 62526) **and**
4. is not entitled to SMP for the same week and the same pregnancy.

**Note 1:** See DMG 62711 for guidance on conditions of entitlement for a participating wife or civil partner of a S/E earner.

**Note 2:** A MPP can be curtailed in the same way as a MAP (see DMG 62566 et seq). However, a woman who curtails her MPP will **not** be entitled to MA for any week she would have received SMP if she had not curtailed her MPP<sup>2</sup>.

*1 SS CB Act 92, s 35(1); 2 s 35(3E)*

## Employment condition

62521 The employment condition is that the claimant has been engaged in employment as an employed or S/E earner for at least 26 weeks in the 66 weeks immediately before the EWC. This 66 week period is known as the test period. A week means a whole week or any part of a week<sup>1</sup>. For employed earners, this is satisfied as long as a contract of employment exists<sup>2</sup>.

**Note 1:** An employed earner is a person who is gainfully employed in GB either under a contract of service, or in an office (including elective office) with general earnings<sup>3</sup>.

**Note 2:** A S/E earner is a person who is gainfully employed in GB otherwise than in employed earner's employment (even though a person may also be employed as an employed earner)<sup>4</sup>.

**Note 3:** Voluntary Class 2 contributions paid in respect of periods of work outside the EEA do **not** count towards satisfying the employment condition (see DMG Chapter 07 for guidance where such contributions are paid in respect of periods of work in the EEA and DMG 62543 - 62544 for guidance where Class 2 contributions are paid after the decision on a claim).

*1 SS CB Act 92, s 35(1)(b); 2 R(U) 5/83; 3 SS CB Act 92, s 2(1)(a);  
Income Tax (Earnings and Pensions) Act 2003, s 7(3); 4 SS CB Act 92, s 2(1)(b)*

62522 A woman who is on statutory maternity leave is in gainful employment, so that DMG 62521 is satisfied, even if that maternity leave is unpaid. This is because the woman

1. continues to have contractual rights other than pay pertaining to her employment such as membership of any pension scheme she belongs to during unpaid leave **and**
2. can accrue paid holidays.

However, a woman who is on unpaid leave for another reason (for example a career break) is not engaged in employment.

### **Employed earners**

62523 For employed earners confirmation that the employment condition is satisfied can be sought from the employer.

### **Self-employed earners**

62524 Before 6.4.15 a S/E earner, aged over 16, was liable to pay a Class 2 contribution for each week of self-employment unless they were the holder of a small earnings exception certificate. From 6.4.15 Class 2 contributions are collected through income tax self assessment<sup>1</sup>. However, for MA purposes Class 2 contributions can be paid early<sup>2</sup>. Also, small earnings exception certificates were abolished. Those changes apply to women with an EWC beginning on or after 12.7.15<sup>3</sup>. In addition, a S/E earner is legally required to notify HMRC of the date they become, or cease to be, S/E<sup>4</sup>.

*1 SS CB Act 92, s 11; 2 SS (Conts) Regs 01, reg 90ZA; 3 National Insurance Contributions Act 2015, Sch 1, para 35; 4 SS (Conts) Regs 01, reg 87 & 87A*

62525 Their involvement in employment in the test period can be corroborated by checking their NI record. Where not corroborated in that way, the woman should be asked to confirm when she registered as S/E with HMRC.

62526 A person who is

1. employed as a S/E earner **or**
2. treated as being a S/E earner

is treated as continuing in that self-employment until they are no longer ordinarily employed in it<sup>1</sup>.

*1 Social Security (Categorisation of Earners) Regulations 1978, Sch 2*

### **Earnings condition**

62527 The earnings condition determines the rate of the MA payable and is based on the gross earnings the woman receives during the test period. S/E women may be treated as having notional earnings (see DMG 62539).

62528 The woman's average weekly earnings must be equal to or above the MA threshold<sup>1</sup>. The MA threshold is a prescribed amount which may be increased each tax year<sup>2</sup>.

*1 SS CB Act 92, s 35(1)(c); s 35(6A); 2 s 35(6B)*



62529 Earnings are averaged over 13 weeks in the test period. Women can choose which 13 weeks are best for them. The 13 weeks may be separate or consecutive<sup>1</sup>. Earnings from employment and notional earnings can be used. The 13 week average will only apply if there are at least 13 weeks earnings or notional earnings in the test period.

*1 SS (MA) (Earnings) Regs, reg 6(1)*

62530

### **Rate of MA**

62531 The weekly rate of MA is the lesser of the standard rate of MA or 90% of the woman's average weekly earnings<sup>1</sup>.

**Note:** See DMG 62716 for guidance on the rate of MA for a participating spouse of civil partner of a S/E earner.

*1 SS CB Act 92, s 35A(1); SMP (Gen) Regs, reg 6*

62532 Women who qualify for MA at a lower rate than IB or ESA(Cont), and who satisfy the contributions for IB or ESA(Cont), are entitled to an IB or ESA(Cont) top-up for the full 39 weeks MAP (see DMG 62502). No separate claim form for IB or ESA(Cont) is required<sup>1</sup> (see DMG Chapter 02). Waiting days will apply in all cases where the woman is entitled to IB or ESA(Cont).

*1 SS (C&P) Regs, Sch 1*

62533 This is due to days of entitlement to MA (i.e. days within the MAP) being treated as days of IfW<sup>1</sup> or LCW<sup>2</sup>.

*1 SS CB Act 92, s 30C(2); 2 ESA Regs, reg 20(e)*

### **Calculating earnings of employees**

62534 Average weekly earnings are the average weekly amount of payments made to a woman or for her benefit when she was an employed earner<sup>1</sup>. This includes

1. any amount retrospectively treated as earnings<sup>2</sup> (see DMG 62537)
2. payments of arrears of pay where a woman is re-instated or re-engaged because of an order under employment legislation<sup>3</sup>
3. payments made under employment legislation for the continuation of a contract of employment<sup>4</sup>
4. a protective award for employees made redundant or to be dismissed as redundant<sup>5</sup>
5. any sum payable by way of SSP (this includes payments made by HMRC rather than the employer<sup>6</sup>)
6. any sum payable by way of SMP (this includes payments made by HMRC rather than the employer<sup>7</sup>)

7. any sum payable by way of statutory paternity pay (this includes payments by HMRC rather than the employer<sup>8</sup>)
8. any sum payable by way of statutory adoption pay (this includes payments by HMRC rather than the employer<sup>9</sup>)
9. any sum payable by way of statutory shared parental pay (this includes payments by HMRC rather than the employer<sup>10</sup>).

*1 SS CB Act 92, s 35A(4); SS (MA) (Earnings) Regs, reg 2(1); 2 SS CB Act 92, s 4B(2); 3 ER Act 96, s 114 & 115; 4 s 129; 5 Trade Union and Labour relations (Consolidation) Act 1992; 6 SS CB Act 92, s 151(6); 7 s 164(9)(b); 8 s 171ZD(3); 9 s 171ZM(3); 10 s 171ZX(3)*

## **Payments to be disregarded**

- 62535 Payments to be disregarded are those payments of earnings disregarded when calculating liability to NI contributions<sup>1</sup>.

*1 SS (MA) (Earnings) Regs, reg 2(2); SS (Conts) Regs, reg 25, 27 & 103 & Sch 3*

## **Backdated pay awards**

- 62536 Any payment received after the end of the specified period which includes a sum in respect of any week falling within that period, should be included in the earnings calculation<sup>1</sup>.

*1 SS (MA) (Earnings) Regs, reg 6(2)*

## **Payments to directors of limited companies**

- 62537 A limited company of whatever size is legally distinct from its employees, officers and shareholders<sup>1</sup>. The profits of the company do not belong to its directors. A director of a limited company may be an employee or an office holder<sup>2</sup> of the company and as such is in either case an employed earner<sup>3</sup> for NI contributions purposes. Payments made by a company to a director are earnings for MA purposes<sup>4</sup>.

*1 R(SB) 57/83; 2 McMillan v. Guest 1942, AC 561; 3 SS CB Act 92, s 2(1)(a); 4 SS (MA) (Earnings) Regs, reg 2(1)*

- 62538 Where a woman director is liable to pay NI contributions on money advanced as a loan, that advance will be earnings for MA purposes<sup>1</sup>. The DM should liaise with HMRC to confirm the NI contribution position in such cases.

*1 SS (MA) (Earnings) Regs, reg 2(1)(za); SS (Conts) Regs 01, reg 22(2)*

## Calculating earnings of the self-employed – EWC before 12.7.15

62539 For an EWC before 12.7.15, a S/E earner is treated as earning an amount

1. 90% of which equals the standard rate of MA in force at the end of the week covered by a Class 2 contribution and a small earnings exception certificate is not held for the same week<sup>1</sup> **or**
2. equal to the MA threshold in force on the last day of each week covered by a small earnings exception certificate<sup>2</sup>.

*1 SS (MA) (Earnings) Regs, reg 3(a) (as then in force); 2 reg 3(b) (as then in force)*

### Example 1

A woman who has paid class 2 contributions only throughout the 13 week period earnings period will receive the standard rate of MA: she is deemed to have earnings, 90% of which equals the standard rate of MA in force in that week. From 7.4.14 the standard rate of MA is £138.18. Therefore deemed earnings are  $(£138.18 \times 10 \div 9) = £153.33$ . The woman would accordingly be entitled to the standard rate of MA as 90% of £153.33 is £138.18.

### Example 2

A S/E woman satisfies the employment test. She has low earnings and holds a small earnings exception from the payment of NI contributions, for the specified period. She is therefore treated as having earnings equal to the MA threshold. If the MA threshold is £30 a week, she would receive MA at 90% of £30. She would receive £27 a week for up to 39 weeks.

## Calculating earnings of the self-employed – EWC before on or after 12.7.15

62540 For an EWC on or after 12.7.15<sup>1</sup>, a S/E earner is treated as earning an amount

1. 90% of which equals the standard rate of MA in force at the end of the week covered by a Class 2 contribution<sup>2</sup> **or**
2. equal to the MA threshold where 1. does not apply<sup>3</sup>.

*1 Social Security (Maternity Allowance) (Earnings) (Amendment) Regulations 2015, reg 1(2); 2 SS (MA) (Earnings) Regs, reg 3(a); 3 reg 3(b)*

62541 Therefore, if a S/E earner has paid<sup>1</sup> at least 13 Class 2 contributions in the test period, she will receive MA at the rate in DMG 62540 1.. However, if a S/E earner could have paid but has not paid<sup>2</sup> at least 13 Class 2 contributions in the test period, she will receive MA at the rate in DMG 62540 2..

*1 SS CB Act 92, s 35A(5)(c)(i); 2 s 35A(5)(c)(ii)*

## **Volunteer development worker**

62542 A woman who pays class 2 contributions as a volunteer development worker during her absence from GB

1. satisfies the employment condition **and**
2. is entitled to MA at the rate as in DMG 62539 1. or DMG 62540 1..

## **Payment of class 2 contributions after decision on claim – EWC before 12.7.15**

62543 Where a claimant makes a payment of class 2 contributions after a decision has been made on her claim, the DM should check the period for which those contributions have been allocated with HMRC. If HMRC confirm that the contributions have been allocated for a period up to the date of the decision, the DM should revise that decision<sup>1</sup>. However, if HMRC confirm that the contributions have been allocated for a period after the date of the decision the claimant would have to make a new claim for entitlement to be considered.

**Note:** See DMG Chapter 03 for guidance on revision.

*1 SS CS (D&A) Regs, reg 3(8C)(a)(ii)*

### **Example 1**

Tanya makes a claim for MA. On 2.8.10 the DM decides that Tanya is not entitled to MA because the earnings test is not satisfied. On 23.9.10 Tanya notifies the DM that she has made a payment of class 2 contributions. HMRC confirm that the contributions were allocated for 2009/10 tax year. The DM revises the decision of 2.8.10 and awards MA.

### **Example 2**

Jackie makes a claim for MA. On 1.4.10 the DM decides that Jackie is not entitled to MA because the earnings test is not satisfied. On 22.12.10 Jackie notifies the DM that she has made a payment of class 2 contributions. HMRC confirm that the contributions were allocated for a period from 6.4.10. The DM does not revise the decision of 1.4.10.

## **Payment of class 2 contributions after decision on claim – EWC on or after 12.7.15**

62544 If

1. the DM makes a decision to award MA at the rate in DMG 62540 2. **and**
2. the claimant subsequently makes a payment so that she has paid at least 13 contributions in the test period

3. the DM should revise the original decision and award MA at the rate in DMG 62540 1..

**Note:** See DMG Chapter 03 for guidance on revision.

### **Employed in more than one employment or self-employment**

62545 Earnings from more than one employment or self-employment, either in the same or different weeks in the test period, can be added together to calculate the average weekly earnings<sup>1</sup>.

*1 SS (MA) (Earnings) Regs, reg 4(1)*

#### **Example 1**

A S/E woman claims MA and satisfies the employment test. Her EWC is 29.4.07. She held a small earnings exception certificate throughout her test period. She also has a P/T job working for an employer and earns £65 a week. She started on 7.1.07 and works every other week.

Her chosen 13 week earnings period is from 7.1.07 to 7.4.07. She is deemed to have earnings of an amount equal to the MA threshold because she holds a small earnings exception certificate and she has earnings from employment for seven weeks at £65 a week. So, for those seven weeks she has total earnings in each week of £95 (£65 earnings plus £30 deemed) and for the remaining six weeks of her chosen 13 weeks she has deemed earnings of £30 each week. All earnings are added together (a total of £845) and divided by 13 to arrive at her average weekly earnings.

She has average weekly earnings of £65, as this is below the amount needed for the standard rate of MA, the woman will receive 90% of her average weekly earnings. MA will be paid at £58.50.

#### **Example 2**

A woman satisfies the employment test by a mixture of employed and self employment. In her chosen 13 week earnings period, she has paid Class 2 contributions for the first seven weeks. She also had earnings of £250 per week for the remaining six weeks.

7 weeks (Class 2 standard rate MA  $\text{£}138.75 \times 10 \div 9$ )  $\text{£}153.33 \times 7 = \text{£}1073.31$

6 weeks  $\times \text{£}250 = \text{£}1,500$

Total  $\text{£} 2,573.31 \div 13 = \text{£}197.95$

As her earnings are more than £153.18, she will receive the standard rate of MA from 7.4.14 of £138.18.

### **Paid other than weekly**

62546 Where a woman is paid in multiples of a week, divide those earnings by the number of weeks covered by the payment.

62547 Where a woman is not paid weekly, the weekly earnings are calculated by dividing the payments made to her by the nearest whole number of weeks in the period in respect of which she is paid<sup>1</sup>. The number of weeks used to divide payments may not be the same as the number of weeks covered by the payment. This is because the payment may cover part weeks at the beginning and end of the period. For the purpose of deciding the number of weeks covered by a payment, a week is a period of seven days beginning with Sunday<sup>2</sup>.

*1 SS (MA) (Earnings) Regs, reg 6(3); 2 SS CB Act 92, s 122(1)*

62548 The following examples show

1. how payments are divided where the odd days are
  - 1.1 three or less **or**
  - 1.2 four or more **and**
2. the number of weeks covered by the payment.

#### **Example 1**

Joanne is monthly paid and receives a payment of £400 from her employer on 30.9.07. This payment is for the period 1.9.07 - 30.9.07, and therefore covers 30 days. In order to establish a weekly figure, 30 is divided by seven, which gives four weeks and two days. Her payment of £400 is divided by four, as this is the nearest number of whole weeks. Joanne is treated as having weekly earnings of £100 for six weeks for the purposes of the specified period. This is because September 2007 consists of six weeks, as part weeks are included.

#### **Example 2**

Becky receives a payment of £600 from her employer which covers payment for a period of 39 days from 1.3.07 - 8.4.07. The 39 days are divided by seven to give five weeks and four days. In order to establish the weekly amount, the £600 is divided by six, as this is the closest number of whole weeks. Becky is treated as having weekly earnings of £100 for seven weeks of the specified period. This is because the period 1.3.07 - 8.4.07 consists of 7 weeks, as part weeks are included.

#### **Example 3**

Anisa receives a payment of £800 from her employer on 30.4.07. This is payment for 1.4.07 - 30.4.07. The 30 days are divided by seven, which gives four weeks and two days. The £800 is divided by four, thus giving a weekly amount of £200. Anisa is treated as having five weeks payments of £200 for the purposes of the specified period. This is because the month of April consists of five weeks when part weeks are included.

62549 Where consecutive periods of earnings are used, a payment may cover more than one period. When this happens only the highest amount is used.

### **Example**

Karen is paid monthly. On 30.4.07 she receives £1,000 for the period 1.4.07 - 30.4.07 and on 31.5.07 she receives £1,200 for the period 1.5.07 - 31.5.07. The payment for April 2007 is for 30 days and is divided by seven, which gives four weeks and two days. The £1,000 is divided by four, the nearest number of whole weeks, giving a weekly amount of £250. Karen is therefore treated as having weekly earnings of £250 for five weeks because April 2007 has five weeks when part weeks are included. The payment for May 2007 is for 31 days and is divided by seven, which gives four weeks and three days. The £1,200 is divided by four, the nearest number of whole weeks, giving a weekly amount of £300. Karen is therefore treated as having weekly earnings of £300 for five weeks because May 2007 has five weeks when part weeks are included. However, the payments for both April 2007 and May 2007 cover week commencing 29.4.07. Therefore only the higher amount of £300 is used for this week.

### **Women who have worked abroad**

62550 A woman who has

1. been absent from GB **and**
2. returned to GB **and**
3. throughout her absence remained ordinarily resident in GB

is in certain circumstances treated as having been engaged in employment as an employed earner and as having received an amount of specified payments equal to the LEL<sup>1</sup> (see DMG Chapter 07 for full guidance).

**Note:** See DMG 62521 for guidance on voluntary payment of Class 2 contributions in respect of periods of work outside the EEA.

*1 SS (MA) (Work Abroad) Reg*

62551 - 62552





## Maternity allowance period

62553 MA is payable for the MAP which is the same as the MPP in SMP cases<sup>1</sup>. If a woman ceased employment or self-employment prior to the 11th week before the EWC the MAP starts with the 11th week before the EWC<sup>2</sup>. Otherwise, subject to the modifications in DMG 62560 - 62562, the MAP for a woman who is employed as an employed or S/E earner may begin at anytime between the 11th week before the EWC and the day following the actual day of confinement<sup>3</sup>. Within this period a woman's MAP starts with the earlier of the day

1. she has chosen for her payments to begin after she has stopped work to have her baby **or**
2. following the day on which she is confined<sup>4</sup>.

From 1.12.14<sup>5</sup>, women whose EWC is on or after 5.4.15 can curtail their 39 week MAP<sup>6</sup>.

**Note 1:** As long as a woman has stopped work to have her baby, her MAP can begin during a period of annual leave or while she is receiving holiday pay.

**Note 2:** See DMG 62721 et seq for guidance on period for MA is paid to a participating wife or civil partner of a S/E earner.

**Note 3:** See DMG 62566 et seq for guidance on when women can curtail their MAP.

*1 SS CB Act 92, s 35(2) & 165; 2 s 165(2); 3 s 165(3), SMP (Gen) Regs, reg 2(1); 4 reg 2(1); 5 MA (Curtilment) Regs, reg 1; 6 SPL Regs, reg 2(1); SSPP (Gen) Regs, reg 3(a)*

62554 Where a woman is absent from work wholly or partly because of pregnancy or confinement which is

1. on or after the beginning of the 4th week before the EWC **and**
2. not later than the day immediately following the day on which she is confined

the MAP begins on the day following the first complete day of absence from work because of pregnancy or confinement<sup>1</sup>.

*1 SMP (Gen) Regs, reg 2(4)*

62555 Where a woman leaves her employment

1. after the beginning of the 11th week before the EWC where this is before the start of the MAP **and**
2. not later than the day on which she is confined

the MAP begins on the day following the day on which she leaves<sup>1</sup>.

*1 SMP (Gen) Regs, reg 2(5)*

62556 There is no extension of the MAP where confinement occurs in any week later than the EWC.

## Time limit for claiming

62557 The prescribed time for claiming MA is three months beginning with any day of potential entitlement<sup>1</sup> (see DMG Chapter 02).

*1 SS (C&P) Regs, reg 19(2) & (3)*

## Death of the woman

62558 A woman who is entitled to MA ceases to be entitled if she dies before the beginning of the MAP. If she dies after the beginning, but before the end, of the MAP, MA is not payable for any week within the MAP which falls after the week in which she dies<sup>1</sup>. A week, in respect of weeks within the MAP, is the period of seven days beginning with the day of the week on which the MAP begins<sup>2</sup>.

**Note:** See DMG 62736 for guidance on death of a participating wife or civil partner of a S/E earner.

*1 SS CB Act 92, s 35(4); 2 s 35(2) & s 165(8)*

## Modification of the maternity allowance period

62559 There is no modification to the MAP where a claim to MA is made after confinement (see DMG 62560 - 62562 where modification is allowed).

62560 The MAP for a woman who stops working before the 11th week before the EWC is the period of 39 weeks beginning with the 11th week before the EWC. For this purpose a woman should not be regarded as having stopped work if she is absent from work due to illness, but has not yet ceased work in expectation of confinement (unless DMG 62553 - 62555 applies).

62561 However a woman who is not entitled to MA at the 11th week before the EWC can qualify by utilising a period of employment and earnings paid for weeks after the start of the 11th week before the EWC. The MAP for such a woman is a period of 39 weeks starting

1. no earlier than the day she becomes entitled to MA **and**
2. no later than the day following the day on which she is confined<sup>1</sup>.

*1 SS (MA) Regs, reg 3(2A)*

62562 The MAP for a woman who is confined more than 11 weeks before the EWC is a period of 39 weeks which starts on the day following the day on which she is confined<sup>1</sup>.

*1 SMP (Gen) Regs, reg 2(3)*

## Entitlement to maternity allowance for more than one maternity allowance period

62563 A woman may be entitled to MA in more than one MAP. Where this is the case, the woman's MA is adjusted<sup>1</sup>.

**Note:** See DMG Chapter 17 for guidance on overlapping benefits and adjustment.

*1 SS (OB) Regs, reg 4(1) & (5)*

62564 – 62565

## Maternity allowance period curtailment

62566 From 1.12.14<sup>1</sup>, women whose EWC is on or after 5.4.15<sup>2</sup> can curtail their MAP to enable their partner to take

1. SSPP<sup>3</sup> (see DMG 62568) **or**
2. SPL<sup>4</sup> (see DMG 62569)

**Note:** A claimant's spouse; civil partner or her child's biological father does not have to be living with her. All other nominated partners **must live** with the claimant and her child in an enduring family relationship<sup>5</sup>.

*1 MA (Curtailment) Regs, reg 1; 2 Shared Parental Leave Regulations 2014, reg 2(1);  
Statutory Shared Parental Pay (General) Regulations 2014, reg 3(a);  
3 SS CB Act 92, s 171ZU; 4 ER Act 96, s 75E; 5 MA (Curtailment) Regs, reg 2*

## Meaning of maternity allowance period curtailment date

62567 Unless DMG 62574 or 62579 apply, the MAP curtailment date is the date specified in the MAP curtailment notification<sup>1</sup>.

**Note:** See DMG 62571 et seq for guidance on the MAP curtailment notification.

*1 MA (Curtailment) regs, reg 2*

## Maternity allowance period curtailment – statutory shared parental pay

62568 A woman's MAP ends on the MAP curtailment date if

1. she gives a MAP curtailment notification<sup>1</sup> **and**
2. her partner
  - 2.1 satisfies the employment and earnings conditions in order to be entitled to SSPP<sup>2</sup> **and**
  - 2.2 shares the main responsibility for the care of the child with her **and**
  - 2.3 qualifies for SPL **and**

3. she
  - 3.1 satisfies employment and earnings conditions relating to her partner **and**
  - 3.2 is entitled to MA<sup>3</sup>.

**Note:** A MAP curtailment notification can be revoked (see DMG 62576 et seq).

*1 MA (Curtailment) Regs, reg 3(a); 2 reg 3(b); SSPP (Gen) Regs, reg 5(2)(a);  
3 MA (Curtailment) Regs, reg 3(c); SSPP (Gen) Regs, reg 5(3)(b) & (c)*

### **Maternity allowance period curtailment – shared parental leave**

62569 A woman's MAP ends on the MAP curtailment date if

1. she gives a MAP curtailment notification<sup>1</sup> **and**
2. her partner satisfies the employment condition for SPL<sup>2</sup> **and**
3. she
  - 3.1 satisfies employment and earnings conditions **and**
  - 3.2 is entitled to MA<sup>3</sup>.

**Note:** A MAP curtailment notification can be revoked (See DMG 62576 et seq)

*1 MA (Curtailment) Regs, reg 4(a); 2 reg 4(b); SPL Regs, reg 5(2)(a);  
3 MA (Curtailment) Regs, reg 4(c); SPL Regs, reg 5(3)(a) & (c)*

62570

### **Maternity allowance period curtailment notification**

62571 A MAP curtailment notification must

1. be given to the Secretary of State **and**
2. specify the date on which a woman wants her MAP to end<sup>1</sup> (see DMG 62572)

*1 MA (Curtailment) Regs, reg 5(1)*

62572 For the purposes of DMG 62571 **2.**, the date specified must be

1. the last day of a week<sup>1</sup> **and**
2. at least one day after the end of the compulsory maternity leave period (see DMG 62573) if a woman has a right<sup>2</sup> to ordinary maternity leave<sup>3</sup> **and**
3. at least two weeks after the end of her pregnancy<sup>4</sup> if a woman does not have a right in **2.** **and**
4. at least eight weeks after a woman gives a MAP curtailment notification<sup>5</sup> (unless the DM decides it is appropriate for this not to apply<sup>6</sup>) **and**
5. at least one week before the last day of a woman's MAP<sup>7</sup>.

**Note 1:** For the purpose of **1.** a week is a period of seven days beginning with the day of the week on which the MAP begins<sup>8</sup>.

**Note 2:** The date specified does **not** have to be the same date on which a woman returns to work. However, it can be a date after a woman's partner has taken SSPP or SPL.

*1 MA (Curtilment) Regs, reg 5(2)(a); 2 reg 5(2)(b); 3 ER Act 96, s 71; 4 MA (Curtilment) Regs, reg 5(2)(b); 5 reg 5(2)(c); 6 reg 5(3); 7 reg 5(2)(d); 8 reg 5(6); SS CB Act 92, s 165(8)*

### **Example 1**

Person A is receiving MA. She and her partner, Person B, decide that Person B will take 9 weeks SSPP. This is agreed with Person B's employer. Person A notifies the Secretary of State that she will curtail her MA at the end of her 30<sup>th</sup> week of payment. Her MAP ends on that date.

### **Example 2**

Person A is receiving MA. She and her partner, Person B, decide that Person B will take 32 weeks SPL. Person A notifies the Secretary of State that she will curtail her MA at the end of her 20<sup>th</sup> week of payment. Person B starts his SPL before that date. However, that does not effect when Person A's MAP will end.

62573 The compulsory maternity leave period is

1. two weeks<sup>1</sup> **or**
2. if a woman works in a factory, 4 weeks<sup>2</sup>

after childbirth. For the purposes of DMG 62572 **2.** the end of the compulsory maternity leave period is the later of the last day of those periods<sup>3</sup>.

*1 Maternity and Parental Leave etc. Regulations 1999, reg 8; 2 Public Health Act 36, s 205;  
3 MA (Curtilment) Regs, reg 5(4)*

62574 Where a woman

1. returns to work before giving a notification in accordance with DMG 62571  
**and**
2. subsequently gives such a notification

the MAP curtailment date is the last day of the week in which that notice is submitted. This is irrespective of the date given in that notice<sup>1</sup>. A woman is treated as returning to work<sup>2</sup> when she is disqualified for receiving MA<sup>3</sup> in accordance with DMG 62592 et seq.

*1 MA (Curtilment) Regs, reg 5(5); 2 reg 5(7); 3 SS (MA) Regs, reg 2(1)*

62575

## Revoking maternity allowance period curtailment notification

62576 A woman may revoke a MAP curtailment notification before the MAP curtailment date if

1. she
  - 1.1 provided the MAP curtailment notification before her child's birth<sup>1</sup> **and**
  - 1.2 has not returned to work **and**
  - 1.3 has not reached the end of her MAP **or**
2. her partner dies<sup>2</sup>.

*1 MA (Curtailment) Regs, reg 6(1)(a); 2 reg 6(1)(b)*

62577 A woman makes a revocation in accordance with DMG 62576 by giving a revocation notification to the Secretary of State

1. within six weeks of her child's birth where the revocation notification is given as in DMG 62576 **1. or**
2. within a reasonable period from the date of her partner's death<sup>1</sup>.

*1 MA (Curtailment) Regs, reg 6(2)*

62578 A revocation notification must

1. state that a woman revokes the MAP curtailment notification **and**
2. where DMG 62576 **2.** applies, state the date of her partner's death<sup>1</sup>.

*1 MA (Curtailment) Regs, reg 6(3)*

62579 A woman may not give a MAP curtailment notification after she has given a revocation notification for the same MAP unless the revocation<sup>1</sup> was made in accordance with DMG 62576 **1..**

*1 MA (Curtailment) Regs, reg 6(4)*

62580

## Pregnancy related illness

62581 The pregnancy related sickness trigger for SSP<sup>1</sup> and IB is reduced from six weeks to four weeks for all women with an EWC of 6.4.03 or later. Therefore, if a woman is absent from work wholly or partly due to pregnancy or confinement, after the beginning of the fourth week before her EWC, the MAP will start on the day following her first day of absence from work for that reason.

### Example

EWC 27.4.03

Fourth week before the EWC 30.3.03

A woman works Monday to Friday and has been absent from work for a pregnancy related illness since Friday 21.3.03 and receives SSP. Her illness continues into the fourth week before the EWC and will therefore trigger the start of the MAP.

The first complete day of absence on or after the start of the fourth week is Monday 31.3.03, therefore the day following the first day of absence will be Tuesday 1.4.03, the start of the MAP. SSP will continue until 31.3.03.

*1 SMP (Gen) Regs, reg 2(4)*

- 62582 In deciding whether absence from work is wholly or partly due to pregnancy or confinement the DM should consider the following points
1. decide the question on the available evidence from the claimant, GP, and Medical Services guidelines
  2. if there is still doubt Medical Services can be asked to collect and interpret medical evidence but will not examine the woman at this stage
  3. if a woman appeals against the decision to award MA, Medical Services can be asked to collect and interpret medical evidence. This may include an examination provided that the woman has agreed in writing to this possibility.





## Changing a decision when the expected date of confinement is altered

62583 When the claimant has never in fact been pregnant, the decision to award may be revised at any time. Where the confinement is, or was expected on, a date different from that on which the award was based, the DM should revise or supersede as appropriate.

**Note:** See DMG Chapter 03 for guidance on revision and DMG Chapter 04 for guidance on supersession.

62584 A decision disallowing a claim made in expectation of confinement may be revised, but not superseded. If the claimant applies outside acceptable time limits, a fresh claim is necessary.

62585 A claim can still be revised or superseded even if the claimant was confined before the further evidence of the EWC became known to the DM. However, where a confinement actually took place in a week different from the expected week, the decision would not be changed.

62586 Where a fresh medical opinion about the expected date of confinement is given after the date of the DM's decision, the original decision may only be changed where

1. the opinion is based on facts which were not known at the time of the DM's decision **or**
2. facts known by the DM were not known to the doctor on whose evidence the decision was based.

The DM should consider the relevant time limits for applications for revision. If the claimant was not entitled originally, and has applied outside acceptable time limits, a fresh claim is necessary.

62587 Overpayments arising from revised decisions may be recoverable in accordance with relevant provisions (see DMG Chapter 09).



## Disqualifications

- 62588 A woman may be disqualified for receiving MA if she
1. is absent from GB (see DMG Chapter 07)
  2. is detained in legal custody (see DMG Chapter 12)
  3. works during the period for which MA is payable<sup>1</sup> (see DMG 62592 et seq)
  4. fails without good cause to attend for or submit to medical examination<sup>2</sup> (see DMG 62621 et seq).

**Note 1:** Before 23.2.15 a woman could be disqualified for receiving MA if she failed without good cause to observe the prescribed rules of behaviour.

**Note 2:** See DMG 62731 et seq for guidance on disqualifications for a participating wife or civil partner of a S/E earner.

*1 SS (MA) Regs, reg 2(1); 2 reg 2(7)*

62589 - 62591

## Work done during the maternity allowance period

- 62592 A woman will not be entitled to receive MA if she works as an employed or S/E earner for more than ten days in the MAP. Those ten days do not have to be consecutive<sup>1</sup>.

*1 SS (MA) Regs, reg 2(1)*

- 62593 Where DMG 62592 applies, if a woman works for more than ten days, she is not entitled to receive MA for any part of the MAP reasonable in the circumstances<sup>1</sup>.

*1 SS (MA) Regs, reg 2(2)*

- 62594 For the purposes of DMG 62592 - 62593 the work includes work as an employed or S/E earner a woman does in her own home. However, housework does not count for this purpose. Receipt of salary or wages (but not SMP) during the period of receipt of MA, such as paid maternity leave, is not a ground for disqualification.

- 62595 However, if a woman entitled to MA has worked as an employed or S/E earner the DM must disqualify her from MA in accordance with DMG 62596 et seq.

## Period of disqualification

- 62596 If a woman works for more than ten days during her MAP the DM must decide the period of disqualification. The DM must consider what disqualification might be reasonable based on the particular facts and circumstances of each case. However, once a woman has worked for ten days, the number of days for which a disqualification is imposed must be at least for the number of days she then works.

### **Example 1**

Alison's MAP ends on 25.6.11. On 9.2.11 she goes to work and will continue to work every Wednesday only during her MAP. There is no disqualification for the first ten days Alison works (every Wednesday from 9.2.11 to 13.4.11). The DM then considers the period of disqualification. As Alison worked five days a week before her MAP and has returned to work for one day a week, the DM decides it is reasonable that she is disqualified for receiving MA only for the days worked (every Wednesday from 20.4.11 to 22.6.11).

### **Example 2**

Jennifer's MAP ends on 17.9.11. On 6.6.11 she returns to work and will continue to work every Monday and Tuesday, her work pattern before her confinement, during her MAP. There is no disqualification for the first ten days Jennifer works (every Monday and Tuesday from 6.6.11 to 5.7.11). The DM then considers the period of disqualification. As Jennifer has returned to her normal working pattern, the DM decides it is reasonable that she is disqualified for receiving MA from 6.7.11 for the rest of her MAP.

### **Example 3**

Ola's MAP ends on 5.11.11. On 5.7.11 she returns to work and will continue to work every Tuesday, Wednesday and Thursday during her MAP. Before her confinement, Ola worked 5 days a week. Her hours worked each day have not changed. There is no disqualification for the first ten days Ola works (5.7.11 – 26.7.11). The DM then considers the period of disqualification. As Ola's working pattern has changed **and** she works less hours, the DM decides it is reasonable that she is disqualified for receiving MA from 27.7.11 only for the days worked.

62597 If the claim has been decided and the woman has received a payment of MA before it is known that she worked for more than ten days within the MAP, the DM should supersede the original decision and disqualify her for the appropriate number of days or whole weeks within the MAP. This disqualification may relate to a period partly retrospective (including the days on which the woman worked) and partly prospective. Where MA has been overpaid the DM should make a decision as to the recovery and amount of overpayment (see DMG Chapter 09).

**Note:** See DMG Chapter 04 for guidance on supersession.

### **Example**

Sabrina is awarded MA for the period 4.4.11 – 1.1.12. On 30.9.11 she states that she started work on 1.9.11 and had received a month's salary on that day. There was no indication that she intended to cease work before the end of the MAP. However, the DM established that she worked five days a week. The DM

supersedes the decision so that the claimant is disqualified for receiving MA from 15.10.07 - 30.12.07.

62598 Where a woman has been disqualified for receipt of MA because she has worked for more than ten days in her MAP but later submits evidence that she has

1. had to stop work **or**
2. become unemployed

the DM can supersede the disqualification decision on the ground that there has been a relevant change of circumstances since that decision was given, and award MA from the day following that on which the woman ceased work within the MAP.

62599 Where the DM decided that the woman is not entitled for a period of less than a week, it may be necessary to calculate the daily rate of the allowance. The daily rate of MA is one-seventh of the weekly rate<sup>1</sup>.

*1 SS CB Act 92, s 35(5)*

### **Days of work not specified**

62600 If a woman is unable to specify the particular days on which she has worked, and there is no evidence to establish them, the DM should estimate the number of days on which she has worked on the available evidence. Where the number of days worked is estimated to be more than ten the DM should then decide the period of disqualification in accordance with DMG 62596 - 62599.

62601 - 62620

### **Failure to attend for, or submit to, medical examination**

62621 A woman who has made a claim for MA in expectation of confinement may not be confined. Such a woman should be disqualified from receiving the allowance for such part of the period as may be reasonable in the circumstances if, on receipt of not less than three clear days' notice in writing, she fails without good cause to attend for or submit herself to medical examination at the time and place which is specified in the notice<sup>1</sup>.

**Note 1:** See DMG Chapter 02 for guidance on good cause in general and DMG Chapter 13 for guidance on good cause for failure to attend medical examination.

**Note 2:** This also applies to a participating wife or civil partner of a S/E earner (see DMG 62733).

*1 SS (MA) Regs, reg 2(7)*

62622 Where notice is given by post, the date of receipt will always be later than the date of posting. Thus the "clear days" are the days starting with the day after the day of receipt of the notice and ending with the day before the day on which the attendance is required.

62623 In calculating the period of notice Sundays are taken into account. To meet the requirements of the rule<sup>1</sup>, and to allow for delay in postal deliveries, a notice sent by first class mail on a Thursday should not require the claimant to attend for examination before Wednesday.

*1 SS (MA) Regs, reg 2(7)*

62624 Usually, an examination is required if there is doubt about the date when the confinement is expected to occur, or whether the claimant is, in fact, pregnant. The DM determines whether an examination is necessary and decides whether the claimant is entitled to MA.

62625 If the DM is satisfied that the notice fulfilled the requirements of the rule<sup>1</sup> and that the claimant failed to attend for or submit to medical examination, consideration should be given to the question of good cause.

*1 SS (MA) Regs, reg 2(7)*

### **Period of disqualification**

62626 The DM should decide the period the claimant is not entitled in the light of the facts of the particular case. The disqualification may be for any number of days within the MAP

1. beginning not earlier than the day following the date on which the woman failed to attend for or submit to examination **and**
2. if she is confined after such failure, ending not later than the date of confinement<sup>1</sup>.

*1 SS (MA) Regs, reg 2(8)*

62627 - 62700

# Maternity allowance – participating wife or civil partner of self-employed earner

## Introduction

62701 The EU Directive<sup>1</sup> on equal treatment between men and women engaged in an activity in a S/E capacity provides that Member States must give MA entitlement to women who are the participating wife or civil partner of a S/E earner. It does **not** replace MA<sup>2</sup> as at DMG 62501 et seq.

*1 Directive 2010/41/EU; 2 SS CB Act 92, s 35*

62702 A participating wife or civil partner of a S/E earner may have entitlement to MA where her expected date of confinement is on or after 27.7.14<sup>1</sup>. However, DMs should note that for any period before 18.5.14<sup>2</sup>

1. the modification rule (see DMG 62727) does not apply
2. a woman who is entitled to MA in accordance with DMG 62711 cannot be disqualified for receiving it.

*1 Social Security (Maternity Allowance) (Participating Wife or Civil Partner of Self-employed Earner) Regulations 2014, reg 1(3); 2 Social Security (Maternity Allowance) (Amendment) Regulations 2014, reg 1*

## Provision of NINO

62703 For MA there is a requirement<sup>1</sup> for a claimant to provide sufficient information or evidence to establish their NINO. See DMG Chapter 02 for full guidance.

*1 SS A Act 92, s 1(1A) & (1B)*

62504 – 62505

## Certification

62706 A claim for MA must be supported by evidence of

1. pregnancy and the stage reached in the pregnancy where a claim is made in expectation of confinement<sup>1</sup> **or**
2. confinement where a claim is made following confinement<sup>2</sup>.

*1 SS (Med Ev) Regs, reg 2(3)(a); 2 reg 2(3)(b)*

62707 The evidence of pregnancy and the stage reached in the pregnancy should be

1. a maternity certificate given by a doctor or a midwife no earlier than 20 weeks before the EWC<sup>1</sup> **or**
2. any other evidence given by a doctor or a midwife which is accepted as sufficient by the DM<sup>2</sup>.

*1 SS (Med Ev) Regs, reg 2(3) & Sch 2, Parts I & II; 2 reg 2(3)*

62708 When considering claims for MA made in expectation of confinement the evidence of pregnancy and the stage reached in the pregnancy should usually be a maternity certificate (Mat B1). It is only exceptionally that the DM should accept any other form of evidence from a doctor or midwife.

**Note:** See DMG 62017 for guidance on evidence of confinement.

62709 – 62710



## Conditions of entitlement

62711 A participating wife or civil partner of a S/E earner is entitled to MA if she satisfies the conditions that

1. she is pregnant **and**
  - 1.1 has reached **or**
  - 1.2 was confined before reaching the beginning of the 11th week before the EWC<sup>1</sup> **and**
2. for at least 26 weeks in the 66 weeks immediately before the EWC (“test period”)
  - 2.1 she has been the wife or civil partner of a person engaged in employment as a S/E earner **and**
  - 2.2 for the same 26 weeks she has participated in that person’s activities<sup>2</sup> (see DMG 62712) **and**
3. that person has paid a Class 2 NI contribution in respect of the same 26 weeks<sup>3</sup> in **2.** (see DMG 62713 – 62714) **and**
4. she is not entitled to MA<sup>4</sup> or SMP for the same week in respect of the same pregnancy<sup>5</sup>.

**Note 1:** For the purpose of **2.** a week means a whole week or any part of a week<sup>6</sup>.

**Note 2:** See DMG 62520 et seq for guidance on the conditions of entitlement to MA for a woman who is not a participating wife or civil partner of a S/E earner.

**Note 3:** Where the EWC is before 12.7.15, **3.** is satisfied if the person is liable to pay a Class 2 NI contribution in respect of the same 26 weeks in **2.**

*1 SS CB Act 92, s 35B(1)(a); 2 s 35B(1)(b); 3 s 35B(1)(c); 4 s 35; 5 s 35B(1)(d); 6 s 35B(1)(b)*

62712 DMG 62711 **2.2** is satisfied if a woman has participated in her spouse’s or civil partner’s activities by performing the same, or ancillary, tasks without

1. being employed by **or**
2. being in partnership with her spouse or civil partner<sup>1</sup>

*1 SS CB Act 92, s 35B(2)(a)*

### Example 1

Adele’s husband Justin is a S/E farmer. Adele is not employed by, or in partnership with, Justin. However, she helps Justin milk cows and does other odd jobs around the farm. She has done this for at least 26 weeks in her test period. Adele satisfies the condition that she has participated in Justin’s activities.

## Example 2

Lana's civil partner Rita is a S/E website designer. Lana is not employed by, or in partnership with Rita. However, Lana provides refreshments for clients who visit Rita. She has done this for at least 26 weeks in her test period. Lana satisfies the condition that she has participated in Rita's activities.

62713 From 6.4.15 Class 2 contributions are collected through income tax self assessment<sup>1</sup>. Therefore, the S/E earner may not have paid 26 contributions as in DMG 62711 3.. If

1. the S/E earner then makes a payment so that they have paid 26 contributions for the relevant weeks **and**
2. all the other conditions of entitlement are satisfied

the DM should decide to award MA. However, if the S/E earner does not make such a payment, the DM should disallow the claim.

*1 SS CB Act 92, s 11*

62714 If, after a decision has been made to disallow the claim

1. the S/E earner makes a payment so that they have paid 26 contributions for the relevant weeks **and**
2. all the other conditions of entitlement are satisfied

the DM should revise that decision and award MA.

62715

## Rate of maternity allowance

62716 The weekly rate of MA for a participating wife or civil partner of a S/E earner is 90% of the MA threshold for the tax year in which the week ends<sup>1</sup>. The MA threshold is £30<sup>2</sup>. The daily rate of MA for a participating wife or civil partner of a S/E earner is one-seventh of the weekly rate<sup>3</sup>.

**Note:** See DMG 62531 et seq for guidance on the rate of MA for a woman who is not a participating wife or civil partner of a S/E earner.

*1 SS CB Act 92, s 35B(3); 2 s 35B(10) & s 35(6A); 3 s 35B(10) & s 35(5)*

### Example

Jessie is entitled to MA as a participating spouse of a S/E earner. She is awarded £27.

62717 – 62720



## Period for which maternity allowance is payable

62721 The period for which MA for a participating wife or civil partner of a S/E earner is payable is the 14-week period<sup>1</sup> which begins on a day as in DMG 62722 - 62726. However, this is subject to the modification in DMG 62727.

**Note:** See DMG 62553 et seq for guidance on the MAP for a woman who is not a participating wife or civil partner of a S/E earner.

*1 SS CB Act 92, s 35B(4)*

62722 The 14-week period begins at the beginning of the 11th week before the EWC if a participating wife or civil partner of a S/E earner stops participating in the activities of her spouse or civil partner before then<sup>1</sup>.

*1 SS CB Act 92, s 35B(5)*

62723 Where a participating wife or civil partner of a S/E earner stops participating in the activities of her spouse or civil partner and that day is within the period

1. beginning with the 11th week **and**
2. ending with the 5th week

before the EWC, the 14-week period begins on the day following the day on which she stops participating<sup>1</sup>.

*1 SS CB Act 92, s 35B(6)*

62724 Where a participating wife or civil partner of a S/E earner

1. stops participating in the activities of her spouse or civil partner **or**
2. refrains from participating with her spouse or civil partner wholly or partly because of her pregnancy or confinement

within the period beginning with the 4th week before the EWC and ending with the date of confinement, the 14-week period begins on the day following the day on which she stops, or refrains from, participating<sup>1</sup>.

*1 SS CB Act 92, s 35B(7)*

62725 If DMG 62722 – 62724 do not apply, the 14-week period begins on the day following the date of confinement<sup>1</sup>. This will apply, for example, where a woman is confined more than 11 weeks before the EWC.

*1 SS CB Act 92, s 35B(8)*

### Example

Emeli's EWC is 7.9.14. Therefore, 11 weeks before the EWC is 22.6.14. However, she is confined on 9.6.14. Emeli's 14-week period begins on 10.6.14.

62726 DMG 62721 – 62725 apply where a woman stops participating in the activities of her spouse or civil partner

1. permanently **or**
2. until after her confinement<sup>1</sup>.

*1 SS CB Act 92, s 35B(2)(b)*

## **Modification**

62727 However, where a participating wife or civil partner of a S/E earner is not entitled to MA at the 11th week before the EWC, she can qualify by utilising a period of employment for weeks after the start of the 11th week before the EWC. The 14-week period<sup>1</sup> for such a woman starts

1. no earlier than the day she becomes entitled to MA **and**
2. no later than the day following the day on which she is confined<sup>2</sup>.

*1 SS CB Act 92, s 35B(9); 2 SS (MA) Regs, reg 3(2C)*

## **Example**

Miley is the participating spouse of Bruno, a S/E entertainer. She is not entitled to MA at 18.5.14, the 11th week before her EWC as she only performed tasks for Bruno for 22 weeks in her test period. However, she then performs tasks for Bruno on 24.5.14, 31.5.14, 7.6.14 and 14.6.14. Miley doesn't perform any more tasks for Bruno so she qualifies for MA from 15.6.14. Her 14-week period starts on 15.6.14.

62728 – 62730

# Disqualifications

- 62731 A woman may be disqualified for receiving MA if she
1. is absent from GB (see DMG Chapter 07)
  2. is detained in legal custody (see DMG Chapter 12)
  3. participates or works during the 14-week period (see DMG 62732)
  4. fails without good cause to attend for or submit to medical examination (see DMG 62733).

**Note 1:** Before 23.2.15 a woman could be disqualified for receiving MA if she failed without good cause to observe the prescribed rules of behaviour.

**Note 2:** See DMG 62588 et seq for guidance on disqualifications for a woman who is not a participating wife or civil partner of a S/E earner.

## Participating or working during 14-week period

- 62732 A woman who
1. participates in her spouse's or civil partner's activities as DMG 72712 **or**
  2. does any work as an employed or S/E earner

during the 14-week period<sup>1</sup> is disqualified for receiving MA<sup>2</sup>. That disqualification is for any part of the 14-week period which, in the DM's opinion, is reasonable in the circumstances<sup>3</sup>. However, the disqualification must be for at least the number of days of participation or work<sup>4</sup>.

**Note:** The disqualification applies for any participation or work. The "more than ten days" rule<sup>5</sup> in [DMG 62592](#) et seq does not apply.

*1 SS CB Act 92, s 35B(9); 2 SS (MA) Regs, reg 2(3); 3 reg 2(4); 4 reg 2(4); 5 reg 2(1)*

### Example 1

Ellie is entitled to MA as a participating spouse of Robin, a S/E roofer. Her 14-week period ends on 6.12.14. However, on 25.11.14 Ellie notifies the DM that she will be performing tasks for Robin from that day. She gives no other details. The DM disqualifies Ellie for receiving MA from 23.11.14 to 6.12.14 (i.e. from the first day of the week in which Ellie starts performing tasks for Robin).

### Example 2

Taylor is entitled to MA as a participating spouse of Jason, a S/E electrician. Her 14-week period began on 1.6.14. However, on 15.7.14 Taylor notifies the DM that due to an emergency she performed tasks for Jason on 14.7.14 but she would not do so again. The DM disqualifies Taylor for receiving MA for 14.7.14 only.

### **Example 3**

Rihanna is entitled to MA as a participating spouse of Pharrell, a S/E architect. Her 14-week period ends on 31.1.15. However, on 5.1.15 Rihanna notifies the DM that, because she was confined early, she had been performing tasks for Pharrell since 29.12.14. She gives no other details. On 6.1.15 the DM disqualifies Rihanna for receiving MA from 28.12.14 to 31.1.15 (i.e. from the first day of the week in which Rihanna starts performing tasks for Pharrell). Rihanna asks for a reconsideration of this decision as she had only performed tasks for Pharrell on 29.12.14, 30.12.14 and 2.1.15 and would not do so again because she had found it hard to perform tasks for her husband at the same time as looking after her baby. The DM revises the decision of 6.1.15 and disqualifies Rihanna for receiving MA from 28.12.14 to 3.1.15 (i.e. the week in which Rihanna performed tasks for Pharrell) only.

### **Failure to attend for, or submit to, medical examination**

62733 The guidance at DMG 62621 et seq also applies to a participating wife or civil partner of a S/E earner<sup>1</sup>. The disqualification is for any part of the 14-week period<sup>2</sup> which, in the DM's opinion, is reasonable in the circumstances<sup>3</sup>.

*1 SS (MA) Regs, reg 2(7); 2 SS CB Act 92, s 35B(9); 3 SS (MA) Regs, reg 2(8)*

62734 - 62735



## Death

62736 A participating wife or civil partner of a S/E earner who is entitled to MA ceases to be entitled if she dies before the beginning of the 14-week period. If she dies after the beginning, but before the end, of the 14-week period, MA is not payable for any week within that period which falls after the week in which she dies<sup>1</sup>.

*1 SS CB Act 92, s 35B(10) & s 35(4)*

62737 – 62999

***The content of the examples in this document (including use of imagery) is for illustrative purposes only***