

DMG Chapter 62: Maternity Benefits

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Matters common to statutory maternity pay and maternity allowance

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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.

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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 Sunday¹.

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 cases¹.

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 begins¹.

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 dead¹.

Note 1: Where **2.** applies the period is a full 24 weeks².

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 earner³.

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 (such as a MATB1)
- 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 births¹ (see 62020)
- 5.** certificate to the effect that a woman was delivered of a dead foetus.

1 Births and Deaths Registration Act 1953, 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 child¹.

1 R(G) 3/51

62019 If there was not a live birth, confinement can be accepted only if the pregnancy¹

- 1.** lasted for a full 24 weeks² 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 **or**
- 3.** any other satisfactory forms of evidence of confinement (see DMG 62017 - if this was issued before 24 weeks of pregnancy the DM should seek clarification of the date of the stillbirth from the claimant to

confirm it occurred after 24 weeks of pregnancy)

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.** or **3.** 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 pregnancy¹.

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.

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 born¹.

Note: This also applies to a participating spouse or civil partner of a S/E earner².

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Introduction

62501 A woman who does not qualify for SMP may be entitled to MA instead¹. 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 weeks¹, the actual period now specified is 39 weeks². 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 confinement³.

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 confinement¹.

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 pregnancy¹.

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

Provision of NINO

62505 For MA there is a requirement¹ 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)

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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 confinement¹ **or**
2. confinement where a claim is made following confinement².

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 EWC¹ **or**
2. any other evidence given by a doctor or a midwife which is accepted as sufficient by the DM².

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.

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62515 A woman is entitled to MA provided she satisfies the conditions¹ 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 62516 - 62517) **and**

3. satisfies the earnings condition (see DMG 62527) **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 MPP².

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

Employment condition

62516 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 week¹. For employed earners, this is satisfied as long as a contract of employment exists or a contract to provide services².

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 earnings³.

Note 2: If a claimant is an agency worker or on a zero hours contract and is engaged in a contractual relationship by way of a contract of employment or contract to provide services the employment condition is satisfied - irrespective of whether they are provided with work during the relevant period.

Note 3: 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)⁴.

Note 4: 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)

62517 A woman who is on statutory maternity leave is in gainful employment, so that DMG 62516 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 may be considered as not engaged in employment (Please consider contacting DMA Leeds for guidance on this issue).

Employed earners

62518 For employed earners confirmation that the employment condition is satisfied can be sought from the employer.

Self-employed earners

62519 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 assessment¹. However, for MA purposes Class 2 contributions can be paid early². Also, small earnings exception certificates were abolished. Those changes apply to women with an EWC beginning on or after 12.7.15³. In addition, a S/E earner is legally

required to notify HMRC of the date they become, or cease to be, S/E⁴.

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

62520 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.

62521 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 it¹.

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

Earnings condition

62522 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).

62523 The woman's average weekly earnings must be equal to or above the MA threshold¹. The MA threshold is a prescribed amount which may be increased each tax year².

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

62524 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 consecutive¹. 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. Weekly earnings can be calculated and averaged across those 13 weeks including weeks with zero earnings where there are no higher earning weeks available so long as the average across the 13 weeks is equal to or above the MA threshold.

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

Note 1: A claimant doesn't need to have received a payment in each of the chosen 13 weeks within her Test Period. They could, for example, receive one payment covering a number of weeks of employment and/or self-employment. When averaged, those earnings must be at least equal to the MA Threshold in order to qualify for MA.

Note 2: The position differs for the self-employed (see DMG 62540)

62525 DMG 62526 applies where the first day of the period in respect of which payment of MA is to be made is on or after 25.4.20¹.

*1 Maternity Allowance, Statutory Maternity Pay, Statutory Paternity Pay,
Statutory Adoption Pay, Statutory Shared Parental Pay and Statutory Parental
Bereavement Pay
(Normal Weekly Earnings etc.) (Coronavirus) (Amendment) Regulations 2020, reg 2(3)*

62526 Where

1. a woman is a furloughed employee¹**and**

2. the woman's employer

2.1 has claimed **and**

2.2 is in receipt of

financial support in respect of the woman's earnings under the Coronavirus Job Retention Scheme² **and**

3. the woman's earnings are lower than they would otherwise have been as a result of that woman being a furloughed employee³

then in the period of 13 weeks over which the woman's earnings are averaged, the average weekly amount of the earnings are determined as if for that week she were paid the amount she would have derived from her employment had she not been a furloughed employee⁴.

1 SS (MA) (Earnings) Regs, reg 6(4)(a); 2 reg 6(4)(b); 3 reg 6(4)(c); 4 reg 6(5)

Meaning of Coronavirus Job Retention Scheme

62527 "Coronavirus Job Retention Scheme" ("the Scheme") means any scheme to provide for payments to be made to employers on a claim made in respect of them incurring costs of employment in respect of furloughed employees arising from the health, social and economic emergency in the UK resulting from coronavirus and coronavirus disease and contained in such Directions as may be issued from time to time pursuant to specified legislation¹.

1 SS (MA) (Earnings) Regs, reg 6(6); Coronavirus Act 2020, s 76

Meaning of coronavirus

62528 "Coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)¹.

Meaning of Coronavirus disease

62529 “Coronavirus disease” means COVID-19 (the official designation of the disease which can be caused by coronavirus¹.

1 SS (MA) (Earnings) Regs, reg 6(6); Coronavirus Act 2020, s 1(1)

Meaning of furloughed employee

62530 “Furloughed employee” has the meaning given for the purposes of the Scheme¹.

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

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 earnings¹.

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 required¹ (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 IfW¹ or LCW².

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 earner¹. This includes

1. any amount retrospectively treated as earnings² (see DMG 62537)

2. payments of arrears of pay where a woman is re-instated or re-engaged because of an order under employment legislation³
3. payments made under employment legislation for the continuation of a contract of employment⁴
4. a protective award for employees made redundant or to be dismissed as redundant⁵
5. any sum payable by way of SSP (this includes payments made by HMRC rather than the employer⁶)
6. any sum payable by way of SMP (this includes payments made by HMRC rather than the employer⁷)
7. any sum payable by way of statutory paternity pay (this includes payments by HMRC rather than the employer⁸)
8. any sum payable by way of statutory adoption pay (this includes payments by HMRC rather than the employer⁹)
9. any sum payable by way of statutory shared parental pay (this includes payments by HMRC rather than the employer¹⁰)
10. any sum payable by way of PBP (this includes payments by HMRC rather than the employer¹¹).
11. any sum payable by way of statutory neonatal care pay (this includes payments by HMRC rather than the employer¹²)

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); 11 s 171ZZ8(3); 12 s 171ZZ18(3)

Payments to be disregarded

62535 Payments to be disregarded are those payments of earnings disregarded when calculating liability to NI contributions¹. Such payments are

1. payments in kind²
2. payments by way of assets which are not disregarded as payments in kind³
3. certain non-cash vouchers⁴
4. certain payments to directors⁵
5. certain payments in respect of employment as a mariner⁶ **and**

6. certain other payments⁷.

The DM should liaise with HMRC in cases of doubt.

1 SS (MA) (Earnings) Regs, reg 2(2); 2 SS (Conts) Regs, reg 25 & Sch 3, para 1(2); 3 reg 25 & Sch 3, para 1(3);
4 reg 25 & Sch 3, para 1(4); 5 reg 27; 6 reg 123; 7 reg 25 & Sch 3, para 1(5)

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 calculation¹.

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 shareholders¹. The profits of the company do not belong to its directors. A director of a limited company may be an employee or an office holder² of the company and as such is in either case an employed earner³ for NI contributions purposes. Unless DMG 62535 4. applies, payments made by a company to a director are earnings for MA purposes⁴.

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 purposes¹. 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 week¹ **or**

2. equal to the MA threshold in force on the last day of each week covered by a small earnings exception certificate².

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.

EWC on or after 12.7.15

62540 For an EWC on or after 12.7.15¹, 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 contribution² **or**

2. equal to the MA threshold in force at the end of the week where **1.** does not apply³.

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 paid¹ 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 paid² at least 13 Class 2 contributions in the test period, she will receive MA at the rate in DMG 62540 **2.** for each week in the test period where Class 2 contributions have not been paid.

1 SS CB Act 92, s 35A(1), (5A) & (5B) 2 s 35A(1)(a), (4)(b) & (6) & SS (MA) (Earnings) Regs, reg 3(b)

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 decision¹. 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

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

Note: See DMG Chapter 03 for guidance on revision.

1 SS CS (D& A) Regs, reg 3(8L); SS (Conts) Regs, reg 90ZA

Payment of class 2 contributions treated as paid

62545 From 6.4.22, a S/E earner with profits at or above the existing small profits threshold and which do not exceed the lower profits threshold are treated as having paid class 2 contributions¹. S/E earners that fall into this category can continue to make voluntary class 2 contributions that will be refunded to them by HMRC if they are later treated as having paid class 2 contributions, e.g. their

relevant profits are later assessed to be at or above the small threshold but not exceeding the lower profits threshold².

1 SS CB Act 92, s 11, (5A), (5B) & (5C); SS (Class 2 NI Conts Increase of Threshold) Regs 22, reg 1 & 2(3); 2 SS (Conts) Regs, reg 90ZA

Employed in more than one employment or self-employment

62546 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 earnings¹.

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

Example 1

A S/E woman claims MA and satisfies the employment test. Her EWC is 29.4.18. She could have paid but has not paid at least 13 Class 2 contributions in her test period. She also has a P/T job working for an employer and earns £65 a week. She started on 7.1.18 and works every other week.

Her chosen 13 week earnings period is from 7.1.18 to 7.4.18. She is deemed to have earnings of an amount equal to the MA threshold because she could have paid but has not paid at least 13 Class 2 contributions 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 $\pounds 138.75 \times 10 \div 9$) $\pounds 153.33 \times 7 = \pounds 1073.31$

6 weeks $\times \pounds 250 = \pounds 1,500$

Total $\pounds 2,573.31 \div 13 = \pounds 197.95$

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

62547 Where a woman is paid in multiples of a week, divide those earnings by the number of weeks covered by the payment.

62548 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 paid¹. 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 Sunday².

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

62549 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.

62550 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

62551 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 LEL¹ (see DMG Chapter 07 for full guidance).

Note: See DMG 62516 for guidance on voluntary payment of Class 2 contributions in respect of periods of work outside the EEA.

1 SS (MA) (Work Abroad) Reg

62552

Maternity allowance period 62553 - 62580

[Time limit for claiming](#) 62557

[Death of the woman](#) 62558

[Modification of the maternity allowance period](#) 62559 - 62562

[Entitlement to maternity allowance for more than one maternity allowance period](#) 62563 - 62565

[Maternity allowance period curtailment](#) 62566 - 62580

62553 MA is payable for the MAP which is the same as the MPP in SMP cases¹. 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 EWC². 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 confinement³. 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 confined⁴.

From 1.12.14⁵, women whose EWC is on or after 5.4.15 can curtail their 39 week MAP⁶.

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 (Curtailment) 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 related illness 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 confinement¹.

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 leaves¹.

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 entitlement¹ (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 dies¹. 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 begins².

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 confined¹.

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 confined¹.

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 adjusted¹.

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 1.12.14¹, women whose EWC is on or after 5.4.15² can curtail their MAP to enable their partner to take

1. SSPP³ (see DMG 62568) **or**

2. SPL⁴ (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 relationship⁵.

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 notification¹.

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 notification¹ **and**

2. her partner

2.1 satisfies the employment and earnings conditions in order to be entitled to SSPP² **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 MA³.

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 notification¹ **and**

2. her partner satisfies the employment condition for SPL² **and**

3. she

3.1 satisfies employment and earnings conditions **and**

3.2 is entitled to MA³.

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 end¹ (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 week¹ **and**
- 2.** at least one day after the end of the compulsory maternity leave period (see DMG 62573) if a woman has a right² to ordinary maternity leave³ **and**
- 3.** at least two weeks after the end of her pregnancy⁴ if a woman does not have a right in **2.** **and**
- 4.** at least eight weeks after a woman gives a MAP curtailment notification⁵ (unless the DM decides it is appropriate for this not to apply⁶) **and**
- 5.** at least one week before the last day of a woman's MAP⁷.

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 begins⁸.

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 (Curtailment) Regs, reg 5(2)(a); 2 reg 5(2)(b); 3 ER Act 96, s 71; 4 MA (Curtailment) 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

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

Example 2

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

62573 The compulsory maternity leave period is

1. two weeks¹ **or**

2. if a woman works in a factory, 4 weeks²

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 periods³.

1 Maternity and Parental Leave etc. Regulations 1999, reg 8; 2 Public Health Act 36, s 205;

3 MA (Curtailment) 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 notice¹. A woman is treated as returning to work² when she is disqualified for receiving MA³ in accordance with DMG 62592 et seq.

1 MA (Curtailment) 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 birth¹ **and**

1.2 has not returned to work **and**

1.3 has not reached the end of her MAP **or**

2. her partner dies².

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 death¹.

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 death¹.

62579 A woman may not give a MAP curtailment notification after she has given a revocation notification for the same MAP unless the revocation¹ was made in accordance with DMG 62576 **1..**

62580

Pregnancy related illness 62581 - 62582

62581 The pregnancy related sickness trigger for SSP¹ 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 related illness 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 related illness 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.

Note: If a woman decides to start her Maternity Leave, this should not be considered as a pregnancy related illness and therefore does not in itself trigger the start of the MAP.

Changing a decision when the expected date of confinement is altered

62583 - 62587

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 - 62700

[Work done during the maternity allowance period](#) 62592 - 62620

[Failure to attend for, or submit to, medical examination](#) 62621 - 62700

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 payable¹ (see DMG 62592 et seq)
4. fails without good cause to attend for or submit to medical examination² (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 consecutive¹.

Note: Undertaking minimal maintenance and admin tasks (see Appendix 1 to this Chapter) does not count towards those ten days.

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 circumstances¹.

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 rate¹.

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 notice¹.

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 rule¹, 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 rule¹ 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 confinement¹.

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

62627 - 62700

Maternity allowance – participating wife or civil partner of self-employed earner 62701 - 62799

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Introduction

62701 The EU Directive¹ 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 MA² 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 27.7.14¹. However, DMs should note that for any period before 18.5.14²

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 requirement¹ 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

confinement¹ **or**

2. confinement where a claim is made following confinement².

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 EWC¹ **or**

2. any other evidence given by a doctor or a midwife which is accepted as sufficient by the DM².

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

Subpages

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- Rate of maternity allowance 62716 - 62720
- Period for which maternity allowance is payable 62721 - 62730
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Conditions of entitlement 62711 - 62715

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 EWC¹ **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 activities² (see DMG 62712) **and**

3. that person has paid a Class 2 NI contribution in respect of the same 26 weeks³ in **2.** (see DMG 62713 – 62714) **and**

4. she is not entitled to MA⁴ or SMP for the same week in respect of the same pregnancy⁵.

Note 1: For the purpose of **2.** a week means a whole week or any part of a week⁶.

Note 2: See DMG 62515 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 partner¹

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 assessment¹. 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 - 62720

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 ends¹. The MA threshold is £30². The daily rate of MA for a participating wife or civil partner of a S/E earner is one-seventh of the weekly rate³.

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 - 62730

[Modification](#) 62727 - 62730

62721 The period for which MA for a participating wife or civil partner of a S/E earner is payable is the 14-week period¹ 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 then¹.

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 participating¹.

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, participating¹.

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 confinement¹. 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 confinement¹.

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 period¹ 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 confined².

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 - 62735

[Participating or working during 14-week period](#) 62732

[Failure to attend for, or submit to, medical examination](#) 62733 - 62735

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 period¹ is disqualified for receiving MA². That disqualification is for any part of the 14-week period which, in the DM's opinion, is reasonable in the circumstances³. However, the disqualification must be for at least the number of days of participation or work⁴.

Note: The disqualification applies for any participation or work. The "more than ten days" rule⁵ 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 earner¹. The disqualification is for any part of the 14-week period² which, in the DM's opinion, is reasonable in the circumstances³.

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

Death 62736 - 62999

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 dies¹.

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

Appendix 1 Minimal maintenance and admin tasks that do not count towards the ten days (DMG 62592)

Appendix 1 Minimal maintenance and admin tasks that do not count towards the ten days (DMG 62592)

These do not count towards the ten days

Minimal maintenance and admin tasks carried out which, if they were neglected would seriously impact the individual's ability to continue the work they do once they return to normal working pattern. There should be no direct payment for the work done. These are tasks that employed people would generally not need to take on during their period of maternity leave as the business they work for would be expected to cover them.

Minimal Maintenance and Admin Tasks:

Carrying out necessary administration.

Accepting work which is due to start after the woman's return to work and after her MA ends.

Carrying out essential maintenance to the woman's website or equipment.

Responding to correspondence requesting information as long as it does not relate to work to be carried out before the woman's return to work and before her MA ends.

Keeping essential formal qualifications and licenses up-to-date.

Keeping skills at an acceptable level. This should not include formal paid-for training.

Preparing for work arranged before the woman's MAP starts but to be carried out after her return to work and after her MA ends.