



SOCIAL  
SECURITY  
AGENCY

NIL17A

*A guide to*

*Maternity Benefits*



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## Terminology

<b>Childbirth</b>	Labour resulting in a live birth, or labour after at least 24 weeks of pregnancy.
<b>DEL</b>	Department for Employment and Learning.
<b>DSD</b>	Department for Social Development.
<b>European Economic Area</b>	All the European Union countries and Iceland, Liechtenstein and Norway. Switzerland is not a member of the EEA, but the EC rules on social security also apply to Switzerland.
<b>European Union</b>	Member countries are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom (UK), for social security matters, Gibraltar.
<b>EWC</b>	Expected week of childbirth – the week starting on a Sunday in which your baby is due.
<b>KIT</b>	Keeping in Touch days.
<b>LEL</b>	Lower earnings limit – the point at which you start to be treated as if you have paid National Insurance (NI) contributions.
<b>MA</b>	Maternity Allowance (MA).
<b>MAP</b>	Maternity Allowance period– the period up to 39 weeks in which you can be paid MA
<b>MAT</b>	Maternity Allowance Threshold – minimum level of earnings to qualify for MA
<b>MA test period</b>	The period of 66 weeks immediately preceding the week in which your baby is due.
<b>Maternity certificate</b>	Certificate issued by a doctor or midwife showing the date on which <b>(MATB1)</b> your baby is due.
<b>MPP</b>	Maternity Pay Period – the period up to 39 weeks in which you can be paid Statutory Maternity Pay
<b>NI</b>	National Insurance.
<b>Primary earnings threshold</b>	The point at which you have to start actually paying National Insurance contributions.
<b>Qualifying week</b>	The 15th week before the beginning of the week in which your baby is due.
<b>SAP</b>	Statutory Adoption Pay.
<b>SMP</b>	Statutory Maternity Pay.
<b>SPP</b>	Statutory Paternity Pay.
<b>SSP</b>	Statutory Sick Pay.
<b>United Kingdom (UK)</b>	England, Wales, Scotland and Northern Ireland. The Channel Islands and the Isle of Man are not part of the UK.*
<b>Week</b>	Generally a period of seven days that begins at midnight between Saturday and Sunday. Where SMP begins on a day other than a Sunday, a week means any period of 7 days such as Thursday to Wednesday.
<b>Year</b>	Period of 12 months such as from 7 November 2008 to 6 November 2009.

\* The Isle of Man may be treated as part of the UK for the purpose of benefits.

## About this guide

### This guide and the law

This is only a guide to maternity benefits; it has no status in law. It does not cover all the rules in the maternity benefits scheme for every situation, nor does it provide a full interpretation of the rules. So it should not be treated as a complete and authoritative statement of the law.

The basis of the law for maternity benefits is the Social Security Contributions and Benefits (Northern Ireland) Act 1992. The Act provides the framework for the detailed rules contained in regulations made by the Department. Go to [Acts and Regulations](#) for a list all the relevant legal documents and tell you where you can consult them.

Throughout the guide there are references to the relevant Regulation or Schedule, to allow you to consult the legal wording of the rules.

### Northern Ireland and Great Britain

The information contained in this guide is primarily concerned with the law in **Northern Ireland**. Great Britain that is, England, Scotland, and Wales, is covered by the Social Security Contributions and Benefits Act 1992 and the arrangements are basically the same.

Information on Great Britain can be obtained from local offices there.

## Introduction to maternity benefits

There are two maternity benefits available to women under the social security scheme:

- **Statutory Maternity Pay** from your employer and
- **Maternity Allowance** from the Department for Social Development (DSD).

Both types of payment are intended to help you take time off work both before and after the date your baby is due. You cannot get both at the same time.

**Statutory Maternity Pay (SMP)** is a weekly payment that you maybe able to get from your employer. You must meet qualifying conditions based on the length of your employment with your employer and how much you earn. The amount of SMP you get also depends on how much you earn.

If you cannot get SMP, you may be able to get:

**Maternity Allowance (MA)** from Incapacity Benefits Branch. MA is a weekly payment that you may get if you have been employed or self-employed for some of the time during and before you became pregnant and your earnings for part of that time were at least £30 a week.

If you are not entitled to get either SMP or MA, you may be able to get some **Employment Support Allowance** instead.

If you or your partner are getting Income Support, income-based Jobseeker's Allowance, Pension Credit, Working Tax Credit or Child Tax Credit at a rate higher than the family element or Working Tax Credit where a disability or severe disability element is included in the award, you may be able to get a **Sure Start Maternity Grant** from the **Social Fund**.

**Pregnant employees and parents are entitled to other employment rights. Some of these rights are summarised below. You will find more information about these rights from the Department for Employment and Learning (DEL) website [www.delni.gov.uk](http://www.delni.gov.uk)**

## Maternity leave

All pregnant employees are entitled to 26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave whether or not they qualify for SMP or MA. Additional Maternity Leave starts immediately after Ordinary Maternity Leave so women have 52 weeks maternity leave in total.

## Parental leave

Parental Leave is a right to take unpaid time off work to look after a child up to the child's fifth birthday (or 18th birthday for disabled children) or make arrangements for the child's welfare. The right applies to mothers and fathers and to a person who has obtained formal responsibility for a child.

## Paternity Pay and Leave

Employees may have a right to one or two weeks paternity leave and Statutory Paternity Pay so that they can take time off work to care for the baby or support the mother following birth. To get this the employee must be either the baby's biological father or the partner of the mother, and take responsibility for the child's upbringing.

## Time off for dependants

Employees have the right to take reasonable amount of time off work to deal with certain unexpected emergencies involving a dependant.

## The right to request flexible working

Parents of children under the age of 6 or of disabled children under 18 have the right to request flexible working patterns.

Employers are required to give such requests serious consideration and may only turn down such requests if they follow a set procedure and are able to justify the decision.

# Statutory Maternity Pay (SMP)

## Introduction

**Statutory Maternity Pay (SMP) is a weekly payment made by employers to employees or former employees.** Employers pay SMP to those women who have been employed by them prior to their pregnancy. So if you were not employed in your pregnancy you cannot get SMP. But you may be able to get [Maternity Allowance \(MA\)](#) from Incapacity Benefits Branch.

Qualifying women are entitled to SMP whether or not they intend to return to work for that employer.

SMP can be paid for a maximum of 39 weeks.

**An important date for working out your SMP is the date your baby is due not when your baby is actually born. The week in which your baby is due is referred to as the EWC - Expected Week of Childbirth.**

The amount of SMP you get depends on how much you earn.

If you think you may be entitled to SMP, please read the following pages very carefully. The [terminology](#) pages should help you if you forget the meanings of any of the abbreviations or technical phrases.

**Before you read on, it may help if you work out the date of the start of your qualifying week. This is a very important date.**

**The qualifying week** is the 15th week before the week in which your baby is due. The definition of a week for the qualifying week is a period of 7 days that begins at midnight between Saturday and Sunday.

To work out your qualifying week, use a calendar and find the Sunday of your expected week of childbirth. Then count back 15 Sundays (do not include the Sunday of your EWC).

The 15<sup>th</sup> Sunday is the beginning of your qualifying week.

*Example:*

Baby due Thursday 16 October 2008.  
EWC begins Sunday 12 October 2008.  
15 Sundays before is 29 June 2008.  
Therefore qualifying week is 29 June 2008 to 5 July 2008.

Generally, the definition of a week in this guide is a period of 7 days that begins at midnight between Saturday and Sunday. But if your SMP starts on a day of the week other than a Sunday, then a week in your Maternity Pay Period (MPP) means a period of seven days starting from the day of the week your MPP began. For example, if your MPP started on a Thursday, weeks in your MPP run from Thursday to Wednesday.

## Who is your employer?

Your employer is someone who is liable to pay the employer's share of your Class 1 NI contributions (or would do if you earned enough, or were old enough to pay this). You do not have to have a written contract of service. And your employer does not actually have to have paid any NI contributions for you.

- A few employers do not have to pay SMP

**NOTE:** There are no age limits to qualify for SMP. If you are under 16, you can qualify for SMP from your employer if you satisfy the rules.

## Eligibility

To qualify for SMP, you have to satisfy two basic rules:

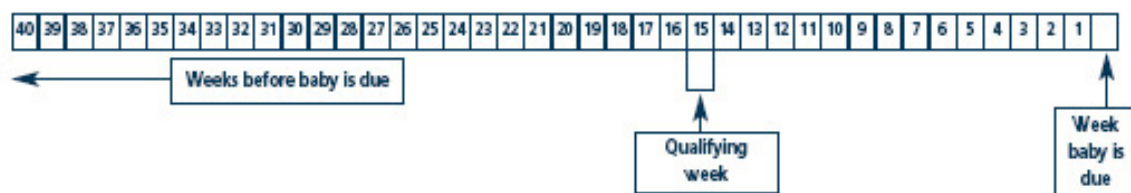
- the continuous employment rule **and**
- the earnings rule.

There are also other things you must do to qualify:

- you must tell your employer when you want your SMP to start **and**
- provide medical evidence of the date your baby is due

## The continuous employment rule

To qualify for SMP, you must satisfy the continuous employment rule. You must have been employed by your employer for a continuous period of at least 26 weeks into the **qualifying week** (which is the 15th week before the week in which the baby is due). This period must include at least one day in the qualifying week.



*Diagram showing the qualifying week*

Although continuous employment usually means employment by the same employer without a break, there are some circumstances when breaks in employment can be disregarded (see below). The employment rule may be modified slightly if your baby is [born prematurely](#).

## When broken employment can be taken as continuous

Continuous employment usually means employment by the same employer without a break, but it does not always mean this. There are circumstances when a change of employer can be disregarded. And under some circumstances, your employment can be treated as continuous, in spite of some breaks.

For SMP purposes, your employment can be taken as continuous if any one of the following applies:

- you are absent (for periods of less than 26 consecutive weeks) because of sickness, injury, pregnancy or childbirth **or**
- you have taken a period of statutory maternity leave, adoption leave, paternity leave or parental leave (in which case, that period counts toward your period of continuous employment) **or**
- you did not take maternity leave but you were not working because you had a break to give birth; you worked for your employer before and after the break, and the break is not more than 26 week **or**
- your work has temporarily ceased because your employer was unable to offer you any work **or**
- you are away in circumstances in which, by arrangement or custom, your employment is regarded as continuing for some purposes (for example, if you are a teacher employed on term-by-term contracts with the same or associated employers) **or**
- you were unfairly dismissed and, after action under the Employment Rights Order (Northern Ireland) 1996, were reinstated (or would have been, but for your pregnancy) and have refunded any redundancy or equivalent payment you received from your employer when you were dismissed **or**
- you were reinstated or re-engaged after following the dispute resolution procedure under Employment (Northern Ireland) Order 2003 **or**
- you are away because of a stoppage of work during an industrial dispute. A strike does not break continuity of employment, but the weeks or part weeks of a strike do not count towards your 26 weeks of employment **or**
- after a spell in the Armed Forces, you return to your previous employer under the Reserve Forces (Safeguard of Employment) legislation within six months. In this case your previous period with your employer can be treated as continuous together with your present one, but not the period of the break.

### If you are employed by an agency

If you are employed by an agency, in each of the 26 weeks into the qualifying week, you will satisfy the continuous employment rule.

As long as you did some work during any week it counts as a **full** week.

There may be complete weeks when you did no work for the agency. This does not necessarily mean that your continuity of employment is broken.

### Deciding the continuous employment question

If the agency was unable to offer you work in any particular week, continuity is not broken.

If the agency did offer work, but you were not available, the period of absence can count only if you were unable to work because of sickness, injury, pregnancy or parental, paternity or adoption leave.

### Employment in the qualifying week

If you were not employed in the qualifying week (QW), you can still be treated as employed in that week if:

- the agency had no work for you in that week, **and**
- you were not intending to start your maternity leave at that time, and remained available for work after the QW as soon as the agency had something for you, **and**
- you did in fact have further employment with the agency before starting your maternity leave.

If you had intended to go on working but stopped before the QW because of sickness, you can be regarded as working into the QW. **You must actually resume work with the agency within 26 weeks of stopping** before this can apply.

**If you have stopped looking for work through a particular agency before the start of the QW, you are not entitled to SMP from that agency.** But you may be entitled to claim [Maternity Allowance](#) from Incapacity Benefits Branch.

### If you stop work before the qualifying week

You will not normally qualify for SMP if your employment ends before the qualifying week. This is the 15th week before the week in which your baby is due.

However, if your baby is born prematurely before the QW you will be taken as satisfying the continuous employment rule if you would have been continuously employed but for early childbirth.

### If you stop work during or after the qualifying week

If your employment ends during or after the qualifying week, you can still qualify for SMP from your former employer.

## Change of employer

If you change jobs during your pregnancy, you are unlikely to be able to meet the [continuous employment rule](#). But there are circumstances when your employment can be treated as continuous, even if your employer changes. For SMP purposes, your employment is treated as continuous if any of the following applies:

- your employer's trade, business, or undertaking is transferred to another employer **or**
- by or under an Act of Parliament, one corporate body takes over from another as your employer **or**
- there is a change in the partners, personal representative or trustees who employ you **or**
- you move from one employer to another at a time when the two employers are associated employers, that is if one is a company of which the other (directly or indirectly) has control, or if both are companies of which a third person (directly or indirectly) has control **or**
- you are a teacher in a school maintained by a local education authority, and you move to another school maintained by the same authority.

## The earnings rule

To qualify for SMP, you must satisfy the earnings rule. Your average weekly earnings must be at least equal to the lower earnings limit for National Insurance (NI) purposes. The lower earnings limit is the point at which you start to be treated as if you have paid NI contributions. You will not actually have to pay NI contributions until your earnings reach a higher point called the primary earnings threshold.

The lower earnings limit is reviewed regularly, usually in April. If it changes while you are pregnant, remember that the lower earnings limit that applies to you will be the one that was current at the end of the qualifying week. The lower earnings limit is £90 a week in 2008/9 and £95 a week for tax year 2009/10.

## Working out your average weekly earnings

Your employer must work out your average weekly earnings to find out whether or not you qualify for SMP and, if so, at what rate. As a general rule, your earnings will be averaged over a period of at least 8 weeks up to and including the last pay day before the end of the qualifying week. But the calculation may differ from this, depending on your pay period.

For SMP purposes, 'pay' means gross pay that is due before any deductions. The gross pay you get from your employer in the relevant period will be taken into account, as long as it counts for NI contributions (or would count if you earned enough or were old enough to pay Northern Ireland Contributions).

Sick pay, overtime, bonus payments, arrears of pay and even, in most circumstances, holiday pay, must all be included if you actually get them at this time. It is when you get the money that counts, not when it was earned.

Average earnings should include all earnings which give rise to National Insurance contributions, except Class 1B contributions which arise from a PAYE tax settlement agreement which your employer makes with the HM Revenue & Customs. However, if you fail to qualify for SMP because some of your earnings are accounted for under the PAYE settlement agreement, your employer should recalculate your gross pay to include the elements giving rise to Class 1B National Insurance contributions.

If you are a student in receipt of a bursary, your bursary is not treated as earnings for SMP purposes.

### Salary sacrifice

Salary sacrifice is when an employee voluntarily gives up the right to some of their earnings in return for some form of benefit from their employer e.g. childcare vouchers.

Where a salary sacrifice arrangement is in place during the period used to work out your SMP, the SMP average weekly earnings calculation will be based on your contractual earnings which count for National Insurance contributions. Under the arrangement, the salary or wages will be paid at a reduced level and any other benefits subject to National Insurance may also change.

This will reduce your entitlement to SMP or may mean that you will not be entitled to SMP as your earnings are too low.

### Pay rises

If your employer awards a pay rise that is effective at any time from the start of the period used to calculate your SMP (the set period) and the end of your maternity leave, your employer must re-calculate your SMP. Your employer must also re-calculate SMP if you are awarded a pay rise with an effective date before the start of the set period but the earnings used in the SMP calculation did not reflect that pay rise. The end of the maternity leave means the end of any ordinary or additional maternity leave you take.

#### Example A

In this example the woman is due a pay increase on 1 July each year and is entitled to SMP. Her maternity leave is 4 February 2008 to 1 February 2009. The beginning of the set period for calculating SMP is likely to have been around 29 October 2007.

The employer in this case must re-calculate SMP to take account of the pay rise due from 1 July 2008 because the effective date of the pay rise fell in the period 29 October 2007 to 1 February 2009.

#### Example B

In this example the woman is due a pay increase on 1 July each year and is entitled to SMP. Her maternity leave is 4 August 2008 to 2 August 2009. The beginning of the set period for calculating SMP is likely to have been around 1 May 2008.

The employer must re-calculate SMP to take account of the pay rise due from 1 July 2008, and because the woman is still on maternity leave on 1 July 2009, the employer must re-calculate her SMP for the second time. This is because the effective date of the pay rises fell in the period 1 May 2008 to 2 August 2009.

If in this example the woman decides to return to work early and end her maternity leave on 30 April 2009, then it is only the 1 July 2008 pay rise that will affect her SMP.

**If you are paid weekly**

Your employer will usually add together all your gross weekly earnings in the 8 weeks up to and including the last pay day before the end of your qualifying week. The total will then be divided by 8 to give your average weekly earnings.

**NOTE:** If a normal payment has been early, for example, before a holiday, the payments in the 8 week period should be divided by the number of weeks they cover.

**If you are paid monthly**

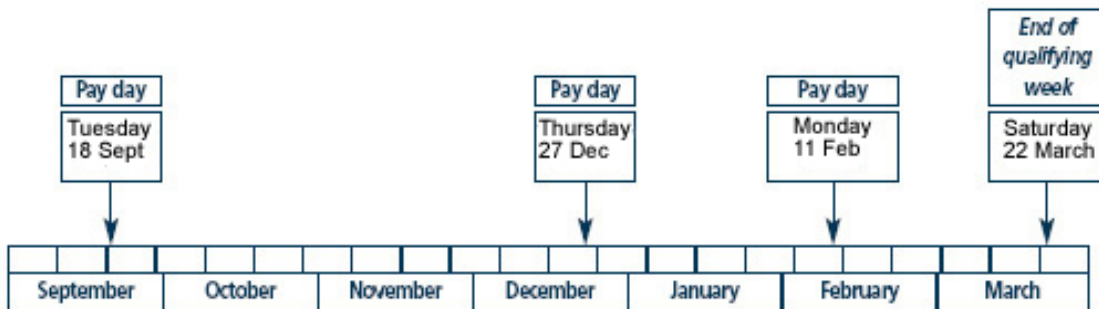
All the pay you get in the 2 months up to and including the last normal pay day before the end of the qualifying week will count.

If you are paid once each calendar month, for example on the last working day of the month or on the same date each month, your employer will usually add together all the pay you received in these 2 months, divide by 2, multiply by 12 and then divide by 52 to give your average weekly earnings.

If you are paid monthly but are paid in multiples of a week (for example, on the last Friday of each month), your employer will usually add together all the pay you received in these 2 months and divide the total by the number of weeks covered by the payments to give your average weekly earnings.

**If you are paid at other intervals**

Your employer must add together your pay on your last normal pay day before the end of the qualifying week and any other pay received since (but not including) the last pay day to fall at least 8 weeks before that one. Your pay for this period is then averaged out, any odd days being counted as one-seventh of a week each.



For example, if your qualifying week ends on Saturday 22 March 2008, you were paid on Monday 11 February 2008, Thursday 27 December 2007 and Tuesday 18 September 2007. The payments made on 11 February 2008 and 27 December 2007 are added together. The period over which these earnings should be averaged is 19 September 2007 to 11 February 2008 inclusive, which is 146/7 weeks. See the diagram above.

If you are in any doubt, get your employer to show you how your average weekly earnings have been worked out.

If your baby is born [prematurely](#) before the end of the qualifying week, the relevant period for working out your average earnings will usually be the 8 weeks ending with the Saturday before the week in which your baby is born.

If you are dissatisfied with the way your SMP has been calculated talk to your employer to see if you can resolve the matter. If you are still dissatisfied contact the HM Revenue and Customs Statutory Payments Disputes Team on **0191 225 5221**.

#### If your contract ends

If you satisfy both the [continuous employment rule](#) and the [earnings rule](#), your employer must pay you SMP even if your contract ends at some time after the start of the 15<sup>th</sup> week before the week your baby is due.

#### If you are taken into custody

If you are taken into legal custody at any time in your maternity pay period (MPP), your employer no longer has to pay you SMP. Your employer will give you **form SMP1** to explain why. Legal custody means being detained by the police, usually arrested and/or in prison. Your entitlement to SMP is not affected if you voluntarily help the police with their enquiries.

When you are discharged from custody, you still will not be able to get SMP. But you may be able to get [Maternity Allowance](#) from Incapacity Benefits Branch.

#### If you go abroad

Your employer can pay SMP to you anywhere in the world. If you work outside the European Economic Area (EEA), you may get SMP if your employer is liable to pay the employer's share of Class 1 NI contributions throughout the 26 week employment period.

## Reasons for not getting SMP

The following are all reasons why you might not be able to get SMP:

- you do not have an employer **or**
- you are exclusively self-employed **or**
- you were not employed in the [qualifying week](#) and could not be treated as employed in the qualifying week on the grounds that you had [already had your baby](#) **or**
- you do not satisfy the [continuous employment rule](#) **or**
- you do not satisfy the [earnings rule](#) **or**
- you failed to give your employer due notice of the [start of your maternity absence](#) **or**
- you did not provide medical evidence of your expected week of childbirth (and of the childbirth itself if this was earlier than expected) [within the time allowed](#) **or**
- your baby is [stillborn](#) before the 25th week of pregnancy **or**
- your employer is not liable to pay the employer's share of Class 1 NI contributions **or**
- you are employed by an employer in the UK against whom the NI scheme is not enforceable (for example, you work in an embassy or consulate) **or**
- you are a [mariner on a foreign-going vessel or a deep sea fishing vessel](#) **or**
- you were in [legal custody](#) in the first week of your maternity pay period.

## When SMP might stop

You cannot continue to get SMP if:

- **after** the baby is born, you start work in the MPP for an employer other than any employer you had in the qualifying week **or**
- you are taken into legal custody at any time during the MPP.

If you cannot get SMP or it is stopped for any of the above reasons, you may be able to get [Maternity Allowance](#) from Incapacity Benefits Branch.

## How to get SMP

If you are pregnant and you think you are eligible for SMP from your employer, you must tell your employer that you intend to stop work to have the baby and the day you want your SMP to start. You must also provide your employer with evidence of when your baby is due.

### Telling your employer

Most women will be able to take maternity leave from their work (see advice on the DEL website [www.delni.gov.uk](http://www.delni.gov.uk)). To claim maternity leave you must tell your employer no later than the end of the qualifying week that you are pregnant and:

- the date you expect your baby
- the date you want to start your maternity leave

If you can get both maternity leave and SMP it is best to tell your employer the date you want your SMP to start at the same time as you tell your employer about your leave.

You must, though, give your employer at least 28 days' notice of the date you want your SMP to start. Your employer may need your notice in writing. You can change your mind about the date but you must give 28 days notice of the new date.

If it is not possible to give 28 days' notice, you must tell your employer as soon as you can. If your employer considers it was reasonably practicable for you to have given notice earlier than you did, they can refuse to pay you SMP.

If your baby is born [prematurely](#), before you had given notice to your employer, you may still be able to get SMP.

### Proving your baby is due

You must give your employer medical evidence of the date your baby is due. This will normally be on a maternity certificate (MATB1) that you can get from your doctor or midwife. You cannot get this certificate until you reach the 20th week before the week in which your baby is due (generally the 21st week of pregnancy). Your doctor or midwife will usually give you the MATB1 at your next ante natal appointment after then.

Your employer may be willing to accept other medical evidence, but this must be broadly the same as a maternity certificate. It must be in writing, it must identify you, it must be issued by your doctor or midwife no more than 20 weeks before the baby is due, and it must either be stamped with your doctor's name and address, or show your midwife's name and personal identity number.

[You should normally give your employer the medical evidence no later than 3 weeks after the date SMP was due to start.](#) Your employer may agree to accept your medical evidence later than this if they are satisfied that you had a good reason for the delay. But if you have not given the evidence within 13 weeks of the start of the MPP, for whatever reason, SMP is not payable.

Even if your baby is born prematurely, before the maternity certificate could be issued, your employer will still need evidence of the date the baby was actually due. Please read the section about ['Premature births'](#).

### More than one employer

If you have more than one employer, you may be entitled to SMP from each one (so you could get more than one lot of SMP). The same is true if you have more than one contract with the same employer, if your NI contributions are paid separately for each contract.

Remember that your doctor or midwife can issue you with one maternity certificate (form MATB1) only. So if you do qualify for SMP from more than one employer, your other employer will have to tell you what other medical evidence is acceptable (see ['Proving your baby is due'](#) above).

### When SMP is paid

Unless your baby is born earlier you cannot get any SMP until 11 weeks before the week your baby is due. But if you remain employed here is flexibility as to when the payments start, and you can choose the date. There are some circumstances when SMP must start (see [Changes that will affect the start of your SMP](#)).

### Maternity Pay Period

Your Maternity Pay Period is determined by the date your baby is due, not by the date your baby is actually born.

SMP can be paid for up to 39 weeks. This is called the Maternity Pay Period or MPP. You can get SMP from 11 weeks before the week in which your baby is due, but only if you stop work before then.

If you continue to be employed by your employer you can choose the day you want your SMP to start. It will start then provided you have stopped work in accordance with the notice you [gave to your employer](#). Your MPP and leave will start sooner in the special circumstances described below.

## Changes that will affect the start of your SMP

The start of your SMP will change if:

- your baby is born before the date you notified (or before you have a notified date) your MPP will begin the week following the birth **or**
- you are absent from work wholly or partly because of your pregnancy but before the date you notified (or before you have a notified date) and this absence occurs in the 4 weeks running up to the week your baby is due. If this happens your MPP will begin the day following the day you are first absent from work because of your pregnancy in those 4 weeks.

### Example

A woman works part of the day on Tuesday 3 June 2008 but goes home early because of an illness due to her pregnancy. She does not come into work on Wednesday 4 June for the same reason. Her MPP will start on Thursday 5 June 2008.

But if you do not think that your absence is wholly or partly because of your pregnancy, ask your employer to reconsider their decision. If you are still dissatisfied you should contact the HM Revenue & customs Statutory Payments Disputes Team on 0191 2255221.

To get SMP, you must be employed – but not necessarily have been paid or worked – If your baby is born before or during the qualifying week. See [Premature Births](#).

The Maternity Pay Period can last up to 39 weeks from the day it starts.

### Baby born late

If your baby is born later than the week in which it was due and after your MPP had started, your SMP is not affected. Your MPP remains the same. However, if you are incapable of work when the MPP ends, you may be able to get [SSP from your employer](#) or [Employment Support Allowance](#) from the Social Security Agency.

### Industrial disputes

Industrial or trade disputes have no effect on the start of the maternity pay period. If you are involved in such a dispute, you can still give your employer notice of the date your maternity leave will start. This date can be within the period of the dispute. And the notice that you have already given to your employer is not affected by a subsequent trade dispute.

### More than one employer

If you have more than one employer, [you may be entitled to more than one lot of SMP](#). Although you may want to stop work in each job at the same time, you can still go on longer with one of them if you feel you can do so. Your MPPs with each employer would then start at different times.

### More than one contract with the same employer

You may also be entitled to more than one lot of SMP if you have separate contracts with the same employer. You can start your SMP at different times in relation to each contract. But if you start your MPP under contract A earlier than under contract B, then you can only work for up to 10 days under contract B before your SMP under contract A has to stop. See [Keeping in Touch days](#).

## If you leave your employment

If you leave your employment after the start of the qualifying week you can still get SMP. But:

- if you leave your employment after the start of the qualifying week but before the start of the 11th week before your EWC, your MMP will start from the 11th week before your EWC;
- if leave your employment after the start of the 11th week before your EWC but before the date you told your employer you wanted your MPP to start, your MPP will start from the day after you leave your employment.

If you leave your employment after your MPP has started, you will still get SMP from your former employer.

## Health Service employees

If you work for a health authority at more than one hospital or unit and one (or more) of those hospitals or units become an HS trust then you will have two or more contracts of employment.

[This may mean that you will get more than one lot of SMP.](#) It may also mean that because your earnings have been split between contracts, your average earnings under one or more of those contracts are below the [lower earnings limit \(LEL\)](#) and you will not qualify for SMP.

**There are special rules for this situation. If you were employed by a health authority when your contract was split between a health authority and a trust or between trusts, you can elect to have your contracts treated as one for SMP purposes if it would be helpful to you.**

**Example A** – A woman earning £100 each week had her contract of employment split equally between a health authority and an HS trust. She then earned £50 per week under each contract. After the split, because her earnings under each contract were below the lower earnings limit, she did not qualify for SMP. She can therefore elect to have her contracts treated as one to enable her to qualify for SMP.

**Example B** – Before her contract split a woman earned £150 each week and qualified for higher rate SMP of £135 per week (90 per cent of £150). After the split she earned £100 under one contract and £50 under the other. Earnings related SMP of £90 (90 per cent of £100) would be payable on the bigger contract and no SMP would be payable under the other. Electing to have her contracts treated as one would mean that she would get 90 per cent of £150 again for the first 6 weeks of her maternity pay period, followed by standard rate SMP of £123.06 for the remaining 33 weeks of her MPP.

If you want to elect to have your contracts treated as one, you should tell each of your employers about your election at least 28 days before the date you intend to stop work to have the baby.

Within 28 days of telling your employers about your election you should give each of your employers the following information:

- the name and address of each employer
- the date you started working for each employer
- details of your earnings from each employer for at least 8 weeks up to and including the qualifying week ([how average weekly earnings are worked out](#)). If you cannot give this information within the 28 day time limit, you must do so as soon as you can.

## SMP amount

If you satisfy the [continuous employment rule](#) and [the earnings rule](#), you will be entitled to SMP for a maximum of 39 weeks.

The amount you get depends on your earnings. The first 6 weeks of SMP are earnings related and you will get a weekly rate equal to 90 per cent of your average weekly earnings (there is no upper limit). The remaining 33 weeks are paid at the weekly standard rate SMP of £123.06 (from 6 April 2009) or the earnings related rate if this is less than standard rate SMP.

### Deductions from SMP

SMP is treated as earnings, so your employer will make any deductions (such as income tax and NI contributions) that are due. Your employer can also make other deductions from your SMP, for example pension contributions or trade union subscriptions.

## How SMP is paid

It is intended that SMP should be paid in the same way and at the same time as your normal wages would be paid. Although it is a weekly rate your employer does not have to pay you weekly. If your wage is normally paid monthly, your employer can pay you SMP monthly with an adjusting payment for any odd weeks.

Or, your employer may split your weekly payments of SMP over different pay periods, if this fits better with the way your employer normally pays you.

Your SMP can be paid to you through an insurance company, friendly society, payroll service or other third party if you wish, but your employer must make sure that all the necessary income tax and NI deductions are made.

Your employer cannot pay you SMP in kind, or as board and lodging, or by way of a service. Your employer can pay SMP as a lump sum, so long as the rules for paying NI contributions are obeyed. But if you are paid SMP in a lump sum you and your employer could pay more in NI contributions than if you are paid monthly or weekly.

If you have a [salary sacrifice](#) agreement with your employer, your employer will work out the SMP payable to you based on your earnings which count for NI contributions. Your employer must then pay the SMP due to you in full. SMP cannot be further reduced by the terms of a salary sacrifice arrangement which runs during your maternity pay period.

Your employer may however make deductions from your SMP, for example tax, NI contributions, trade union subscriptions and pension contributions.

## When SMP ends

Your SMP must end when your employer has paid you SMP for 39 weeks.

But it can end earlier than this if after the baby is born but before the end of the maternity pay period (MPP) you work for an employer who did not employ you in the qualifying week. It is your responsibility to tell the employer paying you SMP about your new job. You must do this as soon as possible, and make sure you return any SMP payment you get that covers the week you started and any part of the period after you resumed work.

You must also let the employer paying you SMP know if, at any time during the MPP, you are taken into [legal custody](#).

In both of the above circumstances, SMP will stop. But you may be able to claim [Maternity Allowance](#) from Incapacity Benefits Branch instead.

SMP also ends if you die. It cannot be paid to your family.

## Working for an employer in your Maternity Pay Period

If you are getting SMP from one employer and, **before your baby is born**, you do some work for another employer, your SMP is not affected.

Your SMP will stop if **after the baby is born** but before the end of the Maternity Pay Period, you work for an employer who did not employ you in the qualifying week. It is your responsibility to tell the employer paying you SMP about your new job. You must do this as soon as possible, and make sure you return any SMP payment you get that covers the week you started work and any part of the period after you resumed work.

If you do any work in a self-employed capacity during your MPP then such work will not affect you SMP.

## Working in the MPP for the employer paying you SMP - Keeping in Touch (KIT) days

You can work under your contract of service for the employer paying you SMP for up to 10 days during your MPP without losing any SMP. These special days are known as KIT days.

KIT days are intended to help you keep in touch with your workplace and allow you to do some work during your Maternity Pay Period without affecting your SMP. They could also help ease your eventual return to work. The type of work you do could be attending work for a training course or for an appraisal interview. These are just examples, but whether you take advantage of these days is your choice. Both you and your employer should agree that you can work on those days. Your employer does not have any right to insist that you work.

Any work you do as a KIT day, even as little as half an hour for example, will be counted as a whole day for KIT days. They can be taken as single days; in blocks of two or more days; or can be taken consecutively. Once you have used up your 10 KIT days and you do any further work, you will lose a week's SMP for the week in the Maternity Pay Period in which you have done that work. If a week in your Maternity

Pay Period contains only KIT days, you will be paid SMP for that week. If a week in your Maternity Pay Period contains the last KIT day and you do a further days work in the same week for the employer paying you SMP, you will lose SMP for that week.

For any KIT days that you work under your contract of service for the employer paying you SMP, your employer must pay you SMP for that week as a minimum. Any contractual payment for the work done as a KIT day will depend on the agreement between you and your employer.

**NOTE:** You can only use Keeping in Touch days with the employer paying you SMP. You cannot use KIT days for any work you do for any employer other than the employer who is paying you SMP. If, after your baby is born, you do any work for an employer who did not employ you in the qualifying week, your SMP will stop.

### What to do if your employer says you *should not get SMP*

If your employer decides that they should not pay you SMP, they should give you form SMP1. Form SMP1 explains why you cannot get SMP. Your employer must return any maternity certificate you have given them. If you think you are entitled to Maternity Allowance you should get a form MA1 from your Social Security or Jobs & Benefits office, or maternity or child health clinic. This form, [MA1](#) can also be downloaded. Complete it and take or send it to **Incapacity Benefits Branch, Castle Court, Royal Avenue, Belfast BT1 1SB** with form SMP1 and the maternity certificate.

- [If you think your employer's decision is wrong.](#)

If your employer is not liable to pay contributions under the NI scheme, you are not entitled to SMP. You should ask your employer to give the reasons for non-payment in writing. Provided you are not entitled to SMP from another employer, you should make a claim for [Maternity Allowance](#).

### Occupational Maternity Pay

Your employer cannot pay you less than your SMP entitlement. They may pay you more if you are entitled to a higher rate of maternity pay under your employment contract.

If your employer does have an occupational maternity pay scheme, you will have to keep to its rules if you want to get all the pay you are entitled to. Your employer can usually pay you SMP as part of your occupational maternity pay, or vice versa. But if the occupational scheme is funded entirely by the employees your employer cannot treat your maternity pay as part of SMP.

## Premature births

If your baby is born prematurely, your SMP may or may not be affected, depending on just how premature the birth is.

### *If your baby is born after your MPP has started*

Your SMP will not be affected. You can still get SMP for the full payment period. Your employer should pay it to you just as if the baby had been born when it was due.

### *If your baby is born before your MPP has started but after the qualifying week*

You must, if reasonably practicable, inform your employer of the birth within 3 weeks. You will then receive the SMP due to you but the pay period will now be from the day following the day your baby is born.

### *If your baby is born before or during the qualifying week*

Within 3 weeks of the birth, you must give written evidence that you were away from work because of your baby's birth - the baby's birth certificate will do. You must also still provide your employer with medical evidence of the date the baby was due to be born. Evidence of both the expected date and the actual date of birth can be provided together on part B of the maternity certificate (form MATB1) issued by your doctor or midwife. You must do this within 3 weeks of the baby's birth. Your employer may agree to extend this time limit to 13 weeks (but no longer) if they feel you had good reason for delay.

You will be taken as satisfying [the continuous employment rule](#) if you would have satisfied it but for your early childbirth. The period over which [the earnings rule](#) is applied and your [average weekly earnings are calculated](#) will be the 8 weeks that ended with the Saturday before the birth of your baby. The payment period will run from the day following the birth of your baby. Note, however, that if your baby is stillborn before the 25<sup>th</sup> week of your pregnancy, you won't be entitled to SMP – see '[Stillbirths](#)'.

## Twins or multiple births

If you are expecting more than one baby, your entitlement to SMP is exactly the same as if you were expecting only one.

## Stillbirths

Even if the baby survives only for an instant it is a live birth and you will be entitled to SMP if you qualify for it.

If your baby is stillborn earlier than the 25th week of your pregnancy you will not be able to get any SMP. But you may be able to get [Statutory Sick Pay](#). Talk to your employer.

If your baby is stillborn after the start of the 25th week of your pregnancy, you are entitled to the same SMP you would have been given if your baby had been born alive.

## Effect of SMP on other benefits Mariners and continental shelf workers

You will not get SMP if you are a mariner on a foreign-going vessel or deep sea fishing vessel employed by a UK employer while under a contract for which your employer pays a special low rate of NI contributions. See leaflet on Seafarers available from HM Revenue & Customs website [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

If you are a continental shelf worker or a mariner employed by a UK employer trading within the near continental limits you are covered by the SMP scheme.

Moreover, if your baby is born early or you cannot be returned to the UK when your MPP is due to start, you will be regarded as if you are in the UK.

## Effect of SMP on other benefits

You cannot get Statutory Sick Pay (SSP), Jobseeker's Allowance (JSA) or Maternity Allowance (MA) while you are getting SMP.

But it is possible to go on getting Severe Disablement Allowance (SDA), an adjusted rate of short-term (higher rate) or long-term Incapacity Benefit, and an adjusted rate of Employment and Support Allowance (ESA) if you were getting this when the MPP started.

Where you are entitled to Employment and Support Allowance or SSP directly before your MPP, and you continue to be sick you should keep giving medical evidence if this is still needed.

## Statutory Sick Pay

Most people who work for an employer and earn enough on average to equal or exceed the National Insurance lower earnings limit (LEL) get Statutory Sick Pay (SSP) from their employer when they are unable to work due to an illness or disability. The LEL is £87 a week for the tax year 2007/08, £90 for 2008/9 and £95 for 2009/10. However you are not entitled to SSP if you are sick while you are getting SMP.

If you are still employed at the start of the 11<sup>th</sup> week before the week your baby is due and are sick for 4 days or more in a row, you may be able to get SSP for periods of sickness up to the day before your SMP is due to start. But if you are off work sick because of your pregnancy in the 4 weeks running up to the week before the week your baby is due you cannot get SSP and your employer will start paying you SMP; if SSP is being paid to you, it will stop and [SMP will start](#).

If you are still under a contract of service to the employer paying you SMP, you may be entitled to SSP from them when your SMP ends. You should inform your employer that you are sick and let them have whatever evidence they require from you. Your employer will then check if you are entitled to SSP and, if so, they will pay it. If you are not entitled to SSP, your employer will give you form SSP1 to explain why.

## Employment and Support Allowance

If you do not go back to work for your employer when your SMP ends because you are incapable of work, and you are not entitled to SSP (for example, because of your maternity absence you may not satisfy the earnings rules), your employer must issue you with an exclusion from SSP1. Follow the instructions on the form if you want to claim Employment Support Allowance from the Social Security Agency. If your contract with your employer has ended you should contact the Employment and Support Allowance Centre on 0800 085 6318 to claim Employment and Support Allowance.

If you get Employment and Support Allowance when your entitlement to SMP starts, you can continue to receive it provided that you continue to supply the Employment and Support Allowance Centre with medical evidence of your incapacity, unless you have been told that this is no longer required. The weekly amount of Employment and Support allowance will be reduced by the weekly amount of SMP that you get. Employment and Support Allowance will again be paid in full when SMP ends and it will continue for as long as your entitlement lasts.

**More information** is given in the leaflet **Employment and Support Allowance**, available from your local Jobs & Benefits or Social Security office.

## Incapacity Benefit

If you are getting short-term (higher rate) or long-term Incapacity Benefit when your entitlement to SMP starts, you can continue to receive it provided that you continue to supply Incapacity Benefits Branch with medical evidence of your incapacity, unless you have been told that this is no longer required. The weekly amount of Incapacity Benefit will be reduced by the weekly amount of SMP that you get. Incapacity Benefit will again be paid in full when SMP ends and it will continue for as long as your entitlement lasts.

## If your employer cannot pay

If your employer cannot pay you SMP because they are bankrupt, or the firm is in liquidation, phone the HM Revenue & customs Statutory Payments Disputes Team on 0191 2255221.

Arrangements can then be made for you to be paid. But note that the HM Revenue & Customs can only pay you from the week of your employer's insolvency. Any SMP you are due for earlier weeks remains the responsibility of your employer.

If your employer is not insolvent or bankrupt, but is in financial difficulties or the business is closed, they should still pay you SMP. Make sure you [give your employer notice](#) and [medical evidence](#) at the right times. If you have any difficulty in getting payment from your employer, you should phone the HM Revenue & customs Statutory Payments Disputes Team on 0191 2255221.

## Unfair dismissal on maternity-related grounds

Regardless of your length of service or hours of work you can have certain protections as soon as your employer knows you are pregnant.

If you are dismissed from your job on grounds related to:

- pregnancy **or**
- childbirth **or**
- taking or seeking statutory maternity leave **or**
- any of the benefits of ordinary maternity leave **or**
- because you were suspended from work for health and safety **or**
- reasons connected to maternity,

you will be entitled to make a complaint of unfair dismissal to an employment tribunal.

It is also direct sex discrimination for an employer to treat you less favourably for a reason related to your pregnancy or maternity leave.

**More information** is given in the Department for Employment and Learning booklet **ER16 *Maternity Rights: a guide for employers and employees***. This is available on the Department for Employment and Learning website [www.delni.gov.uk](http://www.delni.gov.uk) or by calling the Department for Employment and Learning publications orderline on 028 9025 7678.

## If you need more money

If you find it hard to manage on SMP and any other income you have, you might be entitled to **Income Support**. But you will have to claim this separately at your Social Security or Jobs & Benefits office.

**More information** is given in leaflet [IS20 \*A Guide to Income Support\*](#).

## If you think your employer's decision is wrong

If your employer does not pay you SMP when you think they should, or pays you less than you think you are entitled to, ask them for an explanation of the decision. There may be a good reason for it.

If you still disagree with your employer's decision you should ask for the reasons in writing. You can then ask for a formal decision from HM Revenue & Customs Statutory Payments Disputes Team. They make decisions on all questions you may have on SMP. The Statutory Payments Disputes Team can be contacted on 0191 2255221.

HM Revenue & Customs will look at anything in writing that has to do with the question that has been asked. They will also ask for more evidence from you or your employer if needed.

If you find it hard to write down what you want to say, you can ask a friend or your trade union or staff association officer to help you. Or you can ask your local HM Revenue & Customs officer. If your employer has given you anything in writing to do with SMP, keep it. HM Revenue & Customs, will want to see it.

You and your employer will both get copies of the decision.

## Your appeal rights

Both you and your employer have the right to appeal to the Tax Commissioners **within 30 days of the date of the decision**. If you decide to appeal you must write, using form **DAA3** attached to leaflet **DAA2 A Guide to your notice of Decision**, to the HM Revenue & Customs Statutory Payments Disputes Team.

If your employer appeals, the HM Revenue & Customs (HMRC) Statutory Payments Disputes Team will let you know.

The HM Revenue & Customs officer may decide to review their decision rather than sending the case straight to the Tax Commissioners. If they do they will contact you about this.

Details of the appeals process is given in the Department for Constitutional Affairs booklet - Tax Appeals. A guide to appealing against decisions on the HM Revenue & Customs and other matters, available from any HM Revenue & Customs Office.

### When will you get paid if you have asked HMRC for a decision?

If neither you or your employer appeal against the HM Revenue & Customs officer's decision, and it was in your favour, your employer must pay you:

- by your next pay day **or**
- if that is not possible, no later than the second pay day after the time for appeal has run out.

If your employer has not paid you in that time, contact HM Revenue & Customs Statutory Payments Disputes Team. If you or your employer appeal against the HM Revenue & Customs officer's decision you cannot be paid until the appeal has been heard or withdrawn. If after the appeal the decision is that your employer should pay you SMP, your employer must pay you:

- by your next pay day **or**
- if that is not possible, no later than the second pay day after the appeal decision.

If the HM Revenue & Customs officer decides that you are not entitled to SMP you may be able to claim [Maternity Allowance](#) from Incapacity Benefits Branch.

## Resuming Work

Payment of SMP does not depend on you intending to return to work for your employer after your baby is born. If you qualified for SMP you are entitled to get it and keep it, even if you do not return to work. Your employer cannot ask you to pay back any SMP that you have received and that you are entitled to.

You have a right to return to your former job after maternity leave on the same terms and conditions.

If you take additional maternity leave after ordinary maternity leave you have a right to return to the same job, or one with no less favourable terms and conditions if it is possible for you to return to your former job.

If your contract of employment gives you different rights to the statutory minimum set out above, you can take advantage of whichever is better for you.

You can get more information from the [Department for Employment and Learning Website](#).

## Unemployment

If you do not return to work for your employer after your SMP ends then you may be able to claim Jobseeker's Allowance. But remember that you can claim Jobseeker's Allowance only if you are capable of, available for and actively seeking work. Contact your Social Security or Jobs & Benefits office.

You do not have to pay SMP back even if you do not return to work.

## Extra help through tax credits

There are two tax credits:

- Child Tax Credit, for families with children; **and**
- Working Tax Credit, to help working people on low incomes.

### Child Tax Credit

Child Tax Credit is the main financial support from the Government for families, for their children and for 16-19 year olds in full-time non-advanced education or approved training. The money you get is based on your income including that of your partner if you have one. All families with children, with an income up to £58,000 a year (or up to £66,000 a year if there is a child under one year old), are eligible for Child Tax Credit, regardless of whether or not the adults in the family are in work.

Families already getting Child Tax Credit can get additional help as soon as they have a new child without having to wait for the end of the tax year and without having to make a new claim.

The family can simply contact the Tax Credit Helpline. See the number below.

### Working Tax Credit

Working Tax Credit provides support for working people, helping to top up earnings. Mothers who are already getting Working Tax Credit can continue to receive it while they are getting SMP or are absent from work during maternity leave period or during the first 13 weeks of an additional maternity leave period. Mothers who were working at least 16 hours a week immediately before going on maternity leave may be able to claim Working Tax Credit while they are due SMP **without having to wait until they return to work.**

It may also be possible to get help with the costs of eligible childcare for other children in the family before a mother returns to work.

For further information, phone the Helpline on **0845 300 3900**

For people with hearing or speech difficulties can dial the Textphone number **0845 300 3900**

The Helpline is open from 8 am to 8 pm, seven days a week (except Christmas Day, Boxing Day, New Year's Day and Easter Sunday).

Visit the HM Revenue & Customs tax credits website at [www.hmrc.gov.uk/taxcredits](http://www.hmrc.gov.uk/taxcredits)

## National Insurance credits while you are getting SMP

Keep a note of the period during which you received SMP. If you were not paying or treated as paying NI contributions during this period, credits may be awarded later to keep your NI record in order and entitle you to other benefits in later years.

These credits will only be needed if your National Insurance record is deficient in the tax year or years when you received SMP. If you are a married woman paying reduced rate NI contributions you will not be able to get NI credits.

Contact the HM Revenue & Customs Office if you think you need these credits.

## Maternity Allowance (MA)

### Introduction

**Maternity Allowance (MA)** is a benefit paid weekly by the Social Security Agency to pregnant women who cannot get SMP and to the self-employed. You will get it only if you have been employed or self-employed and satisfy the conditions explained below.

If you have more than one employer, and you get SMP from one employer and not the other, you cannot claim A. If you are both employed and self-employed and you can get SMP from your employer, you cannot claim MA for your self-employment.

MA can be paid for up to 39 weeks.

The qualifying conditions for MA depend on the date your baby is due not the date your baby is actually born. The week in which your baby is due is referred to as the EWC – expected week of childbirth.

You do not pay income tax or NI contributions on Maternity Allowance.

If you think you may be entitled to MA, please read the following pages very carefully. The '[Terminology](#)' pages should help you if you forget the meanings of any of the abbreviations or technical phrases.

If you did not qualify for Statutory Maternity Pay (SMP) because you did not earn enough (see '[The earnings rule](#)') and while you were on maternity leave your employers awards a pay rise which you would have received had you not been on maternity leave, you should ask your employer to look again at [whether you could get SMP](#). If after recalculation you qualify for SMP, your employer will pay the difference between any MA paid to you and the SMP due.

## Eligibility

You can only get MA if you cannot get SMP from your employer.

To qualify for MA, you have to satisfy two basic rules:

- the employment rule
- the earnings rule.

You have to satisfy these rules in a test period. The test period is the 66 weeks up to and including the week before your baby is due.

### The Employment rule

You must have been employed and/or self-employed for at least 26 weeks in your 66 week test period. The 26 weeks do not have to be in a row and it does not matter how much you earn. You do not actually have to be physically at work to be employed or self-employed; you might be off work sick or have been on Statutory Maternity Leave for an earlier pregnancy for example.

Weeks when you have not worked a full week count towards your 26 weeks.

If you are self-employed, you must be registered as such with the HM Revenue & Customs according to their rules.

### The earnings rule

To get MA your earnings, on average, must be at least equal to the Maternity Allowance Threshold (MAT) which applies at the beginning of your test period. The MAT is £30 a week so you must earn on average at least £30 a week. If you have more than one employer, all earnings will count when working out the average.

### Period for calculating average weekly earnings

Your earnings are averaged over any 13 weeks in your test period. The 13 weeks do not have to be in a row and you may choose the weeks with the most earnings to help you get more MA. Earnings from all your jobs (if you have more than one) and earnings you are treated as having from self-employment will be used to work out your average weekly earnings. If your average is at least equal to £30 a week you will get MA.

**If you are an employee** the earnings rule is based on your gross earnings during your test period. Gross earnings are your earnings before any deductions and may include:

- Statutory Adoption Pay
- Statutory Maternity Pay
- Statutory Paternity Pay, or
- Statutory Sick Pay.

If you are paid at intervals which are not an exact number of weeks (for example monthly) Incapacity Benefits Branch will work out your weekly earnings from your payslips. For example the earnings in a month will be divided by the number of whole weeks in that month to reach a weekly gross earnings figure.

If you are part of a salary sacrifice scheme this will mean that you have voluntarily given up the right to some of your earnings in return for benefits from your employer e.g. childcare vouchers. MA will be assessed on those lower earnings that is, no account will be taken of the salary you have given up or the value of the benefit you receive in its place. This may reduce your entitlement to MA or may mean that you will not be entitled to MA as your earnings are below the MAT.

**If you are a student** in receipt of a bursary, your bursary is not treated as earnings for MA purposes.

**If you are self-employed and do not have a small earnings exception certificate**, for any week covered by a Class 2 NI contribution you will be treated as having earnings sufficient to result in the standard rate of MA, payable at the end of the week covered by a Class 2 NI contribution. This means that:

- From 9 April 2007 treated as earning £125.28
- From 7 April 2008 treated as earning £130.20
- From 6 April 2009 treated as earning £136.72

Incapacity Benefits Branch will ask HM Revenue & Customs to confirm the information you give about your Class 2 NI contributions on your MA claim form.

**If you are self-employed and hold a small earnings exception certificate**, you will be treated as having earnings equal to the MAT at the end of any week covered by your certificate. This applies even if you pay a Class 2 contribution for a week which is also covered by the certificate. Send this certificate in with your MA claim form.

**If you are employed and self-employed**, earnings from your employment and earnings you are treated as having from self-employment can be added together to help you get as much MA as you can (up to a maximum of the standard rate).

## Rates of MA

If you satisfy the employment rule and the earnings rule, you will be entitled to MA for a maximum of 39 weeks.

The amount you get depends on your gross average weekly earnings. You will get either standard rate MA, which is £123.06 a week from 6 April 2009 or 90 per cent of your average weekly earnings, if this calculation results in a figure which is less than the standard rate of MA.

If you have paid Class 2 contributions at the end of each week in your 13 week earnings period, you will receive standard rate MA.

If you hold a small earnings exception for at least 13 weeks in your test period and you have no other earnings you will be treated as having earnings of £30 a week (equal to MAT) and receive a weekly rate of MA of £27.00 (90 per cent of the MAT).

### Self-employed contributions paid by direct debit

Where self-employed NI contributions are paid by direct debit, they are treated as having been paid on the due date, even though they are actually paid monthly in arrears.

### Self-employed contributions paid by quarterly bill

These bills are sent out every 13 weeks in arrears. To satisfy the MA rules you may need to count some NI contributions which you are due to pay but for which you have not yet been sent a bill. When you claim MA your Social Security or Jobs & Benefits office will tell you how many NI contributions you need to pay to qualify for MA.

**NOTE:** your MA may be delayed if you wait for your bill before you pay your contributions.

### If you lose your entitlement to Statutory Maternity Pay

If you have qualified for Statutory Maternity Pay (SMP) from your employer but are taken into legal custody at the start of your Maternity Pay Period (MPP), you lose your entitlement to SMP. If you are taken into legal custody at any time while you are receiving SMP, your SMP will stop immediately. You may be able to claim MA once you have been released.

If your SMP stops because you have started work for an employer who did not employ you in your qualifying week and you subsequently stop work, you may be able to claim MA.

Your employer should give you form SMP1, stating why your SMP has stopped, together with a maternity certificate (form MATB1) or any other medical evidence that you have given him or her. You will need both forms to claim MA.

### Reasons for not getting MA

You may not be able to get MA (or will stop getting it if you were initially entitled to it) if:

- you are getting SMP from your employer; or
- [you do not satisfy the rules for MA](#); or
- your baby is stillborn earlier than the 25th week of your pregnancy (see ['Stillbirths'](#)); or
- you are imprisoned or detained in legal custody, but you may be able to get MA on release; or
- you are in a country outside the European Economic Area (EEA) or one with whom the UK has no reciprocal agreement. There is a [list of countries that form the EEA](#) and a list of countries with [reciprocal agreements](#).

[If you cannot get MA](#), you may be able to get Employment and Support Allowance for 6 weeks before the week your baby is due and for 2 weeks after the birth.

## How to claim MA

You can claim MA when you reach the 14th week before the week in which your baby is due (the 27th week of pregnancy). Ask for an MA claim pack (MA1) at your Social Security or Jobs & Benefits office or you can download a [MA Claim Pack](#) in PDF format.

**NOTE: You can claim even if you are still working. Do not delay your claim. If you claim more than 3 months after the date your Maternity Allowance Period (MAP) is due to start, you will lose money.** Click [here for information about the MAP](#).

Fill in claim form MA1 carefully. The information you give on the form will be used to calculate your entitlement to MA. Incapacity Benefits Branch will carry out a series of checks on the information you supply. So it is important that the details you give are correct, or you might not get your correct entitlement. If you are in any doubt, say so. Do not sign and date the MA claim form earlier than the 14<sup>th</sup> week before the week in which your baby is due. The information provided on the claim form must be correct at this time. If you date it earlier that this Incapacity Benefits Branch will send the MA claim form back to you.

When you have filled in the claim form, take it or send it to Incapacity Benefits Branch, together with medical evidence of when the baby is due and any other information required.

**Claim as soon as you can**, even if you are still at work or if you do not have the medical evidence needed, or cannot provide any other information needed to complete the claim form. You can send that later but explain in the claim form why you cannot give all the information needed.

## Proving your baby is due

You must provide Incapacity Benefits Branch with medical evidence of the date your baby is due. Your doctor or midwife will give you a maternity certificate (form MATB1) after you reach the 20th week before the week in which your baby is due (the 21st week of pregnancy). It cannot be given to you any sooner. Your midwife will usually give you this at your next ante-natal appointment from the 21st week of your pregnancy.

## Proving your earnings

You must send us original payslips for the 13 week period you have chosen from your [Test Period](#). Send them to Incapacity Benefits Branch with your MA1 claim form. Your claim may be delayed if you do not send proof of earnings. Your original payslips will be returned to you.

If you are self-employed proof of earnings are not required to establish the rate of MA. However, on receipt of your MA1 claim form Incapacity Benefits Branch will check with HM Revenue & Customs to see if you have been registered as self-employed and/or whether class 2 NI contributions have been paid or if a small earnings exception certificate is in place.

### Claiming if you still work for an employer

If you are working for an employer during the 15th week before your EWC (the 26th week of pregnancy), you may be able to get SMP from your employer. Your employer may need to see your maternity certificate (form MATB1) to see if you qualify for SMP.

If you are not entitled to SMP, your employer will return your maternity certificate to you, together with an SMP exclusion form (SMP1) on which they have given the reasons for not paying you SMP. Send the SMP1 and your maternity certificate to Incapacity Benefits Branch with your Maternity Allowance claim form (MA1). You should send form SMP1 with your MA claim if you were employed at any time in the 15th week before the week in which your baby is due. If you have more than one employer in the 15th week before your baby is due you must get form SMP1 from each employer. If you do not enclose SMP1, Incapacity Benefits Branch will return your claim form and your maternity certificate to you with a note telling you to ask your employer (or employers) if you are entitled to SMP. All this could delay matters. If your MA claim was successful tell your employer.

### Claiming if you have stopped working for an employer

If you are not employed during the 15th week before your EWC, you can claim MA by sending your claim form (MA1) and your maternity certificate (form MATB1) to Incapacity Benefits Branch.

### Claiming if you are self-employed

If you are self-employed, claim on form MA1, which you should send to Incapacity Benefits Branch together with your maternity certificate (form MATB1) and your small earnings exception certificate, if you have one. If you were also employed at any time in the 15th week before the week in which your baby is due, you must also provide a form SMP1 with your claim to show why your employer will not pay you SMP. You should get form SMP1 from your employer.

If you are both self-employed and employed and you qualify for SMP from your employer, you cannot get MA as well.

### Claiming extra benefit for a dependant

If you want to claim benefit for an adult dependant, fill in the appropriate part of form MA1 and you will be sent a claim form. Do not delay claiming as you may lose the extra money for any period earlier than 3 months before you claim it.

### Claiming before you stop working

If you decide to work later into your pregnancy you can claim MA before you stop working. Incapacity Benefits Branch will work out if you can get MA, how much to pay you and how long for. They will send you a form (BM25A) notifying you of your entitlement and asking you to let them know the date when you stop work to have your baby so that payments can start. You should also remember to tell your employer so that you can go on maternity leave. For more information on maternity leave go to the website [www.delni.gov.uk](http://www.delni.gov.uk)

### Claiming too early

If you send in your claim too early, Incapacity Benefits Branch will return it to you with any relevant information, and ask you to send it in later.

### Claiming after the baby is born

If you have been unable to claim before the birth of your baby because the baby was born earlier than you expected or you have delayed your claim until after the birth ask the doctor or midwife to give you a certificate (MAT B1), showing on it the date on which the baby was due.

**NOTE:** If you claim more than 3 months after the date your MAP is due to start, you will lose money.

## When MA is paid

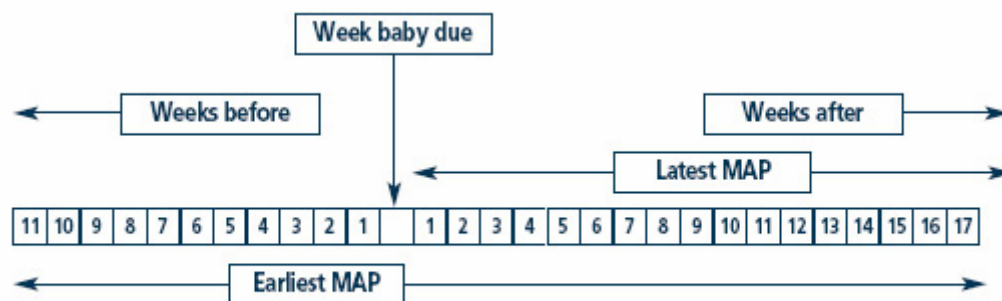
Unless your baby is born earlier you cannot get any MA until 11 weeks before the week the baby is due but only if you stop work before then. If you continue to be employed or self-employed there is some flexibility as to exactly when the payments start, and you can choose the date depending on when you stop work. [There are some circumstances when MA must start](#).

## The Maternity Allowance period

The payment period for MA is called the **Maternity Allowance Period** or MAP. MA can be paid for a continuous period of up to 39 weeks.

## Working out your MAP

Unless your baby is born prematurely the earliest your MAP can start is 11 weeks before the week your baby is due.



*Diagram showing earliest and latest Maternity Allowance periods.*

Your MAP will start at the earliest date if, at the start of the 11<sup>th</sup> week before the week in which your baby is due, any one of the following applies to you:

- you have already given up work as an employee or self-employed person or
- you are claiming Jobseeker's Allowance (JSA) (this will stop when MA starts) or
- you are no longer employed or self-employed but are claiming Employment and Support Allowance, Incapacity Benefit or Severe Disablement Allowance (SDA).

(Exceptionally, if your baby is born prematurely more than 11 weeks before it was due, your MAP will start earlier. See '[Premature births](#)'.)

## Changes that will affect the start date of you MAP

If, at the start of the 11th week before your baby is due any one of the following applies:

- you are still working as an employed or a self-employed person or
- you are getting Statutory Sick Pay (SSP) from your employer or
- you have not yet given up your job but are claiming Employment and Support Allowance, Incapacity Benefit or Severe Disablement Allowance

you can choose to start your MAP later once you have stopped work to have your baby.

You can choose the date you want your MAP to start. This may be any day of the week. If you qualify for maternity leave from your employer the start date of your MAP will be the same day as the day your maternity leave begins.

But if your baby is born before the date you told your employer you were going to stop work, your MAP will start from the day following the day you gave birth.

If you are absent from work wholly or partly because of your pregnancy on or after the beginning of the 4th week before your EWC the rules on below apply.

### Absence from work due to pregnancy in the 4 weeks before the week your baby is due

An absence, wholly or partly because of your pregnancy, will trigger the start of your MAP if you are absent from work for a pregnancy related reason on or after the start of the 4th week before the week your baby is due. Your MAP will then start automatically from the day following the first complete day you are absent from work for a pregnancy-related reason in that 4 week period.

### Baby born late

If your baby is born later than the week in which it was due, your MAP will not change if it has already started. If you continue to work beyond the date your baby is due and you give birth, your MAP will start the day following the day your baby was born.

### Premature births

If your baby is born prematurely, your MAP may or may not be affected, depending on how premature the birth is.

If your baby is born prematurely after your MAP has started, nothing will change.

If your baby is born before your MAP was due to start, your MAP will start from the day following the day on which the baby was born.

### Twins or Multiple Births

If you are expecting more than one baby, your entitlement to MA is exactly the same as if you were expecting only one.

### Stillbirths

Even if the baby survives only for an instant, it is a live birth and you will be entitled to MA if you qualify for it.

If your baby is stillborn earlier than the 25th week of your pregnancy you will not be able to get MA. But you may be able to get Statutory Sick Pay from your employer or **Employment and Support Allowance** from The Social Security Allowance.

If your baby is stillborn after the start of the 25th week of your pregnancy, you are entitled to the same MA you would have been given if your baby had been born alive.

## How MA is paid

### We normally pay your money into an account

Many banks and building societies will let you collect your money at the post office.

We will tell you when we will make the first payment and how much it will be for. We will tell you if the amount we pay into the account is going to change.

### Finding out how much we have paid into the account

You can check your payments on account statements. The statements may show your National Insurance (NI) number next to any payments we have made. If you think a payment is wrong, get in touch with Incapacity Benefits Branch.

### Frequency of payment

We can arrange to pay you every 2 weeks or 4 weeks into an account.

### Getting someone to collect your benefit

If you want someone else to collect your benefit for you regularly, you may be able to make arrangements with your account provider. Please ask them to help you with this.

There are special rules that apply when someone is unable to manage their own affairs. Where no one is appointed as a receiver by the Court of Protection, then the Social Security Agency may appoint someone to act for them. For more information, contact Incapacity Benefits Branch.

## Changes you must tell us about

You must report any changes which may affect your benefit. These may include:

- your baby being born before you said you wanted your MA to start or
- during the period of the allowance you do any work as an employed or self-employed person or
- during the period of the allowance you start getting SMP or
- you leave the UK (England, Scotland, Wales, Northern Ireland and, for benefit purposes, the Isle of Man) or
- you are imprisoned or detained in legal custody.

## Working in your MAP

If you work during your MAP you must tell Incapacity Benefits Branch of this work as soon as possible. You are allowed to work for 10 days during your MAP and still keep MA (see Keeping in Touch days below). If you work for more than 10 days you must not collect any more money. The decision maker will decide whether any further payments can be made, but you will lose MA for at least the number of days you work over the 10 days allowed.

## Keeping in Touch (KIT) days if you are getting MA

You are allowed to work as an employed or self-employed person for up to 10 days during your Maternity Allowance Period without losing any MA. These special days are known as KIT days.

KIT days are intended to help you keep in touch with your workplace or, if you are self-employed with your business, and enable you to do some work without affecting your MA. They could also help ease your return to work. If you are on maternity leave from your employer you and your employer must agree that you can work on those days. Your employer does not have any right to insist that you work. If you are not on maternity leave from an employer, or you are self-employed, you are free to decide for yourself whether to do any work or not.

Any work you do as a KIT day, even for as little as half an hour, for example, will count as a whole day for KIT days. You can work for single days, in blocks of two or more days; or they can be worked consecutively. Once you have used up your 10 days and you do any further work, you will lose a days MA for any day on which you work.

You must tell Incapacity Benefits Branch if you do any work for an employer or work as a self-employed person (including work you do on KIT days) in your Maternity Allowance Period.

It is the number of days you actually work which determines whether you will lose your MA. The amount you get paid for the days you work in your MAP will not affect your MA.

## Backdated pay rises

If you get a backdated pay rise that includes earnings in your test period, and you are getting less than standard rate MA, you can ask us to look again at your MA as you may get more money.

## Extra benefit for your dependants

An increase of your MA may be paid for one adult dependant. The current amount payable is shown in leaflet [BR A5\(NI\)](#) *Social security benefit rates*.

If the adult dependant is your husband or civil partner you may get an increase if both of the following apply:

- their earnings or occupational pension are no more than the increase normally payable for a dependant, **and**
- the person normally lives with you, or you are contributing to their maintenance a sum that is at least as much as the amount of the increase you would get.

If the adult dependant is a person looking after children, you may get an increase if all the following apply:

- you are entitled (or can be treated as entitled) to Child Benefit for the children, **and**
- they normally live with you, or you are contributing to their maintenance a sum that is at least as much as the amount of the increase you would get, **and**
- you do not get an increase for your husband or civil partner.

You cannot get an increase for an adult dependant who has stopped work or lost their job because of involvement in a trade dispute.

If you wish to claim an increase, you should tick the appropriate box in your MA claim form MA1.

## Effect of other benefits

An increase for a dependant may be reduced or not paid at all if you or anyone else is getting a payment for the same dependant under the War Pensions, Industrial Injuries, or training allowances schemes. This includes an allowance under any Youth Training Scheme.

This also applies if a partner or other adult dependant is receiving payment in his or her own right under any such scheme, including the Job Release Scheme. (But it will not apply if the payment is a War Pension or Industrial Injuries Disablement Benefit.)

## How other benefits affect MA

Your MA may be reduced, or not paid at all, if you get another social security benefit or a training allowance (including an allowance under the Youth Training Scheme).

## How payments from your employer affect MA

Occupational maternity pay, payment in kind or any other payments made to you by your employer will not affect the payments of your MA. But remember that you cannot get MA if your employer pays SMP to you.

## Effect of MA on other benefits

While you are receiving MA you will not be entitled to Jobseeker's Allowance. You may still be entitled to benefits such as Income Support, but the amount you get will be reduced by the amount of MA.

### Statutory Sick Pay

Most people who work for an employer and earn enough on average to equal or exceed the National Insurance lower earnings limit (LEL) get Statutory Sick Pay (SSP) from their employer when they are unable to work due to illness or disability. The LEL is £90 for 2008/9 and £95 for 2009/10 but you do not have to pay National Insurance contributions to be entitled to SSP. But you are not entitled to SSP if you are sick while you are getting MA.

If you are still employed at the start of the 11th week before the week in which the baby is due and are sick for four days or more, you may be able to get SSP for periods of sickness up to the day before MA is due to start. (But see below if you are off sick because of your pregnancy in the 4 weeks before the week your baby is due.)

If your MA has not started and you become sick with a pregnancy-related illness in the four weeks before your baby is due, you will not be able to get SSP. Your MA must start instead. But if you do not think your illness is pregnancy-related, ask your employer to look at the decision again. If you are still not satisfied, contact HM Revenue & customs Statutory Disputes Team on 0191 225 5221.

**More information** is available on the [HM Revenue & Customs](#) website.

If you are employed after your baby is born and after your Maternity Allowance Period (MAP) ends, you may be able to get SSP if you become sick. You do not actually have to have returned to work. If you cannot get SSP, your employer must give you form SSP1 so that you can claim Employment and Support Allowance instead

### Employment and Support Allowance

If you are ill when your MA ends and you cannot get Statutory Sick Pay (SSP) from your employer, or you no longer have an employer, you may claim Employment and Support Allowance.

If you are entitled to more than one benefit at the same time (for example, MA and Employment and Support Allowance) you will normally get an amount equal to the greater.

**More information** on Employment and Support Allowance is available our website [www.dsdni.gov.uk](http://www.dsdni.gov.uk)

### Jobseeker's Allowance

If you are getting Jobseeker's Allowance (JSA), tell the office paying it about your MA claim, because you cannot get JSA as well as MA.

If you are getting JSA and qualify for MA, your MAP automatically starts at the beginning of the 11th week before the week in which the baby is due. That is when your JSA will stop.

### Income Support or income-based Jobseeker's Allowance

Income Support or income-based JSA paid to you or to your partner will be reduced by the amount of MA, including any increase of your allowance you receive for [dependants](#). So you must tell your Social Security or Jobs & Benefits office when you make a claim for MA.

### NI credits while you are getting MA

You will normally be entitled to NI contribution credits for each complete week in which you receive MA to maintain your NI record and assist you in any future claim to other benefits. These are added to your NI record automatically. You do not have to apply for them. A week for NI Credits means Sunday through to the following Saturday.

If you are a married woman paying reduced rate NI contributions you will not be able to get NI credits.

## Extra help through tax credits

There are two tax credits:

- Child Tax Credit, for families with children; **and**
- Working Tax Credit, to help working people on low incomes.

### Child Tax Credit

Child Tax Credit is the main financial support from the Government for families for their children and for 16-19 year olds in full-time non-advanced education or approved training. The money you get is based on your income and that of your partner if you have one. All families with children, with an income up to £58,000 a year (or up to £66,000 a year if there is a child under one year old), are eligible for Child Tax Credit, regardless of whether or not the adults in the family are in work.

Families already getting Child Tax Credit can get additional help as soon as they have a new child without having to wait for the end of the tax year and without having to make a new claim, the family can simply contact the Tax Credit Helpline. See the number below.

### Working Tax Credit

Working Tax Credit provides support for working people, helping to top up earnings. Mothers who are already getting Working Tax Credit can continue to receive it while they are getting MA or are absent from work during an ordinary maternity leave period during or during the first 13 weeks of an additional maternity leave period. Mothers who were working at least 16 hours a week immediately before going on maternity leave may be able to claim Working Tax Credit while they are due MA **without having to wait until they return to work.**

It may be possible to get help with the costs of eligible childcare for both the new baby and for other children in the family before a mother returns to work.

For further information, phone the helpline on **0845 300 3900**.

For people with hearing or speech difficulties can dial the Textphone number **0845 300 3909**.

The Helpline is open from 8am to 8pm, seven days a week (except Christmas Day, Boxing Day, New Year's Day and Easter Sunday).

Visit the HM Revenue & Customs tax credits website at [www.hmrc.gov.uk/taxcredits](http://www.hmrc.gov.uk/taxcredits)

## If you are going abroad or have been abroad

The UK has special arrangements with certain other countries that may help you to get MA if you are going abroad or if you have recently been abroad and returned to the UK.

These Rules may apply to you if the country concerned is a country within the European Economic Area, or Switzerland, or is a country with which the UK has a two-way agreement on maternity benefits. These two-way agreements are with Barbados, Guernsey, Israel, Jersey, Turkey and Yugoslavia. Currently, the agreement with the former Yugoslavia is applied separately by the republics of Bosnia-Herzegovina, Croatia, Montenegro, Serbia and the Former Yugoslav Republic of Macedonia.

If you return to the UK after working in any country of the world for your UK employer, other rules may help you to get MA.

You can find out more information on how to get MA if you are going abroad from or coming to the UK by writing to:

International Pension Centre  
Department for Work and Pensions  
Tyneview Park,  
Benton,  
Newcastle-upon-Tyne  
NE98 1BA  
Phone: 0191 218 7777  
(or 44 191 218 7777 when calling from abroad)  
Fax: 0191 218 3836  
E-mail: [TVP.internationalqueries@thepensionservice.gsi.gov.uk](mailto:TVP.internationalqueries@thepensionservice.gsi.gov.uk)

If you are already getting MA in the UK and intend moving abroad you must tell Incapacity Benefits Branch the date you will leave the UK and what your address will be.

## Appeals

### Disputing the decision

You may have received a decision you are unhappy about, and don't really understand why it has been made. If this is the case, you should ask the decision maker in Incapacity Benefits Branch to explain it to you. You can write or you can phone for an explanation.

If you are not satisfied with the decision or explanation, you can dispute it. There are 2 ways you can do this. You can:

- ask the decision maker to look at the decision again or
- you can appeal to an independent appeal tribunal

If you take the first option you will still have the opportunity to appeal to an independent tribunal. Whichever option you choose, it is important that you make your dispute within **one month** of being notified of the decision. If you dispute outside this period it may not be accepted and you could lose benefit.

You can write or phone if you want the decision maker to look at your decision again.

### Appealing the decision

You have the right to appeal to an independent appeal tribunal against most decisions. You can either appeal straight away or after the decision maker has looked at the decision again. An appeal must be in writing. The leaflet [GL24 If you think our decision is wrong](#) on the Social Security Agency website has more information. You can use the form attached to the leaflet, or you can write a letter. The form or letter giving your reasons must be sent to Incapacity Benefits Branch within **one month** of you either being notified of the original decision, or of the decision being looked at again.

You can ask a representative to act on your behalf in making the appeal. If you want to do this you must give them written authority.

An appeal tribunal can change a decision by:

- increasing the award **or**
- decreasing the award **or**
- confirming the decision is correct.

It cannot change the law, or pay more than the law allows.

Appeal tribunals include either one, two or three members who are independent of the Department for Social Development. How the tribunal is made up will depend on the issues raised in the appeal, but one member will be legally qualified. Normally, a legally qualified member sitting alone will hear MA appeals.

## If you cannot get SMP or MA

### Other Benefits

- [Employment and Support Allowance](#)
- [Jobseeker's Allowance](#)
- [Income Support](#)
- [Sure Start Maternity Allowance](#)
- [NI Credits](#)

### Employment and Support Allowance

If you cannot get either SMP from your employer or MA from The Social Security Agency, you may be able to get Employment and Support Allowance. This will depend on your National Insurance (NI) contributions in recent years. Your maternity certificate (form MATB1) is accepted as evidence of incapacity for work for the period starting six weeks before the week the baby is due, to 14 days after the date on which the baby is born.

If you claim MA, your claim will automatically be considered for Employment and Support Allowance if you do not qualify for MA. You do not need to make a separate claim although you may be contacted for further information. This is true even if your MA claim is delayed until up to 3 months after your baby is born.

### Jobseeker's Allowance

If your MA claim is disallowed, you may be able to continue to claim Jobseeker's Allowance (JSA) after the beginning of the 11th week before the week in which your baby is due. But remember you can claim JSA only if you are available for, capable of and actively seeking work. You should consult your Social Security or Jobs & Benefits office.

### Income Support

You may be able to claim Income Support from the period beginning 11 weeks before your expected date of childbirth and ending 15 weeks after the date your pregnancy ends. You may also be able to claim at any time during your pregnancy if you are unable to work because of your pregnancy.

## Sure Start Maternity Grant

The Sure Start Maternity Grant is a one-off payment to help with the costs of a new baby.

If you or your partner are getting:

- Income Support **or**
- Income based Jobseeker's Allowance **or**
- Pension Credit **or**
- Working Tax Credit where a disability or severe disability element is included in the award **or**
- Child Tax Credit at a rate higher than the family element

you may be able to get a Sure Start Maternity Grant. You must claim in the period beginning 11 weeks before your baby is due until 3 months after the baby is born.

If you are adopting, or have in certain circumstances, been granted a residence order in respect of a baby, the baby must be aged under 12 months when you claim. You must claim within 3 months of the order being made.

If your baby is born by surrogacy, you or your husband or wife must have a parental order. You must claim within 3 months of the order being made.

If you are waiting for a decision on qualifying benefit or entitlement, you must still claim within the time limits above.

For more information, ask your Social Security or Jobs & Benefits office for leaflet [SFMSSA Sure Start Maternity Grant from the Social Fund](#)

## NI Credits

If you do not qualify for SMP, MA or IB, you may still be entitled to some NI contribution credits for 6 weeks before the week your baby is due until two weeks after the date your baby is born. But if you are a married woman paying reduced rate NI contributions you will not be able to get NI credits. You **must** send your maternity certificate (MATB1) to Incapacity Benefits Branch and you **must** not work during that time. These credits will maintain your NI record and assist you in any future claims to other benefits.

## Further information

- [Further information](#)
- [Rates of Benefits](#)
- [Acts, Regulations and detailed information](#)

### Further information

If you have any enquiries relating to Statutory Maternity Pay please contact HM Revenue & Customs (HMRC) Employee Helpline on 0845 302 1479.

You can get more general information about benefits from elsewhere on the DSD website, [www.dsdni.gov.uk](http://www.dsdni.gov.uk)

### Rates of benefits

Rates of benefits are published each year in Social Security (Uprating) Regulations which are approved by Parliament usually at the start of each year. Benefits are usually uprated from April, at the beginning of the financial year.

Details of the current rates of all social security benefits, including maternity benefits, are available in leaflet [Social Security Benefit rates](#).

## Acts, Orders, Regulations and detailed information

This is only a guide to maternity benefits. It has no status in law. For more detailed information on maternity benefits, including the full legal documents passed by the Assembly, you may wish to consult some of the following publications.

The detailed rules of maternity benefits, including benefit rates and entitlement, are contained in Regulations made by the Department. You can buy copies of the Acts Orders, and all the Regulations through bookshops or direct from the publishers – The Stationery Office Ltd. Many libraries will hold copies for you to consult.

## Acts, Orders and Regulations

The Acts and main Regulations which govern maternity benefits are currently:

### For SMP

- The Social Security Contribution and Benefits (Northern Ireland) Act 1992 (Chapter 4)
- The Statutory maternity Pay (General) Regulations (Northern Ireland) 1987 (SR 1987 No 30)
- The Statutory Maternity Pay (Compensation of Employers) and Miscellaneous Amendment Regulations (Northern Ireland) 1994 (SR 1994 No 271)

### For MA

- The Social Security Contribution and Benefits (Northern Ireland) Act 1992 (Chapter 4)
- The Social Security (Maternity Allowance) Regulations (Northern Ireland) 1987 (SR 1987 No 170)
- The Social Security Maternity Allowance (Earnings) Regulations (Northern Ireland) 1987 (SR 1987 No 30)

### Other relevant Acts and Regulations

- Social Security (Northern Ireland) Act 1998
- Social Security Administration (Northern Ireland) Act 1992
- Social Security and Child Support (Decision and Appeals) Regulations (Northern Ireland) 1999 (SR 1999 No 162)
- The Statutory Maternity Pay (General) (Modification and Amendment) Regulations (Northern Ireland) 2000
- The Statutory Maternity Pay (Medical Evidence) Regulations (Northern Ireland) 1987 (SR 1987 No 99)
- The Employment (Northern Ireland) Order 2002
- The Employment Rights (Northern Ireland) Order 1996 as amended by The Employment Relations (Northern Ireland) Order 1999
- The Statutory Maternity Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 1987 (SR 1987 No 171)
- The Statutory Maternity Pay (Health Service Employees) Regulations (Northern Ireland) 1991 (SR 1992 No 17)

- The Social Security (Medical Evidence) Regulations (Northern Ireland) 1976 (SR 1976 No 175)
- The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (SR 1987 No 465)
- Social Security Terms and Conditions of Employment, the Social Security (Claims and Payments Regulations) Amendment Regulations (Northern Ireland) 1996 (SR 1996 No 85)
- The Social Security (Credits) Regulations (Northern Ireland) 1975 (SR 1975 No 113)

### The Law Volumes (known as the Blue Volumes)

The Stationery Office also publishes a series of loose-leaf books known as the 'Blue Volumes'. These volumes contain all the Acts and Regulations and keep them indexed and up to date by regular supplements. You can consult a copy at your Social Security or Jobs & Benefits office. Many libraries also have a copy. Copies can also be bought direct from The Stationery Office.

### The Decision Maker's Guide and the Social Security Commissioners

#### The Decision Maker's Guide

The Decision Maker's Guide (DMG) gives guidance to decision makers on the interpretation of the law for all benefits. The DMG Volumes 1 to 3 covering subjects common to all benefits. The DMG Volumes 4 to 12 aim to ensure consistency in decision-making throughout the country.

You can consult a copy of the DMG at your local Jobs & Benefits or Social Security Office, or view it on the DSD website at [www.dsdni.gov.uk](http://www.dsdni.gov.uk)

#### The Social Security Commissioners

The role of the Social Security Commissioners is to decide appeals on a point of law from decisions of Appeal Tribunals. Reported decisions of the Commissioners deal with matters of important legal principles and must be followed by decision makers and Appeal Tribunals.

## Addresses

For information on Maternity Allowance contact:

Incapacity Benefits Branch  
Castle Court  
Royal Avenue  
Belfast  
BT1 1SB

Telephone number: 028 90 336000

Textphone number: 028 90 330206

Employers who require information on Statutory Maternity Pay should contact  
The Employers Helpline - **0845 7143143**

Employees who require more information should contact the  
NIC Helpline - **0845 3021479**



Maternity Benefits Guide NIL 17A April 2009  
Replaces edition from August 2005