

Chapter 62 - Maternity Benefits

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Statutory Rules commonly referred to in Chapter 62

Short description	Full title	Abbreviation
Contributions Regulations	The Social Security (Contributions) Regulations 2001 No 1004	SS (Conts) Regs 01
Decisions and Appeals Regulations	The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 No 162	SS & CS (D&A) Regs (NI)
Maternity Allowance Regulations	The Social Security (Maternity Allowance) Regulations (Northern Ireland) 1987 No 170	SS (MA) Regs (NI)
MA and SMP Regulations	The Maternity Allowance and Statutory Maternity Pay Regulations (Northern Ireland) 1994 No 176	MA & SMP Regs (NI)
MB, SMP and SSP Amendment Regulations	The Social Security Maternity Benefits, Statutory Maternity Pay and Statutory Sick Pay (Amendment) Regulations (Northern Ireland) 1994 No 191	SS MB, SMP & SSP (Amdt) Regs (NI)
Payments on account, Overpayments and Recovery Regulations	The Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1987 No 122	SS (POR) Regs (NI)
SMP General Regulations	The Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987 No 30	SMP (Gen) Regs (NI)
Claims and Payments Regulations	Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 No 465	SS (C&P) Regs (NI)

SMP Medical Evidence Regulations	The Statutory Maternity Pay (Medical Evidence) Regulations (Northern Ireland) 1987 No 99	SMP (Med Evid) Regs (NI)
SS Medical Evidence Regulations	The Social Security (Medical Evidence) Regulations (Northern Ireland) 1976 No 175	SS (Med Evid) Regs (NI)
Maternity Allowance Earnings Regulations	The Social Security (Maternity Allowance) (Earnings) Regulations (Northern Ireland) 2000 No 104	SS (MA) (Earnings) Regs (NI)
Employment and Support Allowance Regulations	The Employment and Support Allowance Regulations (Northern Ireland) 2008 No 280	ESA Regs (NI)
Contributions and Benefits Act	Social Security Contributions and Benefits (Northern Ireland) Act 1992	SS C&B (NI) Act 92
Maternity Allowance Curtailment Regulations	The Maternity Allowance (Curtailement) Regulations (Northern Ireland) 2015 No 149	MA (Curtailement) Regs (NI)
Employment Rights Order	The Employment Rights (Northern Ireland) Order 1996 No 475	ER (NI) Order 96
Shared Parental Leave Regulations	Shared Parental Leave Regulations (Northern Ireland) 2015 No 93	SPL Regs (NI)
Shared Parental Pay Regulations	Statutory Shared Parental Pay (General) Regulations (Northern Ireland) 2015 No 94	SSPP (Gen) Regs (NI)
Maternity Allowance & SSP Coronavirus Regulations	Maternity Allowance & Statutory Sick Pay (Normal Weekly Earnings etc) (Coronavirus) (Amendment) Regulations (Northern Ireland) 2020 No 69	MA&SSP (Normal Weekly Earnings etc) (Coronavirus) (Amdt) Regs (NI)

Chapter 62 - Maternity Benefits

Matters common to Statutory Maternity Pay and Maternity Allowance

Introduction

62001 A woman may be entitled to receive

1. Statutory Maternity Pay **or**
2. Maternity Allowance

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

62002 Both Statutory Maternity Pay and Maternity Allowance are payable for a maximum period of 39 weeks. Statutory Maternity Pay is paid to the woman by her employer; Maternity Allowance is claimed from and paid by the Department. From 1.4.99 decisions on entitlement to Statutory Maternity Pay are made by Her Majesty's Revenue and Customs. All Maternity Allowance issues are determined by the decision maker. However, Maternity Allowance is payable for a period of 14 weeks where a woman is a participating wife or civil partner of a self-employed earner.

Note: From 1.12.14, women whose expected week of confinement is on or after 5.4.15 can curtail their 39 week Maternity Allowance period (see DMG 62566 et seq).

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

62004 – 62010

Definitions

Meaning of week

- 62011 Except where DMG 62013 applies, for the purposes of Statutory Maternity Pay and Maternity Allowance, including Maternity Allowance for a participating spouse or civil partner of a self-employed earner, a week is a period of seven days beginning with Sunday¹.

1 SS C&B (NI) Act 92, sec 121(1) & 167(1A)

- 62012 Except where DMG 62013 applies, for Statutory Maternity Pay purposes a week may also be any other period prescribed in relation to any case or class of cases¹.

1 SS C&B (NI) Act 92, sec 171(1A)

- 62013 For the purposes of deciding the period of the maternity allowance period and maternity pay period (see DMG 62502 and 62553), a week is a period of seven days beginning with the day of the week on which the maternity allowance period or maternity pay period begins¹.

1 SS C&B (NI) Act 92, sec 165(7)

62014 – 62015

Meaning of confinement

- 62016 Confinement is
1. labour resulting in the issue of a living child **or**
 2. after 24 weeks of pregnancy resulting in the issue of a child whether alive or dead¹.

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

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

Note 3: This also applies to a participating spouse or civil partner of a self-employed earner³.

1 SS C&B (NI) Act 92, sec 35(6); sec 167(1) as amended by Still Birth (Definition) (NI) Order 92; 2 R(G) 4/56;

3 SS C&B (NI) Act 92, sec 35B(10)

- 62017 The claimant must prove that she has been confined.

Examples of satisfactory evidence of confinement are

1. a certificate of confinement given by a doctor or midwife (such as MATB1)

2. a birth certificate
3. a letter or statement signed by a responsible officer of a hospital or home in which the confinement took place
4. a certificate of stillbirth issued by a registrar of births¹
5. a certificate to the effect that a woman was delivered of a dead foetus.

1 Births and Deaths Registration (NI) Order 1976, art 15

62018 The length of pregnancy is immaterial if it results in the birth of a living child. A child who has breathed, no matter for how short a time, is a living child. Conversely, a child who has not breathed is not a living child¹.

1 R(G) 3/51

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

1. lasted for a full 24 weeks² or later **and**
2. resulted in the birth of a dead child.

1 SS C&B (NI) Act 92, sec 35(6); 2 R(G) 4/56

62020 Decision makers should accept

1. a certificate of stillbirth issued by a registrar of births **or**
2. a certificate of registration issued by a doctor or midwife **or**
3. any other satisfactory forms of evidence of confinement (see DMG 62017 - if this was issued before 24 weeks of pregnancy the decision maker should seek clarification of the date of the stillbirth from the claimant to confirm it occurred after 24 weeks of pregnancy)

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

Note: Where neither of the certificates at **1.**, **2.** or **3.** is received decision makers should consider the guidance at DMG 62021 - 62025.

62021 Where a certificate states that the woman was delivered of a dead foetus, it should be accepted as a certificate of confinement provided the delivery occurred after the end of 24 weeks of pregnancy. If the foetus died before a full 24 weeks of pregnancy but it is delivered after a period of a full 24 weeks there has still been a confinement.

62022 The decision maker should note that when deciding whether labour has resulted in the issue of a dead child, the word "child" is given its ordinary and natural meaning. The important fact is whether the issue was recognisable as a child. If the certificate refers to anything other than a child or a foetus, for example carneous mole or

hydatidiform mole, the case should be referred to Medical Support Services for advice.

62023 Pregnancy is terminated otherwise than by confinement if, before a full 24 weeks of pregnancy have elapsed, it is terminated by anything other than the issue of a living child, for example miscarriage, delivery of a dead foetus, or the issue of a still-born child.

62024 In deciding whether pregnancy has lasted for a full 24 weeks the decision maker must be guided by the medical evidence. When there is a conflict of medical opinion about the duration of a pregnancy, an opinion formed after its termination and based on an examination of the foetus is likely to be more accurate than an opinion based on the appearance of the uterus at examinations made during the pregnancy¹.

1 R(G) 12/59

62025 Pregnancy is expected to last for 280 days (40 weeks) from the first day of the last menstrual period. The end of the period of a full 24 weeks is therefore 16 weeks (112 days) before the expected date of confinement.

Meaning of date of confinement

62026 The date of confinement is the date on which the child is born or, where there is more than one child, the date on which the last child is born¹.

Note: This also applies to a participating spouse or civil partner of a self-employed earner².

1 SS C&B (NI) Act 92, sec 35(6) & 167(1); 2 sec 35B(10)

62027 – 62500

Maternity Allowance

Introduction

- 62501 A woman who does not qualify for Statutory Maternity Pay may be entitled to Maternity Allowance instead¹. Entitlement requires, among other things, the satisfaction of conditions about employment and earnings.

Note: See DMG 62701 for guidance on Maternity Allowance for a participating spouse or civil partner of a self-employed earner.

1 SS C&B (NI) Act 92, sec 35

- 62502 Although the Maternity Allowance period is a period not exceeding 52 weeks¹ the actual period now specified is 39 weeks². Where a claim is made in expectation of confinement and if a woman is in employment, the Maternity Allowance period may begin at anytime between the 11th week before the expected week of confinement and the day following the actual day of confinement³.

Note: The Maternity Allowance can be curtailed (see DMG 62566 et seq).

*1 SS C&B (NI) Act 92, sec 161(1); 2 SMP (Gen) Regs (NI), reg 2(2);
3 SS C&B (NI) Act 92, sec 161(2) & (3); SMP (Gen) Regs (NI), reg 2(1)*

- 62503 The Maternity Allowance period for a woman who is confined before the start of the 11th week before the expected week of confinement will be the period of 39 weeks starting with the day following the actual day of confinement¹.

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

- 62504 A woman is not entitled to Maternity Allowance for any week she is entitled to Statutory Maternity Pay for the same pregnancy¹.

1 SS C&B (NI) Act 92, sec 35(1)(d)

Provision of national insurance number

- 62505 For Maternity Allowance there is a requirement¹ for a claimant to provide sufficient information or evidence to establish their national insurance number. See DMG Chapter 02 for full guidance.

1 SS A (NI) Act 92

62506 – 62510

Certification

- 62511 A claim for Maternity Allowance must be supported by evidence of
1. pregnancy and the stage reached in the pregnancy where a claim is made in expectation of confinement¹ **or**
 2. confinement where a claim is made following confinement².

1 SS (Med Evid) Regs (NI), reg 2(3)(a); 2 reg 2(3)(b)

- 62512 The evidence of pregnancy and the stage reached in the pregnancy should be
1. a maternity certificate given by a doctor or a midwife no earlier than 20 weeks before the expected week of confinement¹ **or**
 2. any other evidence given by a doctor or a midwife which is accepted as sufficient by the decision maker².

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

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

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

62514

Conditions of entitlement

62515 A woman is entitled to Maternity Allowance provided she satisfies the following conditions¹

1. she is pregnant **and**
 - 1.1 has reached the 11th week before the expected week of confinement **or**
 - 1.2 was confined before reaching the 11th week before the expected week of confinement **and**
2. she satisfies the employment condition (see DMG 62516 - 62517) **and**
3. she satisfies the earnings condition (see DMG 62522) **and**
4. she is not entitled to Statutory Maternity Pay for the same week and the same pregnancy.

Note 1: See DMG 62711 for guidance on conditions of entitlement for a participating wife or civil partner of a self-employed earner.

Note 2: A maternity pay period can be curtailed in the same way as a Maternity Allowance period (see DMG 62566 et seq). However, a woman who curtails her maternity pay period will **not** be entitled to Maternity Allowance for any weeks she would have received Statutory Maternity Pay if she had not curtailed her maternity pay period².

1 SS C&B (NI) Act 92, sec 35(1); 2 sec 35(3E)

Employment condition

62516 The employment condition is that the claimant is employed or self-employed earner for at least 26 weeks in the 66 weeks immediately before the expected week of confinement. This 66 week period is known as the test period. A week means a whole week or any part of a week¹. For employed earners, this is satisfied as long as a contract of employment exists².

Note 1: An employed earner is a person who is gainfully employed in Northern Ireland either under a contract of service, or in an office (including elective office) with general earnings³.

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

Note 3: A self-employed earner is a person who is gainfully employed in Northern Ireland otherwise than in employed earner's employment (even though a person may also be employed as an employed earner⁴).

Note 4: Voluntary class 2 contributions paid in respect of periods of work outside the European Economic Area do **not** count towards satisfying the employment condition (see DMG Chapter 07 for guidance where such contributions are paid in respect of periods of work in the European Economic Area and DMG 62543 - 62544 for guidance where class 2 contributions are paid after the decision on a claim).

1 SS C&B (NI) Act 92, sec 35(1)(b); 2 R(U) 5/83; 3 SS C&B (NI) Act 92, sec 2(1)(a); Income Tax (Earnings and Pensions) Act 2003, sec 7(3); 4 SS C&B (NI) Act 92, sec 2(1)(b)

62517 A woman who is on statutory maternity leave is in gainful employment, so that DMG 62516 is satisfied, even if that maternity leave is unpaid. This is because the woman

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

However, a woman who is on unpaid leave for another reason is not engaged in employment.

Employed earners

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

Self-employed earners

62519 Before 6.4.15 a self-employed earner, aged over 16, was liable to pay a class 2 contribution for each week of self-employment unless they are the holder of a small earnings exception certificate. From 6.4.15 class 2 contributions are collected through income tax self assessment¹. However, for Maternity Allowance purposes class 2 contributions can be paid early². Also, small earnings exception certificates were abolished. Those changes apply to women with an expected week of confinement beginning on or after 12.7.15³. In addition, a self-employed earner is legally required to notify Her Majesty's Revenue and Customs of the date they become, or cease to be, self-employed⁴.

1 SS C&B (NI) Act 92, sec 11; 2 SS (Conts) Regs 01, reg 90ZA; 3 National Insurance Conts Act 2015, Sch 1, para 35; 4 SS (Conts) Regs 01, reg 87 & 87A

62520 Their involvement in employment in the test period can be corroborated by checking their national insurance record. Where not corroborated in that way, the woman

should be asked to confirm when she registered as self-employed with Her Majesty's Revenue and Customs.

62521 A person who is

1. employed as a self-employed earner **or**
2. treated as being a self-employed earner

is treated as continuing in that self-employment until they are no longer ordinarily employed in it¹.

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

Earnings condition

62522 The earnings condition determines the rate of Maternity Allowance payable and is based on the gross earnings the woman receives during the test period. Self-employed women will be treated as having notional earnings (see DMG 62539).

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

1 SS C&B (NI) Act 92, sec 35(1)(c); sec 35A(6)(a); 2 sec 35A(7)

62524 Earnings are averaged over 13 weeks in the test period. Women can choose which 13 weeks are best for them. The 13 weeks may be separate or consecutive¹. Earnings from employment and notional earnings can be used. The 13 week average will only apply if there are at least 13 weeks earnings or notional earnings in the test period.

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

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

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

62525 DMG 62526 applies where the first day of the period in respect of which payment of Maternity Allowance is to be made on or after 24.4.20¹.

1 MA&SSP (Normal Weekly Earnings etc) (Coronavirus) (Amdt) Regs (NI), reg 2(2)

62526 Where

1. a woman is a furloughed employee¹ **and**
2. the woman's employer
 - 2.1 has claimed **and**
 - 2.2 is in receipt offinancial support in respect of the woman's earnings under the Coronavirus Job Retention Scheme² **and**
3. the woman's earnings are lower than they would otherwise have been as a result of that woman being a furloughed employee³

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

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

Meaning of Coronavirus Job Retention Scheme

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

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

Meaning of Coronavirus

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

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

Meaning of Coronavirus disease

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

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

Meaning of furloughed employee

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

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

Rate of Maternity Allowance

62531 The weekly rate of Maternity Allowance is the lesser of the standard rate of Maternity Allowance or 90% of the woman's average weekly earnings¹.

Note: See DMG 62716 for guidance on the rate of Maternity Allowance for a participating spouse or civil partner of a self-employed earner.

1 SS C&B (NI) Act 92, sec 35A(1); SMP (Gen) Regs (NI), reg 6

62532 Women who qualify for Maternity Allowance at a lower rate than Incapacity Benefit or contribution-based Employment and Support Allowance, and who satisfy the contributions for Incapacity Benefit or contribution-based Employment and Support Allowance, are entitled to an Incapacity Benefit or contribution-based Employment and Support Allowance top-up for the full 39 weeks for women with an expected date of confinement on or after 1.4.07. No separate claim for Incapacity Benefit or contribution-based Employment and Support Allowance is required¹ (see DMG Chapter 02). Waiting days will apply in all cases where the woman is entitled to Incapacity Benefit or contribution-based Employment and Support Allowance.

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

62533 This is due to days of entitlement to Maternity Allowance (i.e. days within the Maternity Allowance period) being treated as days of incapacity for work¹ or limited capability for work².

1 SS C&B (NI) Act 92, sec 30C(2); 2 ESA Regs (NI), reg 20(e)

Calculating earnings of employees

62534 [See DMG Memo Vol 4/155, 5/118, 8/104, 9/53, 10/81, 13/126 & 14/74] Average weekly earnings are the average weekly amount of payments made to a woman or for her benefit when she was an employed earner¹. This includes

1. any amount retrospectively treated as earnings² (see DMG 62539)
2. payments of arrears of pay where a woman is re-instated or re-engaged because of an order under employment legislation³
3. payments made under employment legislation for the continuation of a contract of employment⁴

4. a protective award for employees made redundant or to be dismissed as redundant⁵
5. any sum payable by way of Statutory Sick Pay (this includes payments made by Her Majesty's Revenue and Customs rather than the employer⁶)
6. any sum payable by way of Statutory Maternity Pay (this includes payments made by Her Majesty's Revenue and Customs rather than the employer⁷)
7. any sum payable by way of Statutory Paternity Pay (this includes payments by Her Majesty's Revenue and Customs rather than the employer⁸)
8. any sum payable by way of Statutory Adoption Pay (this includes payments by Her Majesty's Revenue and Customs rather than the employer⁹)
9. any sum payable by way of statutory shared parental pay (this includes payments by Her Majesty's Revenue and Customs rather than the employer¹⁰)
10. any sum payable by way of Parental Bereavement Pay (this includes payments by Her Majesty's Revenue and Customs rather than employer¹¹)
11. any sum payable by way of statutory neonatal care pay (this includes payments by Her Majesty's Revenue and Customs rather than the employer¹²).

1 *SS C&B (NI) Act 92, sec 35A(4); SS (MA) (Earnings) Regs (NI), reg 2(1);*

2 *SS C&B (NI) Act 92, sec 4(b)(ii); 3 ER (NI) Order 96, arts 148 & 149; 4 art 164;*

5 *Trade Union and Labour Relations (Consolidation) Act 1992; 6 SS C&B (NI) Act 92, sec 147(6);*

7 *sec 160(9)(b); 8 sec 167ZD(3); 9 sec 167ZM(3); 10 sec 167ZZ1(3); 11 sec 167ZZ1(3); 12 sec 167ZZ1(3)*

Payments to be disregarded

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

1. payments in kind²
2. payments by way of assets which are not disregarded as payments in kind³
3. certain non-cash vouchers⁴
4. certain payments to directors⁵
5. certain payments in respect of employment as a mariner⁶ **and**
6. certain other payments⁷.

The decision maker should liaise with Her Majesty's Revenue and Customs in cases of doubt.

1 *SS (MA) (Earnings) Regs (NI), reg 2(2); 2 SS (Conts) Regs 01, reg 25 & Sch 3, para 1(2);*

3 *reg 25 & Sch 3, para 1(3); 4 reg 25 & Sch 3, para 1(4); 5 reg 27; 6 reg 123; 7 reg 25 & Sch 3, para 1(5)*

Backdated pay awards

- 62536 Any payment received after the end of the specified period which includes a sum in respect of any week falling within that period, should be included in the earnings calculation¹.

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

Payments to directors of limited companies

- 62537 A limited company of whatever size is legally distinct from its employees, officers and shareholders¹. The profits of the company do not belong to its directors. A director of a limited company may be an employee or an office holder² of the company and as such is in either case an employed earner³ for national insurance contributions purposes. Payments made by a company to a director are earnings for Maternity Allowance purposes⁴.

1 R(SB) 57/83; 2 McMillan v Guest 1942, AC 561; 3 SS C&B (NI) Act 92, sec 2(1)(a);

4 SS (MA) (Earnings) Regs (NI), reg 2(1)

- 62538 Where a woman director is liable to pay national insurance contributions on money advanced as a loan, that advance will be earnings for Maternity Allowance purposes¹. The decision maker should liaise with Her Majesty's Revenue and Customs to confirm the national insurance contribution position in such cases.

1 SS (MA) (Earnings) Regs (NI), reg 2(1)(za); SS (Conts) Regs 01, reg 31

Calculating earnings of the self-employed - expected week of confinement before 12.7.15

- 62539 For an expected week of confinement before 12.7.15 a self-employed woman's average weekly earnings are calculated as follows

1. for every week a class 2 contribution is paid, the woman will be deemed to earn an amount, 90% of which equals the standard rate of Maternity Allowance in force at the end of the week for which the contribution is paid¹
2. for every week where a small earnings exception certificate is held, earnings will be treated as equal to the Maternity Allowance threshold in force on the last day of that week².

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

Example 1

A woman who has paid class 2 contributions only throughout the 13 week period earnings period will receive the standard rate of Maternity Allowance: she is deemed to have earnings, 90% of which equals the standard rate of Maternity Allowance in force in that week. From 7.4.14 the standard rate of Maternity Allowance is £138.18.

Therefore deemed earnings are $(£138.18 \times 10 / 9) = £153.33$. The woman would accordingly be entitled to the standard rate of Maternity Allowance as 90% of £153.33 is £138.18.

Example 2

A self-employed woman satisfies the employment test. She has low earnings and holds a small earnings exception from the payment of national insurance contributions, for the specified period. She is therefore treated as having earnings equal to the Maternity Allowance threshold. If the Maternity Allowance threshold is £30 a week, she would receive Maternity Allowance at 90% of £30. She would receive £27 a week for up to 39 weeks.

Calculating earnings of the self-employed - expected week of confinement on or after 12.7.15

62540 For an expected week of confinement on or after 12.7.15¹, a self-employed earner is treated as earning an amount

1. 90% of which equals the standard rate of Maternity Allowance in force at the end of the week covered by a class 2 contribution² **or**
2. equal to the Maternity Allowance threshold in force at the end of the week where **1.** does not apply³.

1 SS (MA) (Earnings) (Amdt) Regs (NI) 15, reg 1(2); 2 SS (MA) (Earnings) Regs (NI), reg 3(a); 3 reg 3(b)

62541 Therefore, if a self-employed earner has paid¹ at least 13 class 2 contributions in the test period, she will receive Maternity Allowance at the rate in DMG 62540 **1.**. However, if a self-employed earner could have paid but has not paid² at least 13 class 2 contributions in the test period, she will receive Maternity Allowance at the rate in DMG 62540 **2.** for each week in the test period where class 2 contributions have not been paid.

1 SS C&B (NI) Act 92, sec 35A(1), (5A) & (5B); 2 sec 35A(1)(a), (4)(b) & (6) & SS (MA) Earnings Regs (NI), reg 3(b)

Volunteer development worker

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

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

Payment of class 2 contributions after decision on claim - expected week of confinement before 12.7.15

62543 Where a claimant makes a payment of class 2 contributions after a decision has been made on her claim, the decision maker should check the period for which those contributions have been allocated with Her Majesty's Revenue and Customs. If Her Majesty's Revenue and Customs confirm that the contributions have been allocated for a period up to the date of the decision, the decision maker should revise that decision¹. However, if Her Majesty's Revenue and Customs confirm that the contributions have been allocated for a period after the date of the decision the claimant would have to make a new claim for entitlement to be considered.

Note: See DMG Chapter 03 for guidance on revision.

1 SS & CS (D&A) Regs (NI), reg 3(8C)

Example 1

Tanya makes a claim for Maternity Allowance. On 2.8.10 the decision maker decides that Tanya is not entitled to Maternity Allowance because the earnings test is not satisfied. On 23.9.10 Tanya notifies the decision maker that she has made a payment of class 2 contributions. Her Majesty's Revenue and Customs confirm that the contributions were allocated for 2009/10 tax year. The decision maker revises the decision of 2.8.10 and awards Maternity Allowance.

Example 2

Jackie makes a claim for Maternity Allowance. On 1.4.10 the decision maker decides that Jackie is not entitled to Maternity Allowance because the earnings test is not satisfied. On 22.12.10 Jackie notifies the decision maker that she has made a payment of class 2 contributions. Her Majesty's Revenue and Customs confirm that the contributions were allocated for a period from 6.4.10. The decision maker does not revise the decision of 1.4.10.

Payment of class 2 contributions after decision on claim - expected week of confinement on or after 12.7.15

- 62544 If
1. the decision maker makes a decision to award Maternity Allowance at the rate in DMG 62540 **2. and**
 2. the claimant subsequently makes a payment so that she has paid at least 13 contributions in the test period

the decision maker should revise the original decision and award Maternity Allowance at the rate in DMG 62540 **1.**¹.

Note: See DMG Chapter 03 for guidance on revision.

1 SS & CS (D&A) Regs (NI), reg 3(8K); SS Conts Regs 01, reg 90ZA

Payment of class 2 contributions treated as paid

- 62545 From 6.4.22, a self-employed earner with profits at or above the existing small profits threshold and which do not exceed the lower profits threshold is treated as having paid class 2 contributions¹. Self-employed earners that fall into this category can continue to make voluntary class 2 contributions that will be refunded to them by Her Majesty's Revenue and Customs if they are later treated as having paid class 2 contributions, eg their relevant profits are later assessed to be at or above the small threshold but not exceeding the lower profits threshold².

1 SS C&B (NI) Act 92, sec 11(4), (5A), 5(5B) & (5C); SS (Class 2 NI Conts Increase of Threshold) Regs 22, reg 1 & 2(3); 2 SS (Conts) Regs 01, reg 90ZA

Employed in more than one employment or self-employment

- 62546 Earnings from more than one employment or self-employment, either in the same or different weeks in the test period, can be added together to calculate the average weekly earnings¹.

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

Example 1

A self-employed woman claims Maternity Allowance and satisfies the employment test. Her expected week of confinement is 29.4.07. She held a small earnings exception certificate throughout her test period. She also has a part-time job working for an employer and earns £65 a week. She started on 7.1.07 and works every other week.

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

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

Example 2

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

7 weeks (class 2 standard rate Maternity Allowance £138.75 x 10 / 9) £153.33
x 7 = £1073.31

6 weeks x £250 = £1500

Total £2,573.31 / 13 = £197.95

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

Paid other than weekly

- 62547 Where a woman is paid in multiples of a week, divide those earnings by the number of weeks covered by the payment¹.

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

- 62548 Where a woman is not paid weekly, the weekly earnings are calculated by dividing the payments made to her by the nearest whole number of weeks in the period in respect of which she is paid¹. The number of weeks used to divide payments may not be the same as the number of weeks covered by the payment. This is because the payment may cover part weeks at the beginning and end of the period. For the purpose of deciding the number of weeks covered by a payment, a week is a period of 7 days beginning with Sunday².

1 SS (MA) (Earnings) Regs (NI), reg 6(1); 2 SS C&B (NI) Act 92, sec 167(1)

- 62549 The following examples show how payments are divided (in accordance with the regulations), where the odd days are 3 or less **or** 4 or more, and the number of weeks covered by the payment.

Example 1

Joanne is monthly paid and receives a payment of £400 from her employer on 30 September 2007. This payment is for the period 1 September 2007 to 30 September 2007, and therefore covers 30 days. In order to establish a weekly figure, 30 is divided by 7, which gives 4 weeks and 2 days. Her payment of £400 is divided by 4, as this is the nearest number of whole weeks. Joanne is treated as having weekly earnings of £100 for 6 weeks for the purposes of the specified period. This is because September 2007 consists of 6 weeks, as part weeks are included.

Example 2

Becky receives a payment of £600 from her employer which covers payment for a period of 39 days from 1 May to 8 June 2003. The 39 days are divided by 7 to give 5 weeks and 4 days. In order to establish the weekly amount, the £600 is divided by 6, as this is the closest number of whole weeks. Becky is treated as having weekly earnings of £100 for 7 weeks of the specified period. This is because the period 1 May to 8 June 2003 consists of 7 weeks, as part weeks are included.

Example 3

Anisa receives a payment of £800 from her employer on 30 April 2003. This is payment for 1 April to 30 April 2003. The 30 days are divided by seven, which gives 4 weeks and 2 days. The £800 is divided by 4, thus giving a weekly amount of £200. Anisa is treated as having 5 weeks payments of £200 for the purposes of the specified period. This is because the month of April consists of five weeks when part weeks are included.

62550 Where consecutive periods of earnings are used, a payment may cover more than one period. When this happens only the highest amount is used.

Example

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

Women who have worked abroad

62551 A woman

1. who has been absent from Northern Ireland **and**
2. has returned to Northern Ireland **and**
3. has throughout her absence remained ordinarily resident in Northern Ireland

is in certain circumstances treated as having been engaged in employment as an employed earner and as having received an amount of specified payments equal to the lower earnings limit¹ (see DMG Chapter 07 for full guidance).

Note: See DMG 62516 for guidance on voluntary payment of class 2 contributions in respect of periods of work outside the European Economic Area.

1 SS (MA) (Work Abroad) Regs (NI) 1987

62552

Maternity Allowance period

62553 Maternity Allowance is payable for the Maternity Allowance period which is the same as the maternity pay period in Statutory Maternity Pay cases¹. If a woman ceased employment or self-employment prior to the 11th week before the expected week of confinement the Maternity Allowance period starts with the 11th week before the expected week of confinement. Subject to the modifications in DMG 62560 - 62562, the Maternity Allowance period for a woman who is employed as an employed or self-employed earner may begin at anytime between the 11th week before the expected week of confinement and the day following the actual day of confinement². Within this period the Maternity Allowance period starts with the earlier of the day

1. she has chosen for her payments to begin after she has stopped work to have her baby **or**
2. following the day in which she is confined³.

From 1.12.14⁴, women whose expected week of confinement is on or after 5.4.15 can curtail their 39 week Maternity Allowance period⁵.

Note 1: See DMG 62721 et seq for guidance on period for Maternity Allowance is paid to a participating wife or civil partner of a self-employed earner.

Note 2: See DMG 62566 et seq for guidance on when women can curtail their Maternity Allowance period.

1 SS C&B (NI) Act 92, sec 35(2) & 161; 2 sec 161(2) & (3); SMP (Gen) Regs (NI), reg 2(1); 3 reg 2(1); 4 MA (Curtilment) Regs (NI), reg 1; 5 SPC Regs (NI), reg 2(1); SSPP (Gen) Regs (NI), reg 3(a)

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

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

the Maternity Allowance period begins on the day following the first complete day of absence from work because of pregnancy or confinement¹.

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

62555 Where a woman leaves her employment

1. after the beginning of the 11th week before the expected week of confinement where this is before the start of the Maternity Allowance period **and**
2. not later than the day on which she is confined

the Maternity Allowance period begins on the day following the day on which she leaves¹.

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

- 62556 There is no extension of the Maternity Allowance period where confinement occurs in any week later than the expected week of confinement.

Time limit for claiming

- 62557 The prescribed time for claiming Maternity Allowance is 3 months beginning with any day of potential entitlement¹ (see DMG Chapter 02).

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

Death of the woman

- 62558 A woman who is entitled to Maternity Allowance ceases to be entitled if she dies before the beginning of the Maternity Allowance period. If she dies after the beginning, but before the end, of the Maternity Allowance period, Maternity Allowance is not payable for any week within the Maternity Allowance period which falls after the week in which she dies¹. A week in respect of weeks within the Maternity Allowance period, is the period of 7 days beginning with the day of the week on which the Maternity Allowance period begins².

Note: See DMG 62736 for guidance on death of a participating wife or civil partner of a self-employed earner.

1 SS C&B (NI) Act 92, sec 35(4); 2 sec 35(2) & 161(8)

Modification of the Maternity Allowance period

- 62559 There is no modification to the Maternity Allowance period where a claim to Maternity Allowance is made after confinement (see DMG 62560 - 62562 where modification is allowed).
- 62560 The Maternity Allowance period for a woman who stops working before the 11th week before the expected week of confinement is the period of 39 weeks beginning with the 11th week before the expected week of confinement. For this purpose a woman should not be regarded as having stopped work if she is absent from work due to illness, but has not yet ceased work in expectation of confinement (unless DMG 62553 - 62555 applies).
- 62561 However, a woman who is not entitled to Maternity Allowance at the 11th week before the expected week of confinement can qualify by utilising a period of employment and earnings paid for weeks after the start of the 11th week before the expected week of

confinement. The Maternity Allowance period for such a woman is a period of 39 weeks starting

1. no earlier than the day she becomes entitled to Maternity Allowance **and**
2. no later than the day following the day on which she is confined¹.

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

62562 The Maternity Allowance period for a woman who is confined more than 11 weeks before the expected week of confinement is a period of 39 weeks which starts on the day following the day on which she is confined¹.

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

Entitlement to Maternity Allowance for more than one Maternity Allowance period

62563 A woman may be entitled to Maternity Allowance in more than one Maternity Allowance period. Where this is the case, the woman's Maternity Allowance is adjusted¹.

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

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

62564 – 62565

Maternity Allowance period curtailment

62566 From 1.12.14¹, women whose expected week of confinement is on or after 5.4.15² can curtail their Maternity Allowance period to enable their partner to take

1. statutory shared parental pay³ (see DMG 62568) **or**
2. shared parental leave⁴ (see DMG 62569).

Note: A claimant's spouse, civil partner or her child's biological father does not have to be living with her. All other nominated partners **must live** with the claimant and her child in an enduring family relationship⁵.

1 MA (Curtailment) Regs (NI), reg 1; 2 SPL Regs (NI), reg 2(1); SSPP (Gen) Regs (NI), reg 3(a); 3 SS C&B (NI) Act 92, sec 167ZU; 4 ER (NI) Order 96, art 107E; 5 MA (Curtailment) Regs (NI), reg 2

Meaning of Maternity Allowance period curtailment date

62567 Unless DMG 62574 or 62579 apply, the Maternity Allowance period curtailment date is the date specified in the Maternity Allowance period curtailment notification¹.

Note: See DMG 62571 et seq for guidance on the Maternity Allowance period curtailment notification.

1 MA (Curtailment) Regs (NI), reg 2

Maternity Allowance period curtailment - statutory shared parental pay

62568 A woman's Maternity Allowance period ends on the Maternity Allowance period curtailment date if

1. she gives a Maternity Allowance period curtailment notification¹ **and**
2. her partner
 - 2.1 satisfies the employment and earnings conditions in order to be entitled to statutory shared parental pay² **and**
 - 2.2 shares the main responsibility for the care of the child with her **and**
 - 2.3 qualifies for shared parental leave **and**
3. she
 - 3.1 satisfies employment and earnings conditions relating to her partner **and**
 - 3.2 is entitled to Maternity Allowance³.

Note: A Maternity Allowance period curtailment notification can be revoked (see DMG 62576 et seq).

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

3 MA (Curtailment) Regs (NI), reg 3(c); SSPP (Gen) Regs (NI), reg 5(3)(b) & (c)

Maternity Allowance period curtailment - shared parental leave

62569 A woman's Maternity Allowance period ends on the Maternity Allowance period curtailment date if

1. she gives a Maternity Allowance period curtailment notification¹ **and**
2. her partner satisfies the employment condition for shared parental leave² **and**
3. she
 - 3.1 satisfies employment and earnings conditions **and**
 - 3.2 is entitled to Maternity Allowance³.

Note: A Maternity Allowance period curtailment notification can be revoked (see DMG 62576 et seq).

1 MA (Curtailment) Regs (NI), reg 4(a); 2 reg 4(b); SPL Regs (NI), reg 5(2)(a);

3 MA (Curtailment) Regs (NI), reg 4(c); SPL Regs (NI), reg 5(3)(a) & (c)

62570

Maternity Allowance period curtailment notification

62571 A Maternity Allowance period curtailment notification must

1. be given to the Department **and**
2. specify the date on which a woman wants her Maternity Allowance period to end¹ (see DMG 62572).

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

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

1. the last day of a week¹ **and**
2. at least one day after the end of the compulsory maternity leave period (see DMG 62573) if a woman has a right² to ordinary maternity leave³ **and**
3. at least two weeks after the end of her pregnancy⁴ if a woman does not have a right in 2. **and**
4. at least eight weeks after a woman gives a Maternity Allowance period curtailment notification⁵ (unless the decision maker decides it is appropriate for this not to apply⁶) **and**
5. at least one week before the last day of a woman's Maternity Allowance period⁷.

Note 1: For the purpose of 1. a week is a period of seven days beginning with the day of the week on which the Maternity Allowance period begins⁸.

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

*1 MA (Curtailment) Regs (NI), reg 5(2)(a); 2 reg 5(2)(B); 3 ER (NI) Order 96, art 103;
4 MA (Curtailment) Regs (NI), reg 5(2)(b); 5 reg 5(2)(c); 6 reg 5(3); 7 reg 5(2)(d); 8 reg 5(6);
SS C&B (NI) Act 92, sec 161(8)*

Example 1

Person A is receiving Maternity Allowance. She and her partner, Person B, decide that Person B will take 9 weeks statutory shared parental pay. This is agreed with Person B's employer. Person A notifies the Department that she will curtail her Maternity Allowance at the end of her 30th week of payment. Her Maternity Allowance period ends on that date.

Example 2

Person A is receiving Maternity Allowance. She and her partner, Person B, decide that Person B will take 32 weeks shared parental leave. Person A notifies the Department that she will curtail her Maternity Allowance at the end of her 20th week of payment. Person B starts his shared parental leave before that date. However, that does not effect when Person A's Maternity Allowance period will end.

62573 The compulsory maternity leave period is

1. two weeks¹ **or**
2. if a woman works in a factory, 4 weeks²

after childbirth. For the purposes of DMG 62572 **2.** the end of the compulsory maternity leave period is the later of the last day of those periods³.

1 Maternity & Parental Leave etc Regs (NI) 99, reg 8; 2 Public Health Act 36, s 205;

3 MA (Curtailment) Regs (NI), reg 5(4)

62574 Where a woman

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

the Maternity Allowance period curtailment date is the last day of the week in which that notice is submitted. This is irrespective of the date given in that notice¹. A woman is treated as returning to work² when she is disqualified for receiving Maternity Allowance³ in accordance with DMG 62592 et seq.

1 MA (Curtailment) Regs (NI), reg 5(5); 2 reg 5(7); 3 SS (MA) Regs (NI), reg 2(1)

62575

Revoking Maternity Allowance period curtailment notification

62576 A woman may revoke a Maternity Allowance period curtailment notification before the Maternity Allowance period curtailment date if

1. she
 - 1.1 provided the Maternity Allowance period curtailment notification before her child's birth¹ **and**
 - 1.2 has not returned to work **and**
 - 1.3 has not reached the end of her Maternity Allowance period **or**
2. her partner dies².

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

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

1. within six weeks of her child's birth where the revocation notification is given as in DMG 62576 **1. or**
2. within a reasonable period from the date of her partner's death¹.

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

62578 A revocation notification must

1. state that a woman revokes the Maternity Allowance period curtailment notification **and**
2. where DMG 62576 **2.** applies, state the date of her partner's death¹.

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

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

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

62580

Pregnancy related illness

- 62581 The pregnancy related sickness trigger for Statutory Sick Pay¹ and Incapacity Benefit is reduced from 6 weeks to 4 weeks for all women with an expected week of confinement of 6.4.03 or later. Therefore, if a woman is absent from work wholly or partly due to pregnancy related illness or confinement, after the beginning of the fourth week before her expected week of confinement, the Maternity Allowance period will start on the day following her first day of absence from work for that reason.

Example

Expected week of confinement 27.4.03.

Fourth week before the expected week of confinement 30.3.03.

A woman works Monday to Friday and has been absent from work for a pregnancy related illness since Friday 21.3.03 and receives Statutory Sick Pay. Her illness continues into the fourth week before the expected week of confinement and will therefore trigger the start of the Maternity Allowance period.

The first complete day of absence on or after the start of the fourth week is Monday 31.3.03, therefore the day following the first day of absence will be Tuesday 1.4.03, the start of the Maternity Allowance period. Statutory Sick Pay will continue until 31.3.03.

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

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

Note: If a woman decides to start maternity leave, this should not be considered as a pregnancy related illness and therefore doesn't in itself trigger the start of the Maternity Allowance period.

Changing a decision when the expected date of confinement is altered

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

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

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

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

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

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

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

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

Note: For further information, see DMG Chapter 03 and DMG Chapter 04.

Disqualifications

62588 A woman may be disqualified for receiving Maternity Allowance if she

1. is absent from Northern Ireland (DMG Chapter 07)
2. is detained in legal custody (DMG Chapter 12)
3. works during the period for which Maternity Allowance is payable¹ (see DMG 62921 et seq)
4. fails without good cause to attend for or submit to medical examination² (see DMG 62621 et seq).

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

Note 2: See DMG 62731 et seq for guidance on disqualifications for a participating wife or civil partner of a self-employed earner.

1 SS (MA) Regs (NI), reg 2(a); 2 reg 2(c)

62589 – 62591

Work done during Maternity Allowance period

62592 **[See DMG Memo Vol 3/100, 4/149, 5/114, 9/47, 10/76 & 14/70]** A woman will not be entitled to receive Maternity Allowance if she works as an employed or self-employed earner for more than 10 days in the Maternity Allowance period. Those 10 days do not have to be consecutive.

62593 Where DMG 62592 applies, if a woman works for more than 10 days, she is not entitled to receive Maternity Allowance for any part of the Maternity Allowance period reasonable in the circumstances¹.

1 SS (MA) Regs (NI), reg 2(a)

62594 For the purposes of DMG 62592 - 62593 the work includes work of either category a woman does in her own home. However, housework does not count for this purpose. Receipt of salary or wages (but not Statutory Maternity Pay) during the period of receipt of Maternity Allowance, such as paid maternity leave, is not a ground for disqualification.

62595 However, if a woman entitled to Maternity Allowance has worked as an employed or self-employed earner the decision maker must disqualify her from Maternity Allowance in accordance with DMG 62596 et seq.

Period of disqualification

- 62596 If a woman works for more than 10 days during her Maternity Allowance period the decision maker must decide the period of disqualification. The decision maker must consider what disqualification might be reasonable based on the particular facts and circumstances of each case. However, once a woman has worked for ten days, the number of days for which a disqualification is imposed must be at least for the number of days that she then works.

Example 1

Alison's Maternity Allowance period ends on 25.6.11. On 9.2.11 she goes to work and will continue to work every Wednesday only during her Maternity Allowance period. There is no disqualification for the first 10 days Alison works (every Wednesday from 9.2.11 to 13.4.11). The decision maker then considers the period of disqualification. As Alison worked 5 days a week before her Maternity Allowance period and has returned to work for 1 day a week to help her employer the decision maker decides it is reasonable that she is disqualified for receiving Maternity Allowance only for the days worked (every Wednesday from 20.4.11 to 22.6.11).

Example 2

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

Example 3

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

- 62597 If the claim has been decided and the woman has received a payment of Maternity Allowance before it is known that she worked for more than ten days within the

Maternity Allowance period, the decision maker should supersede the original decision and disqualify her for the appropriate number of days or whole weeks within the Maternity Allowance period. This disqualification may relate to a period partly retrospective (including the days on which the woman worked) and partly prospective. Where Maternity Allowance has been overpaid the decision maker should make a decision as to the recovery and amount of overpayment (see DMG Chapter 09).

Note: See DMG Chapter 04 for guidance on supersession.

Example

Sabrina is awarded Maternity Allowance for the period 4.4.11 - 1.1.12. On 30.9.11 she states that she started work on 1.9.11 and had received a month's salary on that day. There was no indication that she intended to cease work before the end of the Maternity Allowance period. However, the decision maker established that she worked five days a week. The decision maker supersedes the decision so that the claimant is disqualified for receiving Maternity Allowance from 15.10.07 - 30.12.07.

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

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

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

62599 Where the decision maker decided that the woman is not entitled for a period of less than a week, it may be necessary to calculate the daily rate of the allowance. The daily rate of Maternity Allowance is one-seventh of the weekly rate¹.

1 SS C&B (NI) Act 92, sec 35(5)

Days of work not specified

62600 If a woman is unable to specify the particular days on which she has worked, and there is no evidence to establish them, the decision maker should estimate the number of days on which she has worked on the available evidence. Where the number of days worked is estimated to be more than 10 the decision maker should then decide the period of disqualification.

62601 – 62620

Failure to attend for, or submit to, medical examination

- 62621 A woman who has made a claim for Maternity Allowance in expectation of confinement may not be confined. Such a woman should be disqualified from receiving the allowance for such part of the period as may be reasonable in the circumstances if, on receipt of not less than 3 clear days' notice in writing, she fails without good cause to attend for, or submit herself to medical examination at the time and place which is specified in the notice¹.

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

Note 2: This also applies to a participating wife or civil partner of a self-employed earner (see DMG 62733).

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

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

- 62623 In calculating the period of notice Sundays are taken into account. To meet the requirements of the regulation¹, and to allow for delay in postal deliveries, a notice sent by first class mail on a Thursday should not require the claimant to attend for examination before Wednesday.

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

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

- 62625 If the decision maker is satisfied that the notice fulfilled the requirements of the regulation¹ and that the claimant failed to attend for, or submit to medical examination, consideration should be given to the question of "good cause", see DMG Chapter 02 for guidance on "good cause" in general and DMG Chapter 13 for guidance on "good cause" for failure to attend medical examination.

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

Period of disqualification

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

1. beginning not earlier than the day following the date on which the woman failed to attend for, or submit to examination **and**
2. if she is confined after such failure, ending not later than the date of confinement¹.

1 SS (MA) Reg (NI), reg 2(c)

62627 – 62700

Maternity Allowance - participating wife or civil partner of self-employed earner

Introduction

62701 The European Union Directive¹ on equal treatment between men and women engaged in an activity in a self-employed capacity provides that Member States must give Maternity Allowance entitlement to women who are the participating wife or civil partner of a self-employed earner. It does **not** replace Maternity Allowance² as at DMG 62501 et seq.

1 Directive 2010/41/EU; 2 SS C&B (NI) Act 92, sec 35

62702 A participating wife or civil partner of a self-employed earner may have entitlement to Maternity Allowance where her expected date of confinement is on or after 27.7.14¹. However, decision makers should note that for any period before 18.5.14²

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

1 SS (MA) (Participating Wife or Civil Partner of Self-employed Earner) Regs (NI) 2014, reg 1;

2 SS (MA) (Misc Amdts) Regs (NI) 2014, reg 1(1)

Provision of national insurance number

62703 For Maternity Allowance there is a requirement¹ for a claimant to provide sufficient information or evidence to establish their national insurance number. See DMG Chapter 02 for full guidance.

1 SS A (NI) Act 92, sec 1(1A) & 1(1B)

62704 – 62705

Certification

62706 A claim for Maternity Allowance must be supported by evidence of

1. pregnancy and the stage reached in the pregnancy where a claim is made in expectation of confinement¹ **or**
2. confinement where a claim is made following confinement².

1 SS (Med Evid) Regs (NI), reg 2(3)(a); 2 reg 2(3)(b)

- 62707 The evidence of pregnancy and the stage reached in the pregnancy should be
1. a maternity certificate given by a doctor or a midwife no earlier than 20 weeks before the expected week of confinement¹ **or**
 2. any other evidence given by a doctor or a midwife which is accepted as sufficient by the decision maker².

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

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

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

62709 – 62710

Conditions of entitlement

62711 A participating wife or civil partner of a self-employed earner is entitled to Maternity Allowance if she satisfies the conditions that

1. she is pregnant **and**
 - 1.1 has reached **or**
 - 1.2 was confined before reaching

the beginning of the 11th week before the expected week of confinement¹ **and**
2. for at least 26 weeks in the 66 weeks immediately before the expected week of confinement (“test period”)
 - 2.1 she has been the wife or civil partner of a person engaged in employment as a self-employed earner **and**
 - 2.2 for the same 26 weeks she has participated in that person’s activities² (see DMG 62712) **and**
3. that person has paid a class 2 national insurance contribution in respect of the same 26 week³ in 2. (see DMG 62713 - 62714) **and**
4. she is not entitled to Maternity Allowance⁴ or Statutory Maternity Pay for the same week in respect of the same pregnancy⁵.

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

Note 2: See DMG 62515 et seq for guidance on the conditions of entitlement to Maternity Allowance for a woman who is not a participating wife or civil partner of a self-employed earner.

Note 3: Where the expected week of confinement is before 12.7.15, 3. is satisfied if the person is liable to pay a class 2 national insurance contribution in respect of the same 26 weeks in 2..

*1 SS C&B (NI) Act 92, sec 35B(1)(a); 2 sec 35B(1)(b); 3 sec 35B(1)(c); 4 sec 35
5 sec 35B(1)(d); 6 sec 35B(1)(b)*

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

1. being employed by **or**
 2. being in partnership with
- her spouse or civil partner¹.

1 SS C&B (NI) Act 92, sec 35B(2)(a)

Example 1

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

Example 2

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

62713 From 6.4.15 class 2 contributions are collected through income tax self assessment¹. Therefore, the self-employed earner may not have paid 26 contributions as in DMG 62711 3.. If

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

the decision maker should decide to award Maternity Allowance. However, if the self-employed earner does not make such a payment, the decision maker should disallow the claim.

1 SS C&B (NI) Act 92, sec 11

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

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

the decision maker should revise that decision and award Maternity Allowance.

62715

Rate of Maternity Allowance

62716 The weekly rate of Maternity Allowance for a participating wife or civil partner of a self-employed earner is 90% of the Maternity Allowance threshold for the tax year in which the week ends¹. The Maternity Allowance threshold is £30². The daily rate of Maternity Allowance for a participating wife or civil partner of a self-employed earner is one-seventh of the weekly rate³.

Note: See DMG 62531 et seq for guidance on the rate of Maternity Allowance for a woman who is not a participating wife or civil partner of self-employed earner.

1 SS C&B (NI) Act 92, sec 35B(3); 2 sec 35B(10) & sec 35(6A); 3 sec 35B(10) & sec 35(5)

Example

Jessie is entitled to Maternity Allowance as a participating spouse of a self-employed earner. She is awarded £27.

62717 – 62720

Period for which Maternity Allowance is payable

62721 The period for which Maternity Allowance for a participating wife or civil partner of a self-employed earner is payable is the 14-week period¹ which begins on a day as in DMG 62722 - 62726. However, this is subject to the modification in DMG 62727.

Note: See DMG 62553 et seq for guidance on the maternity allowance period for a woman who is not a participating wife or civil partner of a self-employed earner.

1 SS C&B (NI) Act 92, sec 35B(4)

62722 The 14-week period begins at the beginning of the 11th week before the expected week of confinement if a participating wife or civil partner of a self-employed earner stops participating in the activities of her spouse or civil partner before then¹.

1 SS C&B (NI) Act 92, sec 35B(5)

62723 Where a participating wife or civil partner of a self-employed earner stops participating in the activities of her spouse or civil partner and that day is within the period

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

before the expected week of confinement, the 14-week period begins on the day following the day on which she stops participating¹.

1 SS C&B (NI) Act 92, sec 35B(6)

62724 Where a participating wife or civil partner of a self-employed earner

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

within the period beginning with the 4th week before the expected week of confinement and ending with the date of confinement, the 14 week period begins on the day following the day on which she stops, or refrains from, participating¹.

1 SS C&B (NI) Act 92, sec 35B(7)

62725 If DMG 62722 - 62724 do not apply, the 14-week period begins on the day following the date of confinement¹. This will apply, for example, where a woman is confined more than 11 weeks before the expected week of confinement.

1 SS C&B (NI) Act 92, sec 35B(8)

Example

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

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

1. permanently **or**
2. until after her confinement¹.

1 SS C&B (NI) Act 92, sec 35B(2)(b)

Modification

62727 However, where a participating wife or civil partner of a self-employed earner is not entitled to Maternity Allowance at the 11th week before the expected week of confinement, she can qualify by utilising a period of employment for weeks after the start of the 11th week before the expected week of confinement. The 14-week period¹ for such a woman starts

1. no earlier than the day she becomes entitled to Maternity Allowance **and**
2. no later than the day following the day on which she is confined².

1 SS C&B (NI) Act 92, sec 35B(9); 2 SS (MA) Regs (NI), reg 3(2A)

Example

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

62728 – 62730

Disqualifications

62731 A woman may be disqualified for receiving Maternity Allowance if she

1. is absent from Northern Ireland (see DMG Chapter 07)
2. is detained in legal custody (see DMG Chapter 12)
3. participates or works during the 14-week period (see DMG 62732)
4. fails without good cause to attend for or submit to medical examination (see DMG 62734).

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

Note 2: See DMG 62588 et seq for guidance on disqualifications for a woman who is not a participating wife or civil partner of a self-employed earner.

Participating or working during 14-week period

62732 A woman who

1. participates in her spouse's or civil partner's activities as DMG 62712 **or**
2. does any work as an employed or self-employed earner

during the 14-week period¹ is disqualified for receiving Maternity Allowance². That disqualification is for any part of the 14-week period which, in the decision maker's opinion, is reasonable in the circumstances³. However, the disqualification must be for at least the number of days of participating or work⁴.

Note: The disqualification applies for any participation or work. The "more than ten days" rule⁵ in DMG 62592 et seq does not apply.

1 SS C&B (NI) Act 92, sec 35B(9); 2 SS (MA) Regs (NI), reg 2(b); 3 reg 2(b); 4 reg 2(a); 5 reg 2(a)

Example 1

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

Example 2

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

Example 3

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

Failure to attend for, or submit to, medical examination

- 62733 The guidance at DMG 62621 et seq also applies to a participating wife or civil partner of a self-employed earner¹. The disqualification is for any part of the 14-week period² which, in the decision maker's opinion, is reasonable in the circumstances³.

1 SS (MA) Regs (NI), reg 2(c); 2 SS C&B (NI) Act 92, sec 35B(9); 3 SS (MA) Regs (NI), reg 2(b)

62734 – 62735

Death

- 62736 A participating wife or civil partner of a self-employed earner who is entitled to Maternity Allowance ceases to be entitled if she dies before the beginning of the 14-week period. If she dies after the beginning, but before the end of the 14-week period, Maternity Allowance is not payable for any week within that period which falls after the week in which she dies¹.

1 SS C&B (NI) Act 92, sec 35B(10) & sec 35(4)

62737 – 62999