

# Pay and time off work for parents

For babies due or born  
on or after 6 April 2004

An employer's guide to

- Statutory Maternity Pay and Leave
- Statutory Paternity Pay and Leave

including new rates from 6 April 2004

## Help

If you need help with anything in this Help Book

### Phone

Monday to Friday 8am until 8pm **0845 7 143 143**  
Saturday and Sunday 8am until 5pm

### Hearing impaired employers

Textphone **0845 602 1380**

You can also contact a local Inland Revenue office – you'll find them in your phone book under Inland Revenue.

### Business Support Teams

We have a UK-wide network of Inland Revenue Business Advisers who can help you get started on Statutory Maternity Pay (SMP) and Statutory Paternity Pay (SPP). Workshops can be arranged for a morning or afternoon and will help you understand the payroll records to keep and the how and why of filling in forms and returns. A workshop would last 2 to 3 hours.

Our Business Advisers also offer

- a variety of payroll workshops, designed with busy employers in mind, and
- one-to-one visits at a place and time to suit you.

Telephone **0845 60 70 143**, or go to [www.inlandrevenue.gov.uk/bst/index.htm](http://www.inlandrevenue.gov.uk/bst/index.htm)

### Help on screen

- go to [www.ir-portal.gov.uk/calculators/smp](http://www.ir-portal.gov.uk/calculators/smp) for an interactive SMP calculator
- use the Employer's CD-ROM for this Help Book and Employer's Help Book, *E15(Supplement)*, and for examples of calculating SMP/SPP.

## Help for employees

Go to page 27 for this information.

### Payroll - advice and guidance

For help on other subjects

- go to [www.inlandrevenue.gov.uk/employers](http://www.inlandrevenue.gov.uk/employers)
- use the Employer's CD-ROM.

## Abbreviations and language

For this Help Book, we have translated some of the phrases we have used in the past into everyday language.

- Expected week of confinement or childbirth (EWC) becomes 'week baby due'.
- Qualifying week (QW) becomes '15th week before the week baby due'.
- Lower earnings limit (LEL) for National Insurance purposes is shown as an amount of money. The LEL is the minimum amount of earnings that an employee needs to qualify for benefits. For 2004-05 it is £79.
- Maternity Pay Period (MPP) and Paternity Pay Period (PPP) become 'pay period'.

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## Further guidance

### Employer's Help Books

In addition to those included in the Employer's Pack we have Employer's Help Books covering

- *Pay and time off work for parents – Special cases, E15 (Supplement)*
- *Pay and time off work for adoptive parents, E16*
- *Pay and time off work for parents – Special cases, E16 (Supplement)*

The Help Books are for guidance only. They are not comprehensive and have no legal force.

We also have a number of other booklets that give further guidance, for example

- *Employer's Further Guide to PAYE and NICs, CWG2(2004)*
- *Class 1A NICs on benefits in kind, CWG5(2004)*
- *Expenses and Benefits – a tax guide, 480(2004)*

You can view the full range of these booklets, and other forms and guidance on

- the Internet  
[www.inlandrevenue.gov.uk/employers](http://www.inlandrevenue.gov.uk/employers)
- the Employer's CD-ROM

or you can

- download them from the Internet  
[www.inlandrevenue.gov.uk/employers](http://www.inlandrevenue.gov.uk/employers)
- print them from the CD-ROM\*
- get copies from the Employer's Orderline  
[www.inlandrevenue.gov.uk/employers](http://www.inlandrevenue.gov.uk/employers)

Phone : **0845 7 646 646**

Fax : **0870 2 406 406**

Check the Order Form in your Employer's Pack for a full list of what is available and how to order.

### Forms and guidance in Braille, large print or audio

We have a range of services for people with disabilities, including leaflets in Braille, audio and large print.

For details, please ask at your local Inland Revenue office or Enquiry Centre.

### Yr Iaith Gymraeg/Welsh

Ffoniwch **0845 302 1489** i dderbyn fersiynau Cymraeg o ffurflenni a chanllawiau.

*\*The CD-ROM contains interactive features designed to help the newcomer to payroll. The simple on-line guide takes the reader through the calculation of tax and National Insurance.*

*Calculators have been built in to help speed up your calculations of –*

- *Pay Adjustment and PAYE*
- *NICs contracted out and not contracted-out*
- *Car benefit and Car Fuel benefit.*

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## Using your own versions of the forms

You can produce your own computerised or paper versions of these forms. There is no formal approval process.

### *Why I cannot pay you SMP, form SMP1*

It must include

- your employee's name, address and National Insurance number
- the reason why you think you cannot pay Statutory Maternity Pay (SMP), or
- if you have made some payment, but don't think you should make any more
  - the total number of weeks you have paid or think you should pay
  - the date you think you should stop paying
  - the reason why you think you should stop paying.

It will help your employee if you also include information about what she should do

- if she disagrees with your decision
- to claim Maternity Allowance.

### *Statutory Maternity Pay record sheet, form SMP2*

It must include

- your employee's name and National Insurance number
- a record of the payment dates and the amount paid
- the date the SMP pay period began
- a record of any weeks in the 26 week period when SMP wasn't paid, with reasons.

You may also find it helpful to record

- the week baby due
- the 15th week before the week baby due
- the date of birth
- the date your employee told you she planned to start her maternity leave
- the date she planned to start her maternity leave
- if your employee changed her mind, when she told you the new date she wanted to start her leave, and the new date.

### *Becoming a parent, form SC3*

It must include your employee's name and National Insurance number and a declaration that they

- intend to support the mother or care for the child, **and**
- have or expect to have responsibility for the upbringing of the child, **and**
- are either
  - the baby's biological father, **or**
  - married to the baby's mother, **or**
  - living with the mother in an enduring family relationship, but are not an immediate relative.

It must also include

- the expected date of birth, and in cases where the baby has been born, the date of birth
- the date from which the employee wants to be paid Statutory Paternity Pay (SPP)
- whether the employee wants to be paid one week or two.

### *Why I cannot pay you SPP, form SPP1*

It must include

- your employee's name, address and National Insurance number
- the reason why you think you cannot pay SPP, or
- if you have made some payment, but don't think you should make any more
  - the date you think you should stop paying
  - the reason why you think you should stop paying.

It will help your employee if you also include information about what he should do

- if he disagrees with your decision
- to claim other Government help.

## Using your own forms *continued*

### *Statutory Paternity Pay record sheet, form SPP2*

It must include

- your employee's name and National Insurance number
- a record of the payment dates and the amount paid
- the date the SPP pay period began
- a record of any unpaid SPP, with reasons.

You may also find it helpful to record

- the week baby due
- the 15th week before the week baby due
- the date of birth
- the date your employee told you he planned to start his paternity leave
- the date he planned to start his paternity leave
- if your employee changed his mind, when he told you the new date he wanted to start his leave, and the new date.

## Statutory Maternity Pay (SMP) and maternity leave at a glance

### What can my employee get?

When you work out if your employee is entitled and for how long - look at the date the baby is due, **not** the date the baby is born. When you work out how much to pay from 4 April 2004, the first Sunday in April - look at when pay period started.

How long is she entitled to be off work on Maternity Leave	How much do I pay
<p>Maternity leave lasts up to 52 weeks.</p> <p>▶ Page 10</p> <p>Mother is required to give notice by the end of the 15th week before the week her baby is due for Maternity Leave.</p> <p>▶ Page 18</p> <p>SMP and maternity leave start if mother off work with pregnancy related illness in the 4 weeks before the week baby is due.</p> <p>▶ Page 30</p> <p>If the mother leaves your employment after the start of the 15th week before the week the baby is due you must pay her SMP. If SMP is not in payment before she leaves, she does not have to give notice of her intended date for starting Maternity Leave.</p> <p>▶ Page 30</p>	<p>SMP pay period lasts for up to 26 weeks and may start on any day if the baby is born early or the mother is off work with a pregnancy related illness.</p> <p>▶ Pages 21, 28, 29 and 30</p> <ul style="list-style-type: none"> <li>• First 6 weeks of payment at 90% of average weekly earnings, then</li> <li>• Pay the <b>lower</b> of             <ul style="list-style-type: none"> <li>– 90% of average weekly earnings, or £102.80.</li> </ul> </li> </ul>

- For examples
- go to [www.inlandrevenue.gov.uk/employers](http://www.inlandrevenue.gov.uk/employers)
  - use the Employer's CD-ROM.

## Statutory Paternity Pay (SPP) and paternity leave at a glance

### What can my employee get?

SPP and paternity leave may be due to someone who is

- a biological father
- a partner/husband who is not the baby's biological father
- a female partner in a same sex couple.

**We have used 'father', 'he', 'him' and 'his' throughout this Help Book when talking about people who can get SPP and paternity leave.**

When you work out if your employee is entitled - look at both the date the baby is due and the date the baby is born.

There are terms and conditions for SPP and leave covering evidence of family commitment, how long the father has worked for you and how much he earns.

▶ Start on page 11

The father can choose to take one or two weeks leave within 56 days following the date of birth.

There is a different time limit if the baby is born early.

▶ Pages 18 and 29

### How much do I pay?

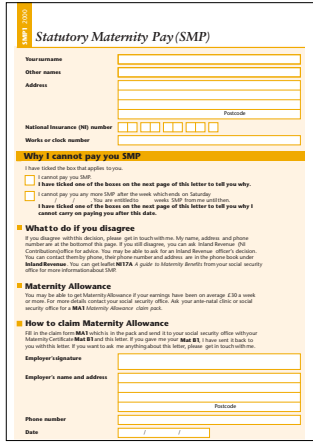
When you work out how much to pay - look at when pay period started. Pay the **lower** of 90% of average weekly earnings, or £102.80.

# What the forms look like

## Statutory Maternity Pay (SMP)



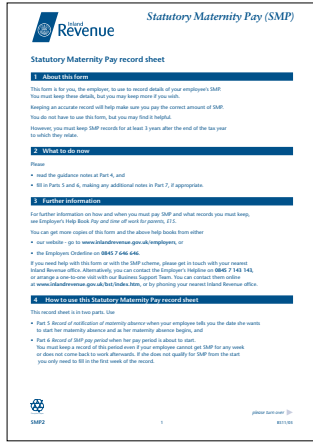
- **Maternity Certificate, form MAT B1**  
The expectant mother will give you this form to confirm that she is pregnant. You must **not** pay SMP without it or similar evidence.  
The form will be signed by a doctor or midwife and issued after the 20th week of pregnancy.



- **Why I cannot pay you SMP, form SMP1**  
Use this form to tell your employee she is not entitled to Statutory Maternity Pay.

Why I cannot pay you SMP, form SMP1 is available from

- Jobcentre plus/social security office - in your phone book, or
- go to [www.dwp.gov.uk/advisers/claimforms.asp](http://www.dwp.gov.uk/advisers/claimforms.asp)



- **Statutory Maternity Pay record sheet, form SMP2**  
Use this form to keep a record of Statutory Maternity Payments.

All the other maternity and paternity forms are available from

- the Orderline, call **0845 7 646 646**
- our website [www.inlandrevenue.gov.uk/employers](http://www.inlandrevenue.gov.uk/employers)

You can use your own version of any of the forms, except form MAT B1. But please check with the Employer's Help Book, *E15 (Supplement)* for what you must include.

# What the forms look like *continued*

## Statutory Paternity Pay (SPP)

**Other help**

- any related Revenue office
- any Adoption and Conciliation Advisory Service (ACAS) office (see [www.acas.org.uk](http://www.acas.org.uk) for details)
- [www.spp.gov.uk](http://www.spp.gov.uk)

**What to do if you disagree**

If you disagree with this decision, please let me know by name, address and phone number at the bottom of this page. If you still disagree, you can ask the related Revenue for a decision. You will find the number on your SPP form.

• *Becoming a parent, form SC3*

Use this form to tell your employee about the terms and conditions relating to SPP. It includes a tear-off statement for your employee to tell you about dates and leave, with a declaration. You **must** have this declaration before you can make payments.

**Why I cannot pay you SPP**

Employer's name: \_\_\_\_\_ Address: \_\_\_\_\_  
 Other details: \_\_\_\_\_  
 National Insurance number: \_\_\_\_\_ Postcode: \_\_\_\_\_

**Why I cannot pay you SPP**

I have decided not to pay you SPP because:

- I cannot pay you SPP. I have ticked one (or more) of the boxes below to tell you why.
- I cannot pay you any more SPP after the week which ends on / /
- I cannot pay you any more SPP on the next page of this letter to tell you why I cannot carry on paying you after this date.

**What to do if you disagree**

If you disagree with this decision, please let me know by name, address and phone number at the bottom of this page. If you still disagree, you can ask the related Revenue for a decision. You will find the number on your SPP form.

**Other help**

If you qualify for paternity leave but not SPP you may be able to get Income Support while you are on leave. Further details concern your local social security office. If you are not entitled to SPP, you may be entitled to other government help. Contact your local Jobcentre Plus social security office for more information.

Employer's signature: \_\_\_\_\_ Employer's name: \_\_\_\_\_  
 Phone number: \_\_\_\_\_ Employer's address: \_\_\_\_\_  
 Date: / / Postcode: \_\_\_\_\_

• *Why I cannot pay you SPP, form SPP1*

Use this form to tell your employee he's not entitled to SPP.

**About this form**

This form is for you, the employer, to use to record details of your employee's Statutory Paternity Pay (SPP). You should keep this record for 3 years from the end of the leave.

**What to do when**

When:

- you first receive notice of your employee's SPP claim
- you receive a decision from HM Revenue & Customs (HMRC) about your employee's SPP claim
- you receive a decision from HMRC about your employee's SPP claim
- you receive a decision from HMRC about your employee's SPP claim

**How to use this Statutory Paternity Pay record sheet**

This record sheet is for your use:

- to record details of your employee's SPP claim
- to record details of your employee's SPP claim
- to record details of your employee's SPP claim

• *Statutory Paternity Pay record sheet, form SPP2*

Use this form to keep a record of statutory paternity payments and any changes in dates.

## Pay and time off work - the bigger picture

This Help Book does not cover all the law and details of Statutory Maternity Pay (SMP) and Statutory Paternity Pay (SPP) or maternity and paternity leave. The Help Book contains only what most employers will need to know to help run their payroll and agree leave with their employees.

Special cases and situations are shown throughout the Help Book with pointers on where to go for more information or help. Most of this is contained in the Employer's Help Book, *E15 (Supplement)*.

### What do I have to do?

As long as your employees meet the terms and conditions, see page 11, you must

- pay SMP and SPP, and
- allow maternity and paternity leave.

As soon as your employee tells you about the baby

- Expectant mother - tell her
  - you should have the *Maternity Certificate*, form MAT B1, signed by a doctor or a midwife, within 21 days of the start of her maternity leave and that you cannot pay her without this form or similar evidence
  - that her entitlement to SMP depends on how long she has been employed by you and her average earnings. Both of these conditions are based around the 15th week before the week baby due. You will check as quickly as possible and let her know if she qualifies.
- Expectant father
  - give him form SC3, *Becoming a parent*
  - tell him that his entitlement to SPP depends on how long he has been employed by you and his average earnings. Both of these conditions are based around the 15th week before the week baby due. You will check as quickly as possible and let him know if he qualifies.

### What does your employee have to do?

Expectant parents must let you know what is happening well before the birth, if they want to exercise their rights. You should make it clear to them that they are legally required to give you information about the baby's expected date of birth and what time off they want, see page 18.

### How much do I get back?

The amount you get back depends on your total, gross, employers' and employees', Class 1 National Insurance liability.

If your annual liability for National Insurance contributions is **always £45,000 or less** you are entitled to

- 100% of the SMP/SPP, and
- an additional amount as compensation for the NICs you pay on the SMP/SPP. The compensation rate is 4.5%.

If your annual liability for National Insurance contributions is **always more than £45,000** you

- are entitled to 92% of the SMP/SPP, and
- have to fund 8% yourself.

If your annual liability for National Insurance contributions is **around £45,000** you'll need to check to see what you are entitled to, see page 23.

### Where does the money come from?

Use the money you have to pay over to the Inland Revenue

- PAYE tax
- National Insurance contributions
- Student loan deductions
- Construction Industry Scheme deductions.

You may also need to use this money to pay tax credits and other statutory payments. Please make sure you have enough to cover all the payments you have to make, use the quick check on page 23.

### Keeping records

You must keep records of payments for three years after the end of the tax year to which they relate, see page 25.

## Pay and time off work - the bigger picture *continued*

### Definitions

Terms and conditions start on page 11.

#### **Statutory Maternity Pay**

This is a legal entitlement to a certain amount of pay to help a mother take time off around the time of birth. It lasts for up to 26 weeks.

#### **Ordinary Maternity Leave**

This is a legal entitlement that allows a mother to take time off around the time of the birth. She is allowed to take up to 26 weeks. A mother does not have to qualify for SMP to get maternity leave. But most mothers will get both.

#### **Additional Maternity Leave**

This is a legal entitlement that allows some mothers to take up to a further 26 weeks. Further information can be obtained from the Department of Trade and Industry, see column opposite. There is no SMP for this period.

#### **Statutory Paternity Pay**

This is a legal entitlement to a certain amount of pay to help a father care for a baby or support the mother in the first few weeks after the birth.

It is available to

- a biological father
- a partner/husband who is not the baby's biological father
- a female partner in a same sex couple.

**We have used 'father', 'he', 'him' and 'his' throughout this Help Book when talking about people who can get SPP.**

#### **Paternity Leave**

This allows a father to take time off to care for a baby or support the mother in the first few weeks after the birth.

It is available to

- a biological father
- a partner/husband who is not the baby's biological father
- a female partner in a same sex couple.

**We have used 'father', 'he', 'him' and 'his' throughout this Help Book when talking about people who can get paternity leave.**

#### **Statutory Paternity Pay and Paternity Leave**

The father can choose to have one or two whole weeks pay and leave. This must be taken in a single block. It must be taken by the 56th day after the date of birth. If the baby is born early it can be taken any time between the actual date of birth and the end of an 8 week period running from the Sunday of the week the baby was originally due.

### Information

#### **Employment Rights**

Mothers have a legal right to

- paid time off for ante-natal care
- special health and safety protection when they are pregnant, have given birth recently or are breast feeding
- protection against unfair treatment or dismissal
- return to work.

Firing someone because she is pregnant, or because they take or seek to take maternity or paternity leave, is automatically 'unfair dismissal'.

The DTI publications, *Maternity Rights - a guide for employers and employees* and *Paternity Leave and Pay - a basic summary* give information on these rights. The maternity publication also gives details of other booklets covering employment protection and related equal opportunities legislation.

Available from:

- DTI publications **0870 1502 500**
- **[www.dti.gov.uk/er](http://www.dti.gov.uk/er)**

For further information on employment rights, contact the Arbitration and Conciliation Advisory Service (Acas). Go to **[www.acas.org.uk](http://www.acas.org.uk)** or the phone book for details.

Information on all aspects of employment legislation is also usually available from accountants, Citizens Advice Bureaux, employer organisations, low pay units, trade unions and other private and voluntary sector bodies.

Terms and conditions follow ►

## Terms and conditions

### Covering

- **Statutory Maternity Pay (SMP)**
- **Ordinary Maternity Leave**
- **Statutory Paternity Pay (SPP)**
- **Paternity Leave**

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Based on average earnings. This will also give you the amount to use when you work out what to pay.	14
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### Terms and conditions - the employer's checklists

You must not pay SMP or SPP to people who do not qualify. If necessary there will be other Government help available to them. See page 27, 'Help for employees'. 19, 20

### Adoption

People adopting a child may also be entitled to pay and leave.

For Employer's Help Book E16, *Pay and time off work for adoptive parents*, call the Orderline on **0845 7 646 646**.

## Information

### Pay

As you work through the terms and conditions, if you decide that your employee is not entitled to SMP or SPP you will be told to issue a form. This will explain to your employee why you cannot pay them and what they need to do to get other Government help. It is important that you give them this form as soon as possible to help them with their claim. If your employee disagrees they can ask us to make a formal decision. If this happens we will give you more information at the time.

### Leave

If there is disagreement between you and your employee about their entitlement to leave, you will want first to discuss it together. You will probably also find it helpful to contact Arbitration and Conciliation Advisory Service (Acas) (see [www.acas.org.uk](http://www.acas.org.uk) or the phone book). Ultimately, if the dispute continues, your employee may want to take the case to an employment tribunal.

## Special cases

For anything listed below use the Employer's Help Book, *E15(Supplement)*. If in doubt call the Employer's Helpline on **0845 7 143 143**.

- Agency workers
- Casual employees
- Mariners.

If you have any doubts about employee status

- for pay - contact your Inland Revenue office and ask for the Status Inspector
- for leave - contact the Arbitration and Conciliation Advisory Service (Acas) (see [www.acas.org.uk](http://www.acas.org.uk) or the phone book for details).

## Evidence for pay

### Terms and conditions 1

#### Mothers

##### Proof of pregnancy

Your employee must produce medical evidence of pregnancy to get Statutory Maternity Pay (SMP). You can allow leave without medical evidence. The medical evidence is usually the *Maternity Certificate*, form MAT B1. But you can accept any document, signed by a doctor or midwife, that includes the date the baby is due. (The MAT B1 is only available from 20 weeks before the week the baby is due.)

##### Mother gives medical evidence

Go to page 13 for 'Has your employee worked for you long enough?'.

##### Mother does not give medical evidence

Tell the mother that you cannot pay her without the medical evidence and she will need a good reason if she gives it to you too late.

##### Time limits

The time limit for producing evidence to get pay is 21 days from the start of the SMP pay period. If there is a good reason for the evidence being produced late you must accept it, provided the evidence is produced by the end of the 13th week of what would be the SMP pay period.

#### Special cases

For anything listed below go to the page number shown. If in doubt call the Employer's Helpline on 0845 7 143 143.

- Baby born more than 15 weeks before due date, see page 28. A table showing 15th week dates is on pages 31 and 32.
- Baby born before intended start of leave, see page 29.

#### Fathers

##### Declaration of family commitment

Give the father *Becoming a parent*, form SC3. The SC3 advises your employee of the terms and conditions relating to Statutory Paternity Pay (SPP) and paternity leave.

It also has a tear off slip for a declaration covering family commitment.

You must not pay SPP without a declaration, but you can allow leave without one.

If you consider that the employee has made a false declaration, you should contact your Inland Revenue office for advice. They can investigate and, if appropriate, consider penalising the employee.

You may also want to consider disciplinary action against an employee who makes a false declaration.

You must not ask for medical evidence of the pregnancy.

##### Father gives declaration

Go to page 13 for 'Has your employee worked for you long enough?'.

##### Father does not give declaration

Tell the father that you cannot pay him without the declaration and he will need a good reason if he gives it to you too late.

##### Time limits

The time limit for producing evidence to get pay is 28 days before the start of payment. If there is a good reason for the evidence being produced late you must accept it, provided the evidence is produced by the end of the 13th week of what would be the SPP pay period.

## Has your employee worked for you long enough?

### Terms and conditions 2

#### Mothers

##### Length of employment

A mother will get maternity leave no matter how long she has worked for you.

To get Statutory Maternity Pay (SMP) the mother must be employed by you continuously for a set period.

Find the date the baby is due in the table on pages 31 and 32. Then read across to the latest start date for employment with you. If she started work after that date she doesn't qualify - see the note below.

##### Employee has been employed long enough

Go to page 14 for 'Does your employee earn enough?'

##### Employee has not been employed long enough

Give her *Why I cannot pay you SMP*, form SMP1.

Take a copy of the *Maternity Certificate*, form MAT B1, and give the original back to her.

#### Fathers

##### Length of employment

The length of time the father must have worked for you to get Statutory Paternity Pay (SPP) and paternity leave is split into two.

##### Step 1

- Find the date the baby is due in the table on pages 31 and 32.
- Follow the column across to the latest start date for employment with you. If he started work after that date he doesn't qualify - see the note below.

##### Step 2

If the father was working for you by the date in Step 1, then to get Statutory Paternity Pay (SPP) and leave he must continue to work for you right up until the baby is born. If the father stops working for you before the baby is born he is not entitled to pay or leave.

##### Employee has been employed long enough

Go to page 14 for 'Does your employee earn enough?'

##### Employee hasn't been employed long enough

##### Pay

Give him form *Why I cannot pay you SPP*, form SPP1.

Take a copy of the declaration on *Becoming a parent*, form SC3 and give the original back to him.

##### Leave

Tell him that he doesn't qualify for paternity leave. This doesn't have to be in writing and there is no special form.

## Special cases

For anything listed below go to the page number shown or use the Employer's Help Book, *E15(Supplement)* for the others. If in doubt call the Employer's Helpline on **0845 7 143 143**.

- Baby born more than 15 weeks before due date, see page 28. A table showing 15th week dates is on pages 31 and 32.
- Employee leaves job after the start of the 15th week before the week the baby is due, see page 30. A table showing 15th week dates is on pages 31 and 32.
- Employee works abroad.
- Supply teachers, seasonal workers, agency workers or other sporadic employment.
- Reinstatement during the set period
  - after unfair dismissal
  - after service in the Armed Forces.
- Breaks in employment during the set period because of
  - trade dispute
  - temporary cessation of work
  - sickness or injury
  - previous pregnancy
  - adoption
  - parental leave.

## Does your employee earn enough?

### Terms and conditions 3

Earnings do not affect maternity or paternity leave.

Statutory Maternity Pay (SMP)/Statutory Paternity Pay (SPP) depend on your employee's average weekly earnings in a set period. Generally, the set period is no less than 8 weeks, but there are some special cases, see page 15. There is a quick method of finding out if they qualify.

**But if you are in any doubt, or your employee disagrees with your decision, you must work through the detailed check on pages 16 and 17.**

For help on screen go to [www.ir-portal.gov.uk/calculators/smp](http://www.ir-portal.gov.uk/calculators/smp) for an interactive SMP calculator.

### Mothers

#### Quick method

#### Babies due between 6 April 2004 and 17 July 2004

If your employee **always** earns less than £77 gross a week (£333 gross a calendar month) she will not qualify for Statutory Maternity Pay (SMP).

Go to the 'Employee doesn't earn enough' section on page 16.

#### Babies due between 18 July 2004 and 16 July 2005

If your employee always earns less than £79 a week (£342 a calendar month) she will not qualify for SMP.

Go to the 'Employee doesn't earn enough' section on page 16.

If your employee sometimes earns more or less than the amount shown above you must work out her average weekly earnings. This is because you must pay her 90% of the average weekly amount. Use the weekly check sheet on page 16 or the monthly check sheet on page 17.

### Information

#### What counts as earnings

Use the amount **before deductions** such as PAYE and pension contributions.

#### Include

- Payments which are earnings for Class 1 National Insurance contributions. (Your employee does not have to have paid NICs.)
- All earnings paid in the period, including money earned outside the period, such as holiday pay, overtime, bonuses and back-dated pay rises.
- Statutory Sick Pay
- Statutory Maternity Pay
- Statutory Paternity Pay
- Statutory Adoption Pay.

#### Leave out

- Tax Credits.

### Fathers

#### Quick method

#### Babies due between 6 April 2004 and 17 July 2004

If your employee **always** earns less than £77 gross a week (£333 gross a calendar month) he will not qualify for Statutory Paternity Pay (SPP).

Go to the 'Employee doesn't earn enough' section on page 16.

#### Babies due between 18 July 2004 and 16 July 2005

If your employee always earns less than £79 a week (£342 a calendar month) he will not qualify for SPP.

Go to the 'Employee doesn't earn enough' section on page 16.

#### Pay period starts on or before 6 April 2004

If your employee always earns more than the amounts shown above go to page 18.

If your employee sometimes earns more or less than the amounts shown above you must work out his average weekly earnings. Use the weekly check sheet on page 16 or the monthly check sheet on page 17.

#### Pay period starts after 6 April 2004

If your employee always earns £114 a week (£494 a calendar month) go to page 18.

If your employee sometimes earns more or less than the amounts shown above you must work out his average weekly earnings. Use the weekly check sheet on page 16 or the monthly check sheet on page 17.

If your employee earns between £79 (see above) a week, (£342 a calendar month) and £114 a week (£494 a month) you must work out his average weekly earnings. Then pay 90% of the average weekly amount. Use the weekly check sheet on page 16 or the monthly check sheet on page 17.

Dates for pay and leave - page 18 ►

Amounts to pay - page 21 ►

## Special cases

For anything listed below go to the page number shown or use the Employer's Helpbook, *E15(Supplement)* for the others. If in doubt call the Employer's Helpline on **0845 7 143 143**.

- Baby born more than 15 weeks before due date, see page 28. A table showing 15th week dates is on pages 31 and 32
- Employee gets regular payment earlier or later than normal, such as holiday pay or pay day changes because of a bank holiday
- Employee paid at irregular intervals
- Weekly paid employee without whole number of weeks in the set earnings period
- Supply teachers, seasonal workers, agency workers or other spasmodic employment
- Change of employer in the set earnings period
- Directors
- Employees with more than one job
- Earnings in relevant period covered in a back-dated pay rise
- NHS Trust employees
- Employee doesn't qualify and some of their earnings are included in a PAYE Settlement Agreement.

How weekly pay dates relate to the tax weeks on the *Deductions Working Sheet*, form P11 (or P12 if you operate the *Simplified Deduction Scheme*)

Period	Week number	Period	Week number
6 Apr to 12 Apr	1	5 Oct to 11 Oct	27
13 Apr to 19 Apr	2	12 Oct to 18 Oct	28
20 Apr to 26 Apr	3	19 Oct to 25 Oct	29
27 Apr to 3 May	4	26 Oct to 1 Nov	30
4 May to 10 May	5	2 Nov to 8 Nov	31
11 May to 17 May	6	9 Nov to 15 Nov	32
18 May to 24 May	7	16 Nov to 22 Nov	33
25 May to 31 May	8	23 Nov to 29 Nov	34
1 June to 7 June	9	30 Nov to 6 Dec	35
8 June to 14 June	10	7 Dec to 13 Dec	36
15 June to 21 June	11	14 Dec to 20 Dec	37
22 June to 28 June	12	21 Dec to 27 Dec	38
29 June to 5 July	13	28 Dec to 3 Jan	39
6 July to 12 July	14	4 Jan to 10 Jan	40
13 July to 19 July	15	11 Jan to 17 Jan	41
20 July to 26 July	16	18 Jan to 24 Jan	42
27 July to 2 Aug	17	25 Jan to 31 Jan	43
3 Aug to 9 Aug	18	1 Feb to 7 Feb	44
10 Aug to 16 Aug	19	8 Feb to 14 Feb	45
17 Aug to 23 Aug	20	15 Feb to 21 Feb	46
24 Aug to 30 Aug	21	22 Feb to 28 Feb	47
31 Aug to 6 Sep	22	1 Mar to 7 Mar	48
7 Sep to 13 Sep	23	8 Mar to 14 Mar	49
14 Sep to 20 Sep	24	15 Mar to 21 Mar	50
21 Sep to 27 Sep	25	22 Mar to 28 Mar	51
28 Sep to 4 Oct	26	29 Mar to 4 Apr	52
		5 April – call the Helpline	

How monthly pay dates relate to the tax months on the *Deductions Working Sheet*, form P11 (or P12 if you operate the *Simplified Deduction Scheme*)

Period	Month number	Period	Month number
6 Apr to 5 May	1	6 Oct to 5 Nov	7
6 May to 5 June	2	6 Nov to 5 Dec	8
6 June to 5 July	3	6 Dec to 5 Jan	9
6 July to 5 Aug	4	6 Jan to 5 Feb	10
6 Aug to 5 Sep	5	6 Feb to 5 Mar	11
6 Sep to 5 Oct	6	6 Mar to 5 Apr	12

Check sheets ►

## Does your employee earn enough? *continued*

### Weekly paid - check sheet for average weekly earnings

To work out average weekly earnings you must

- always use the set period - worked out using the check sheet
- only include earnings from the set period.

#### To work out average weekly earnings for employees paid in multiples of a week, for example, fortnightly

1. Enter date baby is due

2. Find the date of the Saturday in the 15th week before the week baby is due. Use the table on page 31 and 32.

3. Find the date of the last normal payday on or before that Saturday. **This is the last day of the set period.** If you use the *Deductions Working Sheet*, form *P11* to record your employees earnings you may find the table on page 15 useful as it shows how weekly pay dates relate to the tax weeks on form *P11* (or form *P12* if you operate the *Simplified Deduction Scheme*).

4. Count back 8 weeks from the date in 3 and come forward one day, for example if 8 weeks back is 22nd June, enter 23rd.

5. Find the date of the payday before the date in 4 and come forward one day, for example 25 May becomes 26 May. **This is the first day of the set period.**

6. Add together the earnings in between the dates in 5 and 3 (inclusive).

7. Divide the figure in 6 by the number of whole weeks in the set period. (To be fair to your employee **don't round up or down** to whole pence here, you'll do this when you come to 'the amounts to pay'.)

#### Employee earns enough

If the amount in 7

- for babies due between 6 April 2004 and 17 July 2004, is at least £77 gross
- for babies due between 18 July 2004 and 16 July 2005, is at least £79,

go to page 18 for 'When should your employee give you dates for pay and leave'.

#### Employee doesn't earn enough

If from the amount in 7 they don't earn enough

- Mothers - give her *Why I cannot pay you SMP*, form SMP1. Take a copy of the *Maternity Certificate*, form MAT B1, and give the original back to her.
- Fathers - give him *Why I cannot pay you SPP*, form SPP1. Take a copy of the declaration on *Becoming a parent*, form SC3 and give the original back to him.

## Does your employee earn enough? *continued*

### Monthly (calendar) paid - check sheet for average weekly earnings

To work out average weekly earnings you must

- convert monthly pay into an average weekly amount
- always use the set period - worked out using the check sheet
- only include earnings from the set period.

#### To work out average weekly earnings for employees paid calendar monthly

1. Enter date baby is due

2. Find the date of the Saturday in the 15th week before the week baby is due. (Use the table on pages 31 and 32).

3. Find the date of the last normal payday on or before that Saturday. **This is the last day of the set period.** If you use the *Deductions Working Sheet*, form *P11* to record your employees earnings you may find the table on page 15 useful as it shows how monthly pay dates relate to the tax month on form *P11* (or form *P12* if you operate the *Simplified Deduction Scheme*).

4. Count back 8 weeks from the date in 3 and come forward one day, for example if 8 weeks back is 22nd June, use 23rd.

5. Find the date of the payday before the date in 4 and come forward one day, for example 25 May becomes 26 May. **This is the first day of the set period.**

6. Add together the earnings between the dates in 5 and 3 (inclusive). If there are more or less than 2 payments in the period - see Employer's Help Book, *E15 (Supplement)*.

£	
---	--

7. Multiply the figure in 6 by 6.

£	
---	--

8. Divide the figure in 7 by 52. (To be fair to your employee **don't round up or down** to whole pence here, you'll do this when you come to 'the amounts to pay'.)

£	
---	--

#### Employee earns enough

If the amount in 8

- for babies due between 6 April 2004 and 17 July 2004, is at least £77 gross
- for babies due between 18 July 2004 and 16 July 2005, is at least £79

go to page 18 for 'When should your employee give you dates for pay and leave'.

#### Employee doesn't earn enough

If from the amount in 8 they don't earn enough

- Mothers - give her *Why I cannot pay you SMP*, form SMP1. Take a copy of the *Maternity Certificate*, form MAT B1 and give the original back to her.
- Fathers - give him *Why I cannot pay you SPP*, form SPP1. Take a copy of the declaration on *Becoming a parent*, form SC3 and give the original back to him.

## When should your employee give you dates for pay and leave?

### Terms and conditions 4

#### Mothers

##### Leave/Pay

Your employee should tell you when she expects to stop work by the Saturday of the 15th week before the week baby due (use tables on page 31 and 32). You should confirm the date in writing including when you expect her back. (See sample letter on the Employer's CD-ROM or Employer's Help Book, *E15(Supplement)*).

This notice can also apply for pay.

You should accept any delay in giving notice if the employee has good reason.

Notice can be given

- personally
- by someone else
- by post.

##### Choosing dates

Your employee has the right to choose when she wants to start maternity leave. But the date can't be more than 11 weeks before the week baby due. (Use the table on pages 31 and 32).

##### Maternity Leave

If the mother doesn't choose to take the full leave entitlement she must give you 28 days notice of when she intends to start work again.

#### Changes of mind

Your employee can change her mind about the dates but should give you 28 days notice. You should confirm the new date in writing.

#### Employee gives acceptable notice

##### Pay and leave

Go to page 19 to make a final check on all the terms and conditions.

#### Employee does not give acceptable notice

##### Pay

If your employee didn't give you 28 days notice and she hasn't got a good reason for being late give her *Why I cannot pay you SMP*, form SMP1. Take a copy of the *Maternity Certificate*, form MAT B1, and give the original back to her.

##### Leave

You should discuss and agree a suitable start date with your employee. She may have had good reasons why she could not give you proper notice, and if so you should accept them. If not, you are entitled to insist on a notice period which suits you, although you cannot in any circumstances delay the start of leave beyond the birth.

#### Fathers

##### Leave/Pay

Your employee should tell you when he expects to stop work by the Saturday of the 15th week before the week baby due (use tables on page 31 and 32).

This notice can also apply for pay.

He must confirm the date of birth. You can ask for this in writing. You are not entitled to ask for evidence of the birth.

You should accept any delay in giving notice if the employee has good reason. Employers should allow sufficient flexibility of notice because of the possible differences between the expected date of birth and the actual date of birth.

Notice can be given

- personally
- by someone else
- by post.

##### Choosing dates

Your employee has the right to choose when he wants to take leave within a set period. Usually he can choose to take one or two whole weeks leave any time up to 8 weeks after the date of birth.

#### Changes of mind

Your employee can change his mind about the dates but should give you 28 days notice of his intended dates. Employers should allow sufficient flexibility of notice because of the possible differences between the expected date of birth and the actual date of birth.

#### Employee gives acceptable notice

##### Pay and leave

Go to page 20 to make a final check on all the terms and conditions.

#### Employee does not give acceptable notice

##### Leave/Pay

If your employee didn't give you 28 days notice and he hasn't got a good reason for being late you can delay the start of leave and the pay period until you have had 28 days notice. However, employers should allow sufficient flexibility of notice because of the possible differences between the expected date of birth and the actual date of birth.

##### Special Cases

For anything listed below go to the page number shown. If in doubt call the Employer's Helpline on **0845 7 143 143**.

- Baby born more than 15 weeks before due date, see page 28. A table showing 15th week dates is on pages 31 and 32.
- Employee leaves job after the start of the 15th week before week baby due, see page 30. A table showing 15th week dates is on pages 31 and 32.

## Mothers - Terms and conditions checklist

### Statutory Maternity Pay (SMP)

The mother has given you medical evidence of the date the baby is due.

Page 12

The mother was continuously employed by you for the required period.

Page 13

The mother has high enough average weekly earnings for the set period.

Page 14

The mother has given you acceptable notice for start of SMP.

Page 18

**A tick in every box means your employee is entitled to SMP. Go to page 21 'Paying Statutory Maternity Pay (SMP)/Statutory Paternity Pay (SPP)'.**

**If you haven't ticked all the boxes please go back to the terms and conditions page(s) for the empty box(es) to find out what you need to do.**

### Ordinary Maternity Leave

**All employed mothers are entitled to Ordinary Maternity Leave.**

## Fathers - Terms and conditions checklist

### Statutory Paternity Pay (SPP)

You have a signed declaration covering family commitment.    
Page 12

The father was continuously employed by you for the required period.   
Page 13

The father has high enough average weekly earnings for the set period.   
Page 14

The father has given you acceptable notice for the start of SPP.   
Page 18

**A tick in every box means your employee is entitled to SPP. Go to page 21 'Paying Statutory Maternity Pay (SMP)/Statutory Paternity Pay (SPP)'.**

**If you haven't ticked all the boxes please go back to the terms and conditions page(s) for the empty box(es) to find out what you need to do.**

### Paternity Leave

The father still works for you and was continuously employed by you for the required period.    
Page 13

The father has given you acceptable notice for the start of leave.   
Page 18

**A tick in both boxes means your employee is entitled to Paternity Leave.**

**A father does not have to qualify for SPP to get leave. But most fathers will get both.**

**If you haven't ticked both boxes please go back to the terms and conditions page(s) for the empty box(es) to find out what you need to do.**

## Paying Statutory Maternity Pay (SMP)/Statutory Paternity Pay (SPP)

### Start of payment

SMP and SPP are weekly payments. They should be paid on the employee's next usual pay day.

SMP pay weeks run from Sunday to Saturday unless

- the baby is born more than 15 weeks before the due date, see page 28
- the baby is born before the intended start date of leave, see page 29
- your employee has a pregnancy related illness, see page 30.

The SMP pay period usually starts on the Sunday after the last day your employee worked before starting their maternity leave. Your employee will have told you when she planned to stop work, see page 18.

The SPP pay period starts the day after the last day your employee worked before starting their paternity leave. Your employee will have told you when he planned to stop work, see page 18.

SMP and SPP should be paid in the same way as you would pay earnings for the same period. All the usual deductions apply, including PAYE tax and National Insurance contributions, except Attachment of Earnings Orders.

### Stopping payment

#### SMP

Usually stops after 26 weeks, but there are special cases where it might stop earlier.

#### SPP

- Stops after one or two weeks - as chosen by your employee.
- Cannot be paid later than the 56th day after the baby is born or, if the baby is born early, later than the 56th day after the Sunday of the week the baby was due.

### Employee is not returning to work

If your employee is not returning to work you **must** still pay them SMP or SPP.

**You cannot ask them to repay it.**

### The amounts to pay from 4 April 2004

How much you pay is based on the employee's average weekly earnings from page 14. Always round up fractions of a penny when you work out 90% of your employee's average weekly earnings. When you work out how much you pay, look at when the pay period began.

#### SMP

**Pay period started on or after 4 April 2004, the first Sunday in April.**

- First 6 weeks of payment at 90% of average weekly earnings, then
- Pay the lower of
  - 90% of average weekly earnings, or
  - £102.80.

#### SPP

**Pay period started on or after 4 April 2004, the first Sunday in April**

Pay the lower of

- 90% of average weekly earnings, or
- £102.80.

## Information

### Help on screen

Go to [www.ir-portal.gov.uk/calculators/smp](http://www.ir-portal.gov.uk/calculators/smp) for an interactive SMP calculator.

For examples

- go to [www.inlandrevenue.gov.uk/employers](http://www.inlandrevenue.gov.uk/employers)
- use the Employer's CD-ROM.

## Special cases

For anything listed below go to the page number shown or use the Employer's Helpbook, *E15(Supplement)* for the others. If in doubt call the Employer's Helpline on **0845 7 143 143**.

- Baby born more than 15 weeks before due date, see page 28. A table showing 15th week dates is on pages 31 and 32.
- Employee leaves job after the start of the 15th week before the week the baby is due, see page 30. A table showing 15th week dates is on pages 31 and 32.
- Baby is stillborn, see page 30.
- Employee has a pregnancy related illness in the last month of her pregnancy, see page 30.
- During the pay period
  - the employee works for you
  - the employee starts work for another employer
  - the employee is taken into legal custody
  - the employee is sick
  - the employee dies
  - the baby dies
  - you become insolvent.
- Paying through an agent.
- Non-cash payments.
- Employee has
  - more than one employer
  - more than one job with you.
- You pay paternity or maternity pay under an employee's contract of employment.

## How much do I get back?

The amount you get back depends on your total gross, employers' plus employees', Class 1 National Insurance liability. You can use your *Employer's Annual Return*, form P35, as a quick check of this.

### Extract from P35

NICs		Income Tax	
Total NICs shown above after deducting amounts marked 'R'	1 £	Total Tax shown above after deducting amounts marked 'R'	4 £
Totals from P35(CS) Continuation Sheets	2 £	Totals from P35(CS) Continuation Sheets	5 £
<b>Total NICs 1 + 2</b>	<b>3 £</b>	<b>4 + 5</b>	<b>6 £</b>
		Advance received from Inland Revenue to refund tax	7 £
		Deductions made from subcontractors see Note 2	8 £
		<b>Total Tax 6 + 7 + 8</b>	<b>9 £</b>
<b>Combined amounts</b>			
<b>Total NICs/Tax 3 + 9</b>		<b>10 £</b>	

If your annual liability for National Insurance contributions is **always £45,000 or less** you are entitled to

- 100% of the Statutory Maternity Pay (SMP)/ Statutory Paternity Pay (SPP), and
- an additional amount as compensation for the NICs you pay on the SMP/SPP. The compensation rate for 2004-05 is 4.5%.

If your annual liability for National Insurance contributions is **always more than £45,000** you

- are entitled to 92% of the SMP/SPP
- have to fund 8% yourself.

If your annual liability for National Insurance contributions is **around £45,000**, you will need to check whether it's more than £45,000, or £45,000 or less

- for babies due between 20 July 2003 and 17 July 2004 check your liability for 2002-03.
- for babies due between 18 July 2004 and 16 July 2005, check liability for 2003-04.

## Special cases

For anything listed below use the Employer's Help Book, E15(Supplement). If in doubt call the Employer's Helpline on **0845 7 143 143**.

- If you haven't been an employer for the whole of 2002-03 and 2003-04.
- If you've paid paternity or maternity pay under an employee's contract of employment.

## Where does the money come from?

Use the money you have to pay over to the Inland Revenue

- PAYE tax
- National Insurance contributions
- Student Loan deductions
- Construction Industry Scheme deductions.

You may also need to use this money to pay tax credits and other statutory payments. Please make sure you have enough to cover all the payments you have to make, use the quick check.

### Advance recovery from your Accounts Office

If you need to recover the SMP/SPP quickly, you can apply to your Accounts Office for payment. You can do this where, for example, the amount of money you need to pay out exceeds the amount you will have available for the same tax month or quarter.

You can ask your Accounts Office to pay you the amount you are entitled to recover. You should tell them the information set out below and ask for an advance.

### Recovery of SMP/SPP paid in a previous tax year

If you need to recover SMP/SPP payments made in a previous tax year, you cannot claim this from your Accounts Office.

You should complete form SP32 to obtain a reimbursement. You can print these forms from the CD-ROM or they can be obtained from your nearest Inland Revenue office or from the Employers Orderline on **0845 7 646 646**.

Send the completed form SP32 to:

Inland Revenue National Insurance Contributions Office  
Employers Teams 1 & 2  
Refunds Group Contributor Group  
Room BP1001  
Benton Park View  
Newcastle upon Tyne NE98 1ZZ.

## A quick check to see if you need an advance

Total amount of Statutory Maternity Pay (SMP)/  
Statutory Paternity Pay (SPP) you can get back

<b>A</b> £	<input type="text"/>	<input type="text"/>
------------	----------------------	----------------------

Amount of money you need to pay tax credits  
or can get back for adoption/paternity payments.  
Do not include any tax credits you have to pay,  
but are getting funding for

<b>B</b> £	<input type="text"/>	<input type="text"/>
------------	----------------------	----------------------

Total amount you need for a tax month or quarter (box A + box B)

=

<b>C</b> £	<input type="text"/>	<input type="text"/>
------------	----------------------	----------------------

PAYE tax

<b>D</b> £	<input type="text"/>	<input type="text"/>
------------	----------------------	----------------------

National Insurance contributions  
(including those on SMP/SPP)

<b>E</b> £	<input type="text"/>	<input type="text"/>
------------	----------------------	----------------------

Student Loan deductions

<b>F</b> £	<input type="text"/>	<input type="text"/>
------------	----------------------	----------------------

Construction Industry Scheme deductions

<b>G</b> £	<input type="text"/>	<input type="text"/>
------------	----------------------	----------------------

Total amount you will have available in the same tax month  
or quarter (total boxes D + E + F + G)

=

<b>H</b> £	<input type="text"/>	<input type="text"/>
------------	----------------------	----------------------

**If H is less than C write to your Accounts Office to ask for an advance.**

If you need any help call the Employer's Helpline on **0845 7 143 143**.



## Keeping records *continued*

### Extract from P12

- Record Statutory payments made to your employee each week or month on the Working Sheet, form P12, or computerised equivalent, if you operate the Simplified Deduction Scheme.

Statutory payments																
Note: LEL=Lower Earnings Limit, UEL=Upper Earnings Limit																
Total of employee's contributions payable		Employee's contributions payable		Pay Date	Statutory Sick Pay (SSP) paid to employee in the week or month included in Column 7			Statutory Maternity Pay (SMP) paid to employee in the week or month included in Column 7			Statutory Paternity Pay (SPP) paid to employee in the week or month included in column 7			Statutory Adoption Pay (SAP) paid to employee in the week or month included in column 7		
£	P	1e	£	P	2	£	P	3	£	P	4	£	P	5	£	P

### Extract from P14

- Enter the payments on your employee's *End of Year Summary*, form P14 or computerised equivalent.

Statutory payments in this employment															
Statutory Sick Pay (SSP) 1f				Statutory Maternity Pay (SMP) 1g				Statutory Paternity Pay (SPP) 1h				Statutory Adoption Pay (SAP) 1i			
£	p	£	p	£	p	£	p	£	p	£	p	£	p		

Pay and Income Tax details															
Date of starting if during tax year to 5 April 2004				Day				Month				Year			
DD	MM	YY	YY												
In previous employment(s)				Pay				Tax deducted							
£	p	£	p	£	p	£	p	£	p	£	p	£	p		

### Extract from P35

- Enter on your *Employer's Annual Return*, form P35, or computerised equivalent
  - the amount of funding
  - the amount of compensation.

(SSP) recovered	13	£			
Statutory Maternity Pay (SMP) recovered	14	£			
NIC compensation on SMP	15	£			
Statutory Paternity Pay (SPP) recovered	16	£			
NIC compensation on SPP	17	£			
Statutory Adoption Pay (SAP) recovered	18	£			
NIC compensation on SAP	19	£			
Funding received from Inland Revenue to pay SSP/SMP/SPP/SAP	22	£			
			21 minus 22	23	£
<b>Tax Credits</b>					
Total Tax Credits	24	£			

92% or 100%

This could be '0' or see 'Information' box below\*

What you get from the Inland Revenue

## Information

### How long to keep records

Keep all documents and records for three tax years (6 April to 5 April) after the year you are working in.

### Compensation rate for 2004-05

The compensation rate is 4.5%. Please check the *PAYE and NICs rates and limits for 2004-05*, E12 in your Employer's Pack or on the CD-ROM.

### Visits from the Inland Revenue

From time to time, our officers visit employers to see if their payroll is running smoothly. If we call on you we will ask to see your SMP/SPP records.

### Getting it right

We want to help employers to pay the right Statutory Maternity Pay (SMP) and Statutory Paternity Pay (SPP). See page 2 for more information about the help that is available. Employers are required by law to pay SMP and SPP and penalties may be charged where an employer fails to make the right payments or gives wrong information to the Inland Revenue through fraud or negligence. There are no penalties where an employer does their best but makes a mistake. If you realise that you have made a mistake you should contact your Inland Revenue office for advice.

### Maternity/Paternity rights and benefits

The Department of Trade and Industry publications, *Maternity Rights - a guide for employers and employees* and *Paternity Leave and Pay - a basic summary* give information on these rights. The maternity publication also gives details of other booklets covering employment protection and related equal opportunities legislation. Available from

- DTI Publications on **0870 1502 500**
- [www.dti.gov.uk/er](http://www.dti.gov.uk/er)

A Department for Work and Pensions publication *A guide to Maternity benefits*, leaflet NI17A gives details of the Maternity Allowance available for mothers who cannot get Statutory Maternity Pay. This also has details of other social security benefits/tax credits and where to get more information. Available from

- Jobcentreplus/social security office - the phone number is in the phone book, or
- go to [www.dwp.gov.uk/advisers/index.asp](http://www.dwp.gov.uk/advisers/index.asp)

This website also has details of other booklets covering social security benefits and some brief information on paternity.

### Help for employees

Employees may want to

- contact any Inland Revenue office,
- contact any Arbitration and Conciliation Advisory Service (Acas) office (see [www.acas.org.uk](http://www.acas.org.uk) for details), or
- go to [www.tiger.gov.uk](http://www.tiger.gov.uk)
- go to [www.dwp.gov.uk](http://www.dwp.gov.uk)

Information on all aspects of employment legislation is also usually available from Citizens Advice Bureaux, low pay units, trade unions and other bodies.

A mother or father who is not entitled to SMP or SPP may be entitled to other Government help. Please tell them to contact their local Jobcentre plus/social security office.

### Employees and employers in Northern Ireland

Arrangements in Northern Ireland are basically the same as in Great Britain, but there are differences in detail

- Northern Ireland has its own legislation covering the SMP and SPP and maternity and paternity leave schemes
- the IB Branch, Castle Court, Belfast deals with social security claims, see the phone book
- Form MAT B1 is form MB1
- guidance on employment law and maternity and paternity leave is produced by the Department for Employment and Learning, see the phone book.

### Recording SMP or SPP payments and/or recovery covering more than one tax year

Where payments and/or recovery of SMP or SPP start in one tax year and end in a later tax year, you should only record the payments and/or recovery that relates to that tax year on your End of Year records. This is to ensure that your records balance with those held by your Accounts Office.

Payments and/or recovery of SMP or SPP relating to the later tax year should be shown on End of Year records for that tax year.

You cannot make a recovery in one tax year that relates to a previous tax year. If you have sufficient money available to cover the payments from any money you would pay over to the Inland Revenue, you can apply to the Accounts Office for an advance payment

## Information continued

### Recording Advance Payments

Where an advance payment has been received and it is for a period spanning more than one tax year, you should only record the amount of the advance and the payment(s) that it relates to for that tax year on your End of Year records. This is to ensure that your records balance with those held by your Accounts Office.

Any advance and payment that relates to the later tax year should be recorded on the End of Year records for that tax year.

Where a request has been made for an advance of payment that covers two tax years, the Accounts Office will only make the advance for the current tax year and pay the balance for the following tax year after 5 April.

### Special cases

#### Baby born more than 15 weeks before due date

If the baby is born before the start of the 15th week before the week baby due, there are special rules for all four of the terms and conditions, and for when you start to pay. (A table showing the 15th week dates is on pages 31 and 32).

If the mother doesn't meet any of these terms and conditions you must give her *Why I cannot pay you SMP*, form SMP1.

If the father doesn't meet any of these terms and conditions you must give him *Why I cannot pay you SPP*, form SPP1.

### Evidence

#### Mothers

Your employee should give you medical evidence of the the expected date the baby is due as well as the actual date of birth.

This is usually the *Maternity Certificate*, form MAT B1. But you can accept any document signed by a doctor or midwife as long as a date or expected date is provided. You can also accept a birth certificate as evidence of the date of birth.

Your employee should give you the evidence within 21 days after the date of birth, or as soon as she can if this is not possible.

#### Fathers

Your employee should give his declaration of family commitment, confirm the date the baby was due and the date of birth, on *Becoming a parent*, form SC3. You do not need a birth certificate or evidence of pregnancy.

Your employee should give you the evidence as soon as he can.

### Has your employee worked for you long enough?

#### Mothers and Fathers

A mother will get maternity leave no matter how long she has worked for you.

Use the three steps below to check whether a father has worked long enough to qualify for SPP and paternity leave

##### Step 1

Find the date the baby was due in the table on pages 31 and 32.

##### Step 2

Read across to the latest start date for employment with you. If they started work after that date they don't qualify.

##### Step 3

If they started work before the latest start date, read across to the start of the 15th week before the week baby due. If they would still have been employed by you at that date, then they qualify.

#### Breaks in employment

If either the mother or father have had breaks in the time you have employed them which may affect whether they have worked long enough to qualify for pay and leave

- count part weeks of employment as full weeks
- check the Employer's Help Book, *E15(Supplement)* to see if you can ignore the breaks.

### Does your employee earn enough?

#### Mothers and Fathers

##### Quick method

##### Baby born between 13 April 2003 and 10 April 2004

If your employee always earns less than £77 a week (£333 a calendar month) they will not qualify for SMP or SPP.

##### Baby born between 11 April 2004 and 9 April 2005

If your employee always earns less than £79 a week (£342 a calendar month) they will not qualify for SMP or SPP.

#### Mothers

If your employee has earnings which vary from week to week, you must work out her average weekly earnings. This is because you must pay her 90% of the average weekly amount. Use the weekly check sheet on page 16 or the monthly check sheet on page 17 but change Steps 1 and 2, as shown on the following page.

'Baby born more than 15 weeks before due date' continues on the following page ►

## Special cases continued

### Fathers

#### Pay period starts on or after 6 April 2004

If your employee always earns £114 a week (£494 a calendar month), go to 'When should your employee give you dates for pay and leave' below.

If your employee sometime earns more or less than the amounts shown above you must work out his average weekly earnings. Use the weekly check sheet on page 16 or the monthly check sheet on page 17 but change Steps 1 and 2, as shown below.

If your employee earns between £77 or £79 a week (£333 or £342 a calendar month) - depending on the date of birth as shown on page 28 - and £114 a week (£494 a calendar month), you must work out his average weekly earnings. Use the weekly check sheet on page 16 or the monthly check sheet on page 17 but change Steps 1 and 2, as shown below.

#### Amendments to weekly and monthly check sheets on pages 16 and 17

##### Step 1

Enter date of birth.

##### Step 2

Find the date of the Saturday before the date of birth.

Follow the rest of the steps.

When you decide whether your employee earns enough or not, compare the amount in 7 (weekly) or 8 (calendar monthly) with the amounts shown on page 28 depending on the date of birth.

#### When should your employees give you dates for pay and periods of leave?

Obviously your employee won't have been able to give you advance notice, but they must tell you the date of birth as soon as possible.

### Mothers

You should confirm when you expect her back, see sample letter on the Employer's CD-ROM or Employer's Help Book, *E15(Supplement)*. If she doesn't choose to take her full leave entitlement she must give you 28 days notice of when she intends to start work again.

### Fathers

He must still tell you when he wants to take his leave and pay and whether he wants to take one or two whole weeks off.

He can choose to take his leave any time between the actual date of birth and the end of an 8 week period running from the Sunday of the week the baby was originally due. See the table on pages 31 and 32 to find the Sunday of the week the baby was originally due.

### Start of leave and payment

#### Mothers

Maternity leave and the SMP pay period start on the day after the date of birth. Your employee must give you evidence of the date of birth and the date the baby was due.

#### Fathers

The SPP pay period always starts the day after the last day your employee worked before starting their paternity leave. Your employee must tell you when he wants to stop work, see above.

All the other rules on payment apply.

#### Baby born before intended start of leave

If the baby is born **before the date the mother/father intended to start their leave**, there are special rules for when your employee needs to give you evidence and when you start to pay. All the other terms and conditions apply, see page 12.

### Evidence

#### Mothers

Your employee should give you medical evidence of the date the baby was due **and** the date of birth. This is usually the *Maternity Certificate*, form *MAT B1*. You can accept a birth certificate as evidence of the date of birth.

Your employee should give you the evidence within 21 days after the date of birth, or as soon as she can if this is not possible.

#### Fathers

Your employee should give you his declaration of family commitment, confirm the date the baby was due and the date of birth on *Becoming a parent*, form *SC3*. You do not need a birth certificate or evidence of pregnancy.

Your employee should give you the evidence as soon as he can.

### Start of leave and payment

#### Mothers

The maternity leave and SMP pay period starts on the day after the date of birth

#### Fathers

The SPP pay period always starts the day after the last day your employee worked before starting their paternity leave. Your employee must tell you when he wants to stop work.

## Special cases continued

He can choose to take his leave any time between the actual date of birth and the end of an eight week period running from the Sunday of the week the baby was originally due. See the table on pages 31 and 32 for the Sunday of the week the baby was originally due.

All the other rules on payment apply.

### Stillbirth

If the baby is stillborn

- in or before the 24th week of pregnancy - no entitlement to SMP/SPP or leave
- in or after 25th week of pregnancy but
  - more than 15 weeks before due date, see page 28, or
  - before the mother intended to start her leave, see page 29.References to the baby being born should be taken to include delivery of a stillborn baby
- in or after the 25th week of pregnancy and the mother has already started their leave continue paying SMP
- in or after the 25th week of pregnancy - the father is entitled to pay and leave. See 'Baby born before intended start of leave' on page 29. References to the baby being born should be taken to include delivery of a stillborn baby.

### Pregnancy related illness

If the mother is off work sick because of her pregnancy within the 4 week period starting on the Sunday of the 4th week before the week baby due, see the table on pages 31 and 32. There are special rules for when her leave starts and when you start to pay.

The SMP pay period and her maternity leave start on the day after the first complete day of absence from work within the 4 week period. This may mean that you have to pay a mixture of wages and SMP at the beginning or end of the period.

If you're not sure whether the employee's absence is caused by her pregnancy contact your local Inland Revenue office or the Employer's Helpline for advice.

### Employee leaves job after the start of the 15th week before week baby due

Obviously your employee cannot get maternity or paternity leave if they have left their job.

#### Mothers

**It doesn't matter why she left or that she isn't coming back - she is entitled to Statutory Maternity Pay (SMP).**

If your employee starts work for a new employer before her baby is born, you are still liable to pay SMP.

However, if your employee starts work or returns to work after the baby is born, for an employer who did not employ her after the start of the 15th week before the week the baby was due, your liability to pay SMP ends completely on the Saturday of the week before she starts work.

The employee is responsible for telling you if she starts or goes back to work for someone else after her baby is born. She must still give you evidence of pregnancy, see page 12.

There are special rules for when you start to pay. Find the date of the Sunday of the 11th week before the week baby due using the tables on pages 31 and 32

- if she leaves before that date the SMP pay period starts on that Sunday.
- if she leaves after that date, unless the baby is born before the intended start of leave, or your employee has a pregnancy related illness, the SMP pay period starts on the Sunday after the last day your employee worked.

#### Fathers

If the father stops work before the date of birth he is not entitled to Statutory Paternity Pay (SPP).

If the father stops work after the date of birth, it doesn't matter why he left or that he isn't coming back - he is entitled to SPP as long as he doesn't start working for a new employer.

The SPP pay period starts the day after the last day your employee worked. Your employee must have told you whether he wanted one or two weeks pay - stick to these arrangements.

If the employment ends after the baby has been born but before the planned start of the SPP period, it is simplest to treat the SPP period as beginning on the day after the last day of employment. As the employee is still entitled to begin their SSP period on the date they previously notified you, if that is still their preference you may wish to confirm this prior to them leaving your employment

#### Tax and NICs on SMP/SPP paid after the employee has left work

For more information about deducting tax and National Insurance contributions and when to issue form P45, see booklet *Employers Further Guide to PAYE and NICs, CWG2*.

#### Mother/Father start working for a new employer

Check the Employer's Help Book, *E15(Supplement) Pay and time off work for parents - Special cases*, to see if you can stop paying.

## A complete set of tables showing important dates for Statutory Maternity Pay and Statutory Paternity Pay and maternity/paternity leave

Baby due between 4 April 2004 and 30 October 2004						
Week baby due		Start of 15th week before the week baby due		Latest start date for employment with you	Start of 11th week before the week baby due	Start of 4th week before the week baby due
Sunday	Saturday	Sunday	Saturday	Saturday	Sunday	Sunday
04/04/04	to 10/04/04	21/12/03	to 27/12/03	05/07/03	18/01/04	07/03/04
11/04/04	to 17/04/04	28/12/03	to 03/01/04	12/07/03	25/01/04	14/03/04
18/04/04	to 24/04/04	04/01/04	to 10/01/04	19/07/03	01/02/04	21/03/04
25/04/04	to 01/05/04	11/01/04	to 17/01/04	26/07/03	08/02/04	28/03/04
02/05/04	to 08/05/04	18/01/04	to 24/01/04	02/08/03	15/02/04	04/04/04
09/05/04	to 15/05/04	25/01/04	to 31/01/04	09/08/03	22/02/04	11/04/04
16/05/04	to 22/05/04	01/02/04	to 07/02/04	16/08/03	29/02/04	18/04/04
23/05/04	to 29/05/04	08/02/04	to 14/02/04	23/08/03	07/03/04	25/04/04
30/05/04	to 05/06/04	15/02/04	to 21/02/04	30/08/03	14/03/04	02/05/04
06/06/04	to 12/06/04	22/02/04	to 28/02/04	06/09/03	21/03/04	09/05/04
13/06/04	to 19/06/04	29/02/04	to 06/03/04	13/09/03	28/03/04	16/05/04
20/06/04	to 26/06/04	07/03/04	to 13/03/04	20/09/03	04/04/04	23/05/04
27/06/04	to 03/07/04	14/03/04	to 20/03/04	27/09/03	11/04/04	30/05/04
04/07/04	to 10/07/04	21/03/04	to 27/03/04	04/10/03	18/04/04	06/06/04
11/07/04	to 17/07/04	28/03/04	to 03/04/04	11/10/03	25/04/04	13/06/04
18/07/04	to 24/07/04	04/04/04	to 10/04/04	18/10/03	02/05/04	20/06/04
25/07/04	to 31/07/04	11/04/04	to 17/04/04	25/10/03	09/05/04	27/06/04
01/08/04	to 07/08/04	18/04/04	to 24/04/04	01/11/03	16/05/04	04/07/04
08/08/04	to 14/08/04	25/04/04	to 01/05/04	08/11/03	23/05/04	11/07/04
15/08/04	to 21/08/04	02/05/04	to 08/05/04	15/11/03	30/05/04	18/07/04
22/08/04	to 28/08/04	09/05/04	to 15/05/04	22/11/03	06/06/04	25/07/04
29/08/04	to 04/09/04	16/05/04	to 22/05/04	29/11/03	13/06/04	01/08/04
05/09/04	to 11/09/04	23/05/04	to 29/05/04	06/12/03	20/06/04	08/08/04
12/09/04	to 18/09/04	30/05/04	to 05/06/04	13/12/03	27/06/04	15/08/04
19/09/04	to 25/09/04	06/06/04	to 12/06/04	20/12/03	04/07/04	22/08/04
26/09/04	to 02/10/04	13/06/04	to 19/06/04	27/12/03	11/07/04	29/08/04
03/10/04	to 09/10/04	20/06/04	to 26/06/04	03/01/04	18/07/04	05/09/04
10/10/04	to 16/10/04	27/06/04	to 03/07/04	10/01/04	25/07/04	12/09/04
17/10/04	to 23/10/04	04/07/04	to 10/07/04	17/01/04	01/08/04	19/09/04
24/10/04	to 30/10/04	11/07/04	to 17/07/04	24/01/04	08/08/04	26/09/04

**Baby due between 31 October 2004 and 28 May 2005**

Week baby due		Start of 15th week before the week baby due		Latest start date for employment with you	Start of 11th week before the week baby due	Start of 4th week before the week baby due
Sunday	Saturday	Sunday	Saturday	Saturday	Sunday	Sunday
31/10/04	to 06/11/04	18/07/04	to 24/07/04	31/01/04	15/08/04	03/10/04
07/11/04	to 13/11/04	25/07/04	to 31/07/04	07/02/04	22/08/04	10/10/04
14/11/04	to 20/11/04	01/08/04	to 07/08/04	14/02/04	29/08/04	17/10/04
21/11/04	to 27/11/04	08/08/04	to 14/08/04	21/02/04	05/09/04	24/10/04
28/11/04	to 04/12/04	15/08/04	to 21/08/04	28/02/04	12/09/04	31/10/04
05/12/04	to 11/12/04	22/08/04	to 28/08/04	06/03/04	19/09/04	07/11/04
12/12/04	to 18/12/04	29/08/04	to 04/09/04	13/03/04	26/09/04	14/11/04
19/12/04	to 25/12/04	05/09/04	to 11/09/04	20/03/04	03/10/04	21/11/04
26/12/04	to 01/01/05	12/09/04	to 18/09/04	27/03/04	10/10/04	28/11/04
02/01/05	to 08/01/05	19/09/04	to 25/09/04	03/04/04	17/10/04	05/12/04
09/01/05	to 15/01/05	26/09/04	to 02/10/04	10/04/04	24/10/04	12/12/04
16/01/05	to 22/01/05	03/10/04	to 09/10/04	17/04/04	31/10/04	19/12/04
23/01/05	to 29/01/05	10/10/04	to 16/10/04	24/04/04	07/11/04	26/12/04
30/01/05	to 05/02/05	17/10/04	to 23/10/04	01/05/04	14/11/04	02/01/05
06/02/05	to 12/02/05	24/10/04	to 30/10/04	08/05/04	21/11/04	09/01/05
13/02/05	to 19/02/05	31/10/04	to 06/11/04	15/05/04	28/11/04	16/01/05
20/02/05	to 26/02/05	07/11/04	to 13/11/04	22/05/04	05/12/04	23/01/05
27/02/05	to 05/03/05	14/11/04	to 20/11/04	29/05/04	12/12/04	30/01/05
06/03/05	to 12/03/05	21/11/04	to 27/11/04	05/06/04	19/12/04	06/02/05
13/03/05	to 19/03/05	28/11/04	to 04/12/04	12/06/04	26/12/04	13/02/05
20/03/05	to 26/03/05	05/12/04	to 11/12/04	19/06/04	02/01/05	20/02/05
27/03/05	to 02/04/05	12/12/04	to 18/12/04	26/06/04	09/01/05	27/02/05
03/04/05	to 09/04/05	19/12/04	to 25/12/04	03/07/04	16/01/05	06/03/05
10/04/05	to 16/04/05	26/12/04	to 01/01/05	10/07/04	23/01/05	13/03/05
17/04/05	to 23/04/05	02/01/05	to 08/01/05	17/07/04	30/01/05	20/03/05
24/04/05	to 30/04/05	09/01/05	to 15/01/05	24/07/04	06/02/05	27/03/05
01/05/05	to 07/05/05	16/01/05	to 22/01/05	31/07/04	13/02/05	03/04/05
08/05/05	to 14/05/05	23/01/05	to 29/01/05	07/08/04	20/02/05	10/04/05
15/05/05	to 21/05/05	30/01/05	to 05/02/05	14/08/04	27/02/05	17/04/05
22/05/05	to 28/05/05	06/02/05	to 12/02/05	21/08/04	06/03/05	24/04/05

## NOTES

## NOTES



