

Contractor Doctor: Can I claim Statutory Maternity Pay from a contractor ltd company?

Dear Contractor Doctor,

I have been a contractor for two years operating under my own [contractor limited company](#).

I am now looking to start a family and would like to know if I am entitled to any maternity benefits or pay from my contractor business.

Can I claim Statutory Maternity Pay from my contractor limited company?

Thanks

Holly

Contractor Doctor says:

The short answer is 'yes' - contractor maternity rights are well defined. A contractor limited company is a small business and, like any other small business in the UK, is under most circumstances required to pay Statutory Maternity Pay (SMP), and extend other benefits, to mothers-to-be.

"Contractors seeking maternity pay have to earn a minimum amount in a qualifying period and, for most fee-earning contractors, this is not a problem," says Phil Richards of contractor accountant [BFCA Chartered Accountants](#). "But low-paid spouses who do some work for the business may not earn enough to qualify for maternity benefits."

What are the benefits of maternity pay for contractors?

Clearly, being able to pay herself statutory maternity pay is good news for Holly. But, best of all, as a contractor she can offset the SMP payments against income tax and National Insurance Contributions (NICs) liabilities owed to HMRC, and, if there is not enough cash in the limited company, a contractor can actually claim their maternity pay from HMRC!

Contractor maternity pay rights - eligibility and conditions

According to [HMRC guidance](#) on maternity pay, a contractor who is expecting a baby has the right to expect 26 weeks of 'Ordinary Maternity Leave' and 26 weeks of 'Additional Maternity Leave', which adds up to a year in total.

A contractor or spouse working in the business will qualify for statutory maternity pay if they have:

Worked for the contractor limited company continuously, whether full or part time, for a minimum of 26 weeks up to the 15th week before the baby's due date

Average earnings of £95 per week, or £412 per month – that means that most contractors should qualify, unless they have been between contracts for a long time

Obtained the right paperwork confirming the pregnancy and stated when they plan to start their maternity leave.

Contractors should have no problem obtaining a MAT B1 form from their doctor, midwife or hospital to confirm the pregnancy. Then, even though they are working through their own company, they should file the form away in an 'Employee Maternity Benefits' folder, which HMRC may want to see as part of any future investigation.

How much statutory maternity pay is a contractor entitled to from a limited company?

"Contractors on maternity leave can pay themselves 90 per cent of average weekly earnings for the first six weeks," explains Richards. "For the next 33 weeks, they can pay themselves the lower of either £123.06 a week, or 90% of average weekly earnings." If there are any doubts, contractors can use [HMRC's SMP calculator](#) to confirm the correct amounts to be paid.

Richards points out that maternity pay counts as 'earnings', so income tax and NICs should be deducted as normal. "Contractors should continue to run their PAYE as before, but paying themselves the statutory amount, and check with their accountant or payroll supplier if they are not sure what deductions they should be making."

In addition to payroll records, payments should be recorded on HMRC's form [SMP2 Statutory Maternity Pay record sheet](#).

Required record keeping for maternity pay

Good maternity pay rights for contractors come at the cost of a certain amount of bureaucracy, as Richards explains: "A contractor should keep on file the MAT B1, SMP2, the date when maternity leave started and any exceptions when payments were not made for any reason."

Plus, Richards says that SMP still has to be recorded on the usual forms during the tax year, including:

P11

P14

P35

P37.

Maternity pay records have to be kept for at least three years. But, as most contractors know to keep their financial and tax records for six years in case of an HMRC investigation, that should be no great burden.

SMP can be off-set against tax or be claimed back.

Contractor limited companies that will, or are likely to, pay less than £45,000 in Class 1 NICs in the tax years in which the maternity leave falls can claim 104.5% of SMP payments. The extra 4.5% is to allow for employer NICs.

Richards explains: "Contractors can either offset the statutory maternity pay they claim back against existing and future tax liabilities, or, if they don't have enough tax and NICs liabilities in their contractor limited company, they can apply for 'advance funding'."

This, says Richards, can be done either by [applying in writing or online](#) and supplying the requested information to HMRC to enable it to approve the application and make any necessary maternity payments.

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Phil Richards, BFCA

"For contractors who are used to running their own contracting business and processing a payroll, the process should be straightforward," concludes Richards. "But, if in doubt, contractors should check with their accountant to ensure they do not make a costly mistake."

Good luck with your contracting!

Contractor Doctor

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