

Ministerial and other Maternity Allowances Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Cabinet Office, have been ordered to be published as HL Bill 172 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord True has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Ministerial and other Maternity Allowances Bill are compatible with the Convention rights.

Ministerial and other Maternity Allowances Bill

CONTENTS

Ministerial maternity allowances

- 1 Payment of maternity allowance: Ministerial office
- 2 Ministerial leave: amount and payment of allowance
- 3 Ministerial leave: other provision

Opposition maternity allowances

- 4 Payment of maternity allowance: Opposition office
- 5 Opposition leave: amount and payment of allowance
- 6 Opposition leave: other provision

Extent, etc

- 7 Extent, commencement and short title

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Make provision for payments to or in respect of Ministers and holders of Opposition offices on maternity leave.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Ministerial maternity allowances***1 Payment of maternity allowance: Ministerial office**

- (1) A person designated as a Minister on Leave under this section is to be paid an allowance in accordance with section 2.
- (2) The Prime Minister may designate a person as a Minister on Leave if— 5
- (a) the person appears to the Prime Minister to satisfy either of the conditions in subsection (3), and
 - (b) the person ceases to hold a ministerial office (“the first ministerial office”) but remains a member of Her Majesty’s Government in the United Kingdom by virtue of immediately being appointed to another ministerial office (“the designated ministerial office”) for the purposes of being designated under this section. 10
- (3) The conditions in this subsection are that—
- (a) the person is pregnant and it is no more than 12 weeks before the expected week of childbirth; 15
 - (b) the person has given birth to a child within the previous 4 weeks.
- (4) In subsection (3)(b) “child” includes a still-born child within the meaning of the Births and Deaths Registration Act 1953 (see section 41(1) of that Act).
- (5) In this Act “ministerial office” means—
- (a) an office specified in any of Parts 1 to 4 of Schedule 1 to the Ministerial and other Salaries Act 1975; 20
 - (b) the office of Lord Chancellor.
- (6) A designation under this section ends—

- (a) at the end of the period of 6 months beginning with the day on which the designation takes effect, or
- (b) if earlier, when the person designated ceases to hold the designated ministerial office.

2 Ministerial leave: amount and payment of allowance 5

- (1) The allowance payable by virtue of section 1(1) –
 - (a) is an amount equivalent to 6 times the monthly amount of the salary which was being paid to the person in respect of the first ministerial office, and
 - (b) is to be paid in 6 monthly instalments. 10
 This is subject to subsections (2) to (4).
- (2) If no salary was being paid in respect of that office, no allowance is payable.
- (3) Where the person ceases to hold the designated ministerial office at a time before the allowance has been paid in full, the amount of the allowance outstanding is to be paid as a lump sum. 15
- (4) But if the person ceases to hold the designated ministerial office because they are appointed to another ministerial office or die –
 - (a) the allowance payable is reduced by a pro rata amount for each day of the 6-month period remaining, and
 - (b) any overpayment of the allowance may be recouped. 20
- (5) In subsection (4) the “6-month period” means the period of 6 months beginning with the day on which the designation takes effect.
- (6) Payments under this section –
 - (a) are to be made out of money provided by Parliament if the salary being paid in respect of the first ministerial office was payable out of such money; 25
 - (b) are to be charged on and paid out of the Consolidated Fund if that salary was charged on and payable out of that Fund.

3 Ministerial leave: other provision

- (1) While the designation has effect, the holding of the designated ministerial office is to be ignored for the purposes of section 2(1) and (2) of the House of Commons Disqualification Act 1975 (limit on number of persons who are holders of Ministerial offices entitled to sit and vote in the House of Commons). 30
- (2) If the designation ends by virtue of section 1(6)(a), but the person designated has not ceased to hold the designated ministerial office, the person is to be treated for the purposes of section 2(2) of that Act as having become the holder of that office when the designation ended. 35
- (3) No salary under the Ministerial and other Salaries Act 1975 may be paid in respect of the designated ministerial office.
- (4) In the application of the Ministerial and other Pensions and Salaries Act 1991 to a person who ceases to hold a designated ministerial office – 40
 - (a) subsection (3) of this section does not prevent the designated ministerial office falling within section 4(6)(a) of that Act;

- (b) sections 4(2) and 8(1) of that Act have effect as if the salary referred to in those provisions were the salary which was being paid to the person in respect of the first ministerial office immediately before the person ceased to hold that office.
- (5) No allowance is payable under section 5(1)(a) of that Act (allowance for ministerial office-holders in the House of Lords) in respect of the designated ministerial office. 5

Opposition maternity allowances

4 Payment of maternity allowance: Opposition office

- (1) A person appointed for the purposes of this section to take temporary responsibility for carrying out the functions of the holder of an opposition office is to be paid an allowance in accordance with section 5. 10
- (2) An “opposition office” means –
- (a) in the House of Commons, the Leader of the Opposition, the Chief Opposition Whip or an Assistant Opposition Whip; 15
- (b) in the House of Lords, the Leader of the Opposition or the Chief Opposition Whip;
- and “Leader of the Opposition”, “Chief Opposition Whip” and “Assistant Opposition Whip” have the meanings given by section 2(1) of the Ministerial and other Salaries Act 1975. 20
- (3) An appointment under subsection (1) –
- (a) in relation to an office within subsection (2)(a), may be made by the Leader of the Opposition in the House of Commons;
- (b) in relation to an office within subsection (2)(b), may be made by the Leader of the Opposition in the House of Lords. 25
- (4) An initial appointment under subsection (1) may be made only at a time when the holder of the office appears to the person making the appointment to satisfy either of the conditions in subsection (5).
- (5) The conditions in this subsection are that –
- (a) the holder is pregnant and it is no more than 12 weeks before the expected week of childbirth; 30
- (b) the holder has given birth to a child within the previous 4 weeks.
- (6) A subsequent appointment under subsection (1) may be made –
- (a) before the end of the period of 6 months beginning with the day on which the initial appointment is made, and 35
- (b) if the previous appointment has ended.
- (7) In subsection (5)(b) “child” includes a still-born child within the meaning of the Births and Deaths Registration Act 1953 (see section 41(1) of that Act).
- (8) An appointment under subsection (1) ends –
- (a) at the end of the period of 6 months beginning with the day on which the appointment (or, if earlier, the initial appointment) under subsection (1) is made, or 40
- (b) if earlier, when it is terminated by the person who made the appointment.

5	Opposition leave: amount and payment of allowance	
(1)	The allowance payable by virtue of section 4(1) is an amount equivalent to the salary which is being paid to the holder of the opposition office and is to be paid in monthly instalments.	
(2)	The allowance ceases to be payable when the person's appointment ends, and any overpayment of the allowance may be recouped.	5
(3)	Payments under this section are to be charged on and paid out of the Consolidated Fund.	
6	Opposition leave: other provision	
(1)	While a person is appointed under section 4(1) to take temporary responsibility for carrying out the functions of the holder of an opposition office within section 4(2)(b) –	10
	(a) no allowance is payable under section 5(1)(b) of the Ministerial and other Pensions and Salaries Act 1991 (allowance for opposition office-holders in the House of Lords) to the holder of the office, but	15
	(b) an allowance is payable under that provision (and in accordance with section 8(2) of that Act) to the person appointed under section 4(1) of this Act as if they were the holder of the opposition office in respect of which the appointment was made.	
(2)	The reference in paragraph 16(2)(b) of Schedule 6 to the Constitutional Reform and Governance Act 2010 to service as the holder of an office specified in Part 1 of Schedule 2 to the Ministerial and other Salaries Act 1975 (Opposition leaders and whips) includes a reference to service as a person appointed under section 4(1).	20
	<i>Extent, etc</i>	25
7	Extent, commencement and short title	
(1)	This Act extends to England and Wales, Scotland and Northern Ireland.	
(2)	This Act comes into force on the day on which it is passed.	
(3)	This Act may be cited as the Ministerial and other Maternity Allowances Act 2021.	30

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To make provision for payments to or in respect of Ministers and holders of Opposition offices on maternity leave.

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