



VELFERÐARRÁÐUNEYTIÐ

Ministry of Welfare

Act on Maternity/Paternity Leave and Parental Leave, No. 95/2000
as amended by Act No. 72/2003, No. 90/2004, No. 129/2004, No. 22/2006, No. 65/2006,
No. 155/2006, No. 167/2006, No. 74/2008, 112/2008, No. 173/2008, No. 70/2009, No. 97/2009,
No. 120/2009, No. 134/2009, No. 162/2010, No. 126/2011, No. 136/2011, No. 143/2012, No.
140/2013, No. 85/2015, No. 88/2015 and No. 18/2016.

SECTION I

Aim and scope.

Article 1

Scope.

This Act shall apply to the rights of parents working in the domestic labour market to be granted maternity/paternity leave and parental leave. It shall apply to parents who are employed by others or are self-employed.

This Act shall also apply to parents who are not active in the labour market and parents attending full-time educational programmes as to receiving a maternity/paternity grant.

Article 2

Aim.

The aim of this Act to ensure a child's access [to both her/his parents].¹⁾

Furthermore, the aim of this Act is to enable both women and men to reconcile work and family life.

¹⁾ Act No. 65/2006, Article 32.

SECTION II

Public administration.

Article 3

Overall responsibility.

[The Minister]¹⁾ shall be in overall charge of maternity/paternity leave under this Act.

¹⁾ Act No. 126/2011, Article 310.

Article 4

The Maternity/Paternity Leave Fund.

[The Maternity/Paternity Leave Fund shall make payments to parents who hold entitlements to payments during maternity/paternity leave under Article 13. Maternity/paternity grants to parents under Section VI shall be paid by the State Treasury.]¹⁾

The Maternity/Paternity Leave Fund shall be managed by [the Directorate of Labour]²⁾ which is to handle the accounts and the day-to-day running of the fund on behalf of [the Minister].³⁾ [However, the Minister may decide on another arrangement.]⁴⁾

The Maternity/Paternity Leave Fund shall be financed through the collection of an insurance levy (*cf.* Insurance Levy Act), in addition to interest on the Fund's deposits.

[The Minister]⁵⁾ shall ensure that the Fund has at all times sufficient funds to meet its obligations. The Fund shall prepare an annual budget which [the Minister]⁵⁾ shall submit to [the Minister in charge of financial accounts of the state]⁵⁾ when the Fiscal Budget is being prepared.

The Annual Accounts of the Maternity/Paternity Leave Fund shall be audited by the Icelandic National Audit Office and published annually in the Official Gazette.

The Fund's operating costs shall be met by its income.

¹⁾ Act No. 74/2008, Article 2. ²⁾ Act No. 155/2006, Article 1. ³⁾ Act No. 162/2010, Article 22. ⁴⁾ Act No. 90/2004, Article 1. ⁵⁾ Act No. 126/2011, Article 310.

Article 5 [Appeal.]¹⁾

...

[The Welfare Appeals Committee shall]¹⁾ deliver rulings on disputes which may arise under this Act.

[The rulings of the Appeals Committee on recourses of excess payments under this Act are enforceable.]²⁾

...

Costs of the Appeals Committee's activities shall be paid by the State Treasury.

¹⁾ Act No. 85/2015, Article 13. ²⁾ Act No. 134/2009, Article 28.

Article 6 [Procedure of the Welfare Appeals Committee.]¹⁾

...

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...

...

[The Directorate of Labour]²⁾ shall provide [the Welfare Appeals Committee]¹⁾ with all data relevant to each case, in addition such information and explanation which the Appeals Committee considers necessary to obtain from the Institute.

...

...

[An administrative complaint shall not suspend the legal effect of a decision. However, an administrative complaint suspends enforcement based on a decision by the Directorate of Labour on recourse of excess payments from the Maternity/Paternity Leave Fund (*cf.* the sixth paragraph of Article 15 a).]³⁾

¹⁾ Act No. 85/2015, Article 13. ²⁾ Act No. 155/2006, Article 2. ³⁾ Act No. 134/2009, Article 29.

SECTION III Definition of terms.

Article 7

For the purposes of this Act, maternity/paternity leave and parental leave refers to leave from salaried employment that is occasioned by:

- a. a birth,
- b. a primary adoption of a child under the age of eight years, or
- c. a permanent foster care of a child under the age of eight.

For the purposes of this Act, employee refers to anybody who is employed in a salaried position in the service of others amounting to at least a 25% of a full-time position each month. Notwithstanding this, the term employee, as used in Section VII, shall apply to all those who are employed in salaried positions in the service of others.

Self-employed individual refers to anybody who works for himself, irrespective of the type of company, to the effect that she/he is obliged to pay an insurance levy every month, or in another manner decided by the tax authorities.

[Full-time studies, for the purposes of this Act, shall mean 75–100% continuous studies, practical or theoretical, in a recognised educational institution within the ordinary educational system in Iceland, lasting at least six months. Furthermore, it shall mean 75–100% studies at university level (third level) and other studies which make the same demands as university studies regarding preparatory education. Individual courses shall not be regarded as studies.]¹⁾

For the purposes of this Act, a woman shall be considered as having recently given birth to a child if the child is 14 weeks old or younger.

¹⁾ Act No. 74/2008, Article 4.

SECTION IV Maternity/Paternity Leave.

Article 8

Parents' rights in the labour market.

Parents (*cf.* the first paragraph of Article 1) shall each have an independent entitlement to maternity/paternity leave for up to [three]¹⁾ months due to a birth, primary adoption or reception of a child in permanent foster. This entitlement shall not be assignable. In addition, the parents shall have a joint entitlement to an additional [three]¹⁾ months, which either parent may draw in its entirety or the parents may divide between them. ... ²⁾

The right to maternity/paternity leave shall be established upon the birth of a child. However, [a parent]³⁾ shall be permitted to start her/his maternity/paternity leave up to one month prior to the expected birth date, which shall be confirmed by a medical certificate. [The right to maternity/paternity leave in connection with the birth of a child shall expire when the child reaches [the age of 24 months.]⁴⁾²⁾

[A mother]⁵⁾ shall take maternity leave for at least the first two weeks after the birth of her child.

[Without prejudice to the first paragraph, a parent (*cf.* the first paragraph of Article 1) shall acquire the right to up to [nine]¹⁾ months' maternity/paternity leave if the other parent dies during the gestation period of the child and the child is born live.]³⁾ [The same shall apply in the case of a single mother who has undergone assisted fertilisation or a single parent who has adopted a child or taken a child into permanent foster care.]⁴⁾

In the case of adoption of a child, or the taking of a child into permanent foster care, the time-reference shall be based on the date when the child enters the home, providing this is confirmed by the relevant child welfare committee, or other competent bodies. [In cases where the child enters the home for a trial period before adoption or permanent foster care can proceed, the time-reference may be based on the beginning of this period, providing that the arrangement is approved by the child protection committee or other competent parties.]⁶⁾ If the parents have to fetch the child from another country, the maternity/paternity leave may begin at the start of the journey, providing the relevant authorities or institute have confirmed that permission has been granted for the adoption of a child. [The right to maternity/paternity leave in connection with adoption or permanent foster care shall expire [24 months after the child arrives in the home.]⁴⁾²⁾

A parent's right to maternity/paternity leave shall be conditional on the fact that the parent herself/himself has custody of the child, or has joint custody with the other parent at the beginning of the maternity/paternity leave (*cf.*, however, [the seventh paragraph]).⁶⁾

A non-custodial parent shall be entitled to maternity/paternity leave if the consent of the parent exercising custody is obtained, authorising the non-custodial parent to have access to the child during the period of the maternity/paternity leave.

Should one of the parents die before the child reaches [the age of [24]⁴⁾ months],⁶⁾ the right to maternity/paternity leave which the deceased has not utilized shall revert to the surviving parent. [In the case of adoption or permanent foster care, the time limits shall be based on [[24]⁴⁾ months after the child enters the home].⁶⁾ In the event of the reversion of rights, the rights of the deceased parent shall become the rights earned by the surviving parent under this Act.]²⁾

[A parent who, due to illness, the consequences of an accident or the service of a prison sentence, is unable to care for her/his child during the first [[24]⁴⁾ months]⁶⁾ after the child's birth, may assign her/his unused entitlement to maternity/paternity leave to the other parent, in part or in its entirety. The same shall apply in cases when, for the same reasons, a parent is unable to attend to a child during the first [[24]⁴⁾ months]⁶⁾ after the child arrives in the home under primary adoption or permanent foster-care. This shall apply irrespective of whether or not the parents have joint custody over the child. Exemption may be granted from the requirement that a parent give consent for the assignment of entitlement in cases where the parent is incapable of giving consent due to illness or the consequences of an accident, in which case the Directorate of Labour shall assess whether the conditions for the assignment of entitlement have been met. The fact that, due to illness or the

consequences of an accident, a parent is in a condition in which she/he is incapable of looking after the child during the period stated above, or of giving consent for the assignment of entitlement, shall be attested by a medical certificate issued by the specialist attending her/him. The prison authorities shall issue a certificate stating that the parent is to serve a prison sentence during the aforementioned period. When assignment takes place, the entitlement of the assigning parent shall become an entitlement which the other parent has acquired under this Act.]³⁾

¹⁾ Act No. 140/2013, Article 25. ²⁾ Act No. 90/2004, Article 2. ³⁾ Act No. 74/2008, Article 5. ⁴⁾ Act No. 143/2012, Article 1. ⁵⁾ Act No. 65/2006, Article 33. ⁶⁾ Act No. 136/2011, Article 1.

Article 9

Notification of maternity/paternity leave.

When an employee intends to exercise the right to maternity/paternity leave, she/he shall notify her/his employer thereof as soon as possible and at least eight weeks prior to the expected birth date of the child. Should a [parent]¹⁾ wish to change a previously-notified starting date of her/his maternity/paternity leave (*cf.* the second paragraph of Article 8), [she/he]¹⁾ shall notify her/his employer of this three weeks prior to the new intended starting date of her/his maternity/paternity leave.

Notice of the maternity/paternity leave shall be given in writing and shall state the intended starting date of the leave, its length and its structure. ...¹⁾ The employer shall then sign the notification with the date of receiving it and deliver a copy thereof to the employee. The employer may demand, if he considers it necessary, confirmation of the fact that the parent has the custody of a child, or that the approval of the custodial parent has been obtained.

¹⁾ Act No. 74/2008, Article 6.

Article 10

The structure of maternity/paternity leave.

An employee shall have the right to take maternity/paternity leave in a one continuous period.

However, the employee shall be permitted to make arrangements with her/his employer for the maternity/paternity leave to be divided into a number of periods and/or that it will be taken concurrently with a reduced worktime ratio (*cf.*, however, the third paragraph of Article 8). However, maternity/paternity leave may never be taken in periods of less than [two weeks]¹⁾ at a time. The employer shall make efforts to meet the wishes of the employee regarding the structure of maternity/paternity leave under this provision.

Should the employee wish to arrange her/his maternity/paternity leave under the second paragraph, and the employer is unable to accept her/his wishes, the employer, having consulted the employee, shall propose another arrangement within one week of the date of receiving the notification (*cf.* the second paragraph of Article 9). This shall be done in writing and the reasons for the altered arrangement shall be stated.

Should no agreement be reached between the employee and her/his employer on the taking of the employee's maternity/paternity leave, the employee shall always have the right to take her/his maternity/paternity leave in one continuous period as of the starting date decided by the employee.

¹⁾ Act No. 90/2004, Article 3.

Article 11

Safety and health in the workplace.

If the safety and health of a pregnant woman, a woman who has recently given birth to a child, or a woman who is breastfeeding a child, is considered to be in danger according to a special assessment, her employer shall make the necessary arrangements to ensure the woman's safety by temporarily changing her working conditions and/or working hours. If this is not possible for technical reasons, or other valid reasons, the woman's employer shall entrust her with other tasks; if this is not possible, she/he shall grant her leave of absence for the length of time necessary to protect her safety and health. This provision shall be implemented under further rules¹⁾ to be issued by [the Minister].²⁾

Those changes, which are considered necessary in a woman's working conditions and/or working time (*cf.* the first paragraph), shall not affect her wages so as to reduce them or abridge her other job-related rights.

If it is necessary to grant a pregnant woman leave under this Article, she shall be entitled to payment (cf. Article 13).

¹⁾ Regulation No. 931/2000. ²⁾ Act No. 162/2010, Article 22.

Article 12

Right to maternity/paternity leave in the event of stillbirth and miscarriage.

Parents [each have an independent entitlement to maternity/paternity leave of up to three months]¹⁾ [from the day that stillbirth happens]²⁾ after 22 weeks of pregnancy. In the event of a miscarriage after 18 weeks of pregnancy, the parents have a joint right to maternity/paternity leave of up to two months [from the day that miscarriage happens].²⁾

[Payments shall be effected under Article 13.]²⁾

¹⁾ Act No. 18/2016, Article 1. ²⁾ Act No. 136/2011, Article 2.

Article 13

Parents' rights to payments from the Maternity/Paternity Leave Fund.

[A parent (cf. the first paragraph of Article 1) acquires the right to payments from the Maternity/Paternity Leave Fund after she/he has been active on the domestic labour market for six consecutive months prior to a birth of a child or the date on which a child enters the home in the case of adoption or permanent foster care (cf. [the second and fifth paragraphs of Article 8.])¹⁾ The work contribution of a self-employed parent shall be based on the payment of the insurance levy on calculated remuneration for the same period. [However, in the case of a parent who begins taking maternity/paternity leave before the birth of the child (cf. the second paragraph of Article 8, Article 11 and the fourth paragraph of Article 17), the date on which the parent begins taking maternity/paternity leave shall be taken as the base regarding that parent's entitlement.]¹⁾

[The Maternity/Paternity Leave Fund's monthly payment to an employee (cf. the second paragraph of Article 7) during maternity/paternity leave shall amount to 80% of her/his average total wages, ...²⁾ these being based on a continuous twelve-month period ending six months prior to [the birth month or the month]²⁾ the child enters the home for initial adoption or permanent foster-care. "Wages" here shall include all forms of wage and other remuneration according to the Insurance Levy Act, and also payments from the Maternity/Paternity Leave Fund, payments from the Unemployment Insurance Fund, [payments under indents *a* and *b* of Article 5 of the Wage Guarantee Fund Act],²⁾ *per diem* payments for illness and accident injury, payments from Trade Unions' Sickness Funds, payments from an insurance company due to temporary loss of employment or wage-related payments under Section III of the Act on Payments to the Parents of Chronically Ill or Severely Disabled Children (cf. indents *a-e* of the second paragraph of Article 13 a). [In the case of 100% payments during the reference period from the Maternity/Paternity Leave Fund, the Unemployment Insurance Fund or a trade union's sick-pay fund, benefits from an insurance company due to temporary loss of employment or wage-related payments to which parents are entitled under Section III of the Act on Payments to the Parents of Chronically Ill or Severely Disabled Children, the reference wages on which those payments are based shall be taken into account. If, on the other hand, the parent has chosen to spread the payments under the third sentence over a longer period concurrently with part-time employment or leave, paid or unpaid, then the reference income on which those payments are based shall be taken into account, in the same proportions as the payments were made during the reference period in question. The same shall apply if the parent has chosen to spread the payments over a longer period under the third sentence, even though he/she has not been in a contractual relationship at the same time. At no time shall payments be based on a higher sum than the reference income level to be used according to the foregoing, even if the parent has received compensation payment for the difference between the payments under the third sentence and the average total wages at the same time as receiving those payments. [Where payments under indents *a* and *b* of Article 5 of the Wage Guarantee Fund Act fall due for payment during the reference period, the reference income on which those payments are based shall be taken into account.]²⁾ Only average total wages for those months during the reference period in which the parent was on the domestic labour market shall be taken into account (cf. also the second paragraph of Article 13 a), irrespective of whether wages under the second sentence or calculated remuneration under the fifth paragraph were paid. In no case shall fewer than four months be taken as a reference base when average total wages are calculated.]³⁾¹⁾