

Unofficial Translation:

ACT
on Maternity/Paternity Leave and Parental Leave,
No. 95/2000, as amended by Act No. 90/2004.

SECTION I

Aim and scope.

Art. 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.

Art. 2

Aim.

The aim of this Act to ensure a child's access to both his/her father and mother.

Furthermore, the aim of this Act is to enable both women and men to co-ordinate family life and work outside the home.

SECTION II

Public administration.

Art. 3

Overall responsibility.

The Minister of Social Affairs shall be in overall charge of maternity/paternity leave under this Act.

Art. 4

The Maternity/Paternity Leave Fund.

The Maternity/Paternity Leave Fund is to handle all payments to parents who are eligible for payments during maternity/paternity leave under Art. 13. It is, however, permitted to make arrangements with employers to handle such payments, providing they are compensated by the Maternity/Paternity Leave Fund. Payments to parents under paragraph 2 of Article 1, shall come out of the State Treasury.

The Maternity/Paternity Leave Fund shall be managed by the State Social Security Institute which is to handle the accounts and the day-to-day running of the fund on behalf of the Minister of Social Affairs. [However, the Minister may decide on another arrangement.]¹⁾

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 of Social Affairs 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 of Social Affairs shall submit to the Minister of Finance 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. 90/2004, Article 1.

Art. 5

The Maternity/Paternity and Parental Leave Complaints Committee.

The Minister of Social Affairs appoints a three-man Maternity/Paternity and Parental Leave Complaints Committee and the same number of alternates. The members of the Complaints Committee shall be appointed for a period of three years, one of whom shall be appointed without nomination. The Supreme Court shall nominate two, one of whom shall meet the conditions for being appointed a district court judge, and shall serve as its chairman, and the other shall be a physician, and shall serve as its vice-chairman. The alternates shall be nominated in the same manner, and shall have the same qualifications as the principals.

The role of the Complaints Committee shall be to deliver rulings on disputes which may arise under this Act.

The Complaints Committee's rulings shall not be subject to appeals to a higher authority.

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

Art. 6

Procedure of the Maternity/Paternity and Parental Leave Complaints Committee.

Complaint shall be submitted in writing to the Complaints Committee within three months from the time the party to the dispute was notified of the relevant decision. A complaint shall be deemed to have been received in ample time if a letter containing it is received by the Complaints Committee, or is posted, before the end of the notice period.

The Complaints Committee's proceedings shall, in general, be carried out in writing; however, the Complaints Committee may summon the parties or their representatives.

The Complaints Committee shall ensure that a party to a complaint is given the opportunity to express his/her views before the Complaints Committee renders its ruling, providing the Complaints Committee is of the opinion that neither his or her position nor argumentation may be surmised from the documents of the case.

In other respects, the Complaints Committee's proceedings shall be carried under the provisions of the Administrative Procedures Act.

The State Social Security Institute shall provide the Complaints Committee with all data relevant to each case, in addition such information and explanation which the Complaints Committee considers necessary to obtain from the Institute.

The members of the Complaints Committee shall be prohibited from revealing to third parties any personal data of which they may become aware in the course of their work and which should be kept secret. Professional secrecy is kept even when the occupation is given up.

The Complaints Committee shall make its rulings as quickly as possible, and not later than two months from the time when a case is submitted to it.

SECTION III

Definition of terms.

Art. 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 he/she is obliged to pay an insurance levy every month, or in another manner decided by the tax authorities.

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.

SECTION IV
Maternity/Paternity Leave.

Art. 8

Parents' rights in the labour market.

Under paragraph 1 of Article 1, parents have each an independent right to maternity/paternity leave of up to three months due to a birth, primary adoption or permanent foster care of a child. This right shall not be assignable. In addition, parents have a joint right to three additional months, which may either be taken entirely by one of the parents or else divided between them. ...¹⁾

The right to maternity/paternity leave shall be established upon the birth of a child. However, a woman shall be permitted to start her maternity 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 18 months.]¹⁾

A woman shall take maternity leave for at least the first two weeks after the birth of her child.

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. 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 18 months after the child arrives in the home.]¹⁾

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, paragraph 6.

A non-custodial parent shall have the right to maternity/paternity leave providing the custodial parent has agreed that the non-custodial parent is 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 18 months, 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 stated in paragraph 4 shall apply regarding expiry of rights. 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.]¹⁾

¹⁾ Act No. 90/2004, Article 2.

Art. 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 woman wish to change a previously-notified starting date of her maternity leave, *cf.* paragraph 2 of Article 8, she shall notify her employer of this three weeks prior to the new intended starting date of her maternity 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. The proposed division of the parents' joint maternity/paternity leave shall also be stated. 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.

Art. 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, paragraph 3 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 paragraph 2, 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.* paragraph 2 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.

Art. 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, he/she 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 of Social Affairs.

Those changes, which are considered necessary in a woman's working conditions and/or working time, *cf.* paragraph 1, 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.

Art. 12

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

Parents have a joint right to maternity/paternity leave of up to three months in the event of a stillbirth 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.

Art. 13

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

[A parent, *cf.* paragraph 1 of Article 1, acquires the right to payments from the Maternity/Paternity Leave Fund after he/she 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.* paragraphs 2 and 4 of Art. 8. 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 woman who begins taking maternity leave before the birth of a child, *cf.* paragraph 2 of Art. 8, Art. 11 and paragraph 4 of Art. 17, the date on which she begins maternity leave shall be taken as a base regarding her rights.

The Maternity/Paternity Leave Fund's monthly payment to an employee during maternity/paternity leave shall amount to 80% of her/his average total wages, these being based on the two income years preceding the year of the birth of a child or the year in which a child enters the home in the case of adoption or permanent foster care. Wages here shall include all forms of wage and other remuneration under the Insurance Levy Act. Only the average total wages for those months during the reference period in which the parent worked on the domestic labour market shall be taken into consideration. In no case, however, shall fewer than four months be used as a basis for the calculation of average total wages.

Notwithstanding the provisions of paragraph 2, the monthly payment from the Maternity/Paternity Leave Fund to an employee during maternity/paternity leave may never exceed ISK 480,000²⁾.

When an employee meets the conditions of paragraph 1 but has not worked on the domestic labour market during the reference period as specified in paragraph 2, he/she shall acquire the right to minimum payments under paragraph 6 in accordance with his/her employment ratio.

Monthly payments from the Maternity/Paternity Leave Fund to a self-employed parent shall amount to 80% of the average calculated remuneration on which the insurance levy has been paid during the same period as is specified in paragraph 2. In other respects, the provisions of paragraphs 2-4 shall apply where possible.

However, the monthly payment during maternity/paternity leave to a parent in a 25-49% part-time job shall never be less than ISK 65,227²⁾, and the monthly payment to a parent holding a 50-100% job shall never be less than ISK 91,200²⁾.

The amount of maximum payments under paragraph 3 and minimum payments under paragraph 6 shall be revised in connection with the enactment of the Fiscal Budget every year to take account of trends in wages, price levels and the economy. However, the Minister of Social Affairs shall be authorized, with the approval of the government, to raise this amount if significant changes in wage trends and conditions in the national economy take place after the enactment of the Fiscal Budget. When the aforementioned conditions result in an increase in the amount of the maximum or minimum payments, the Minister of Social Affairs shall change the amount by means of a regulation.

Payments during maternity/paternity leave shall be made retrospectively, for the preceding month or part of a month, on the first working day of each month.

A parent's right to receive payments during maternity/paternity leave shall be subject to her/his meeting the conditions for the right to maternity/paternity leave under Article 8. Payments from an employer to a parent on maternity/paternity leave that are higher than the difference between payments from the Maternity/Paternity Leave Fund and the parent's average total wage under paragraph 2 or 5 shall be deducted from payments from the Maternity/Paternity Leave Fund. Nevertheless, wage increases that are provided for under collective wage agreements, other payments according to collective wage agreements and wage changes that can be attributed to changes in the parent's work may be taken into consideration.

A parent on the domestic labour market who is entitled to maternity/paternity leave under Article 8 but does not meet the conditions of paragraph 1 shall be entitled to a maternity/paternity grant under Article 18, *cf.* however paragraph 9 of Article 19. Payments from an employer to a parent on maternity/paternity leave that are higher than the difference between a maternity/paternity grant and the parent's average total wage shall be deducted from the grant. Calculation of the average total wage under this paragraph shall be based on the two months preceding the estimated date of birth of a child or the date when a child enters the home in the case of adoption or permanent foster care.

The Minister of Social Affairs may issue further regulation on payments from the Maternity/Paternity Leave Fund, e.g. as regarding the assessment of the employment ratio of self-employed people and of those who are exempt under law from payment of the insurance levy.]¹⁾

¹⁾ Act No. 90/2004, Article 4.

²⁾ Regulations No. 1148/2005, *cf.* regulations No. 1056/2004.

Art. 14

Accumulation and protection of rights.

During maternity/paternity leave, a parent shall pay a minimum of 4% of the maternity/paternity leave payment into a pension fund and the Maternity/Paternity Leave Fund shall pay a minimum of 6%. In addition, the parent shall have the right to pay into a supplementary pension scheme, in which case the Maternity/Paternity Leave Fund shall be obliged to make the statutory complementary contribution.

Maternity/paternity leave shall count as working time for the purpose of assessing work-related rights, such as the right to holiday or the extension of the holiday period under wage agreements, wage increases due to seniority, sickness rights, a notice period of termination of employment and the right to unemployment benefit.

The provisions of paragraphs 1 and 2 shall also apply to leave granted to pregnant women under Article 11.

Art. 15

Applications to the State Social Security Institute.

A parent, *cf.* paragraph 1 of Article 1, shall apply for payment during maternity/paternity leave to the State Social Security Institute six weeks prior to the expected birth of the child. Should a woman wish to start her maternity leave prior to the expected birth date, *cf.* paragraph 2 of Article 8, she shall notify the State Social Security Institute thereof three weeks prior to the intended starting date of her maternity leave.

Applications shall be in writing and shall state the intended starting date of the leave, its length and its structure. Furthermore, the intended division of the joint maternity/paternity leave between the parents shall be stated. The application shall be signed by the prospective mother and father, providing both have custody of the child. A non-custodial parent shall sign the application if he/she meets the condition stated in paragraph 6 of Article 8. The same shall apply even though one of the parents is not active in the labour market or is attending full-time educational programmes, *cf.* paragraph 2 of Article 1. If applicable, the employers of both parents shall sign the application to confirm the arrangements regarding maternity/paternity leave.

[Calculation of payments to a parent on maternity/paternity leave shall be based on data which the State Social Security Institute shall acquire on parents' income from tax returns, tax authorities' records of income tax (PAYE) and insurance levy payments. The State Social Security Institute shall seek confirmation from the tax authorities that the data from the records of income tax and insurance levy payments corresponded to the taxes levied by the tax authorities in respect of the income years under paragraphs 2 and 5 of Article 13.

The tax authorities shall supply the State Social Security Institute with the data necessary to apply this Act.

When, due to unforeseen circumstances, a parent is not able to take maternity/paternity leave at the time when he/she informed the State Social Security Institute that he/she intended to take it in accordance with paragraph 2, he/she shall inform the State Social Security Institute of the change in writing.]¹⁾

The Minister may issue a regulation on the further implementation of this provision.

¹⁾ Act No. 90/2004, Article 5.

[Art. 15. a.

Corrections to payments from the Maternity/Paternity Leave Fund.

If changes have taken place in the income tax levied on a parent in respect of income on which payments from the Maternity/Paternity Leave Fund are based, *cf.* paragraph 3 of Article 15, the State Social Security Institute shall correct payments from the Maternity/Paternity Leave Fund in accordance with the tax levied by the tax authorities.

If a parent has received higher payments from the Maternity/Paternity Leave Fund than he/she should have received according to the tax levied by the tax authorities, or for other reasons, then he/she shall pay back the excess with a 15% supplement. The supplement according to this paragraph shall be waived if the parent is able to present arguments showing that he/she was not to blame for the errors that resulted in the decision by the State Social Security Institute.

Under the Income Tax Act, No. 90/2003, excess payments made from the Maternity/Paternity Leave Fund may be offset against the parent's credit balance arising from excess payments of tax, child benefit and interest benefit. The Minister of Finance shall set more detailed rules in a regulation on the offsetting of sums owed and their order of priority.

The collection of excess payments from the Maternity/Paternity Leave Fund shall be subject to Article 111 of the Income Tax Act, No. 90/2003. The Minister of Social Affairs may, however, entrust a special collection agent with the collection of these payments.

If a parent has received lower payments from the Maternity/Paternity Leave Fund than he/she should have received according to the tax levied by the tax authorities, then the State Social Security Institute shall pay the parent the amount owed with interest for the period during which the money was in the keeping of the Maternity/Paternity Leave Fund. This interest shall be equivalent to the rate determined by the Central Bank of Iceland and published at any given time under paragraph 1 of Article 8 of the Interest and Indexation Act, No. 38/2001. The same shall apply when the conclusion reached by the Maternity/Paternity and Parental Leave Complaints Committee is that the parent was entitled to payments from the Maternity/Paternity Leave Fund but was either denied such payments or was awarded lower payments. Where the payments from the Maternity/Paternity Leave Fund were too low due to a lack of information, interest shall be waived.

Art. 15. b.

Monitoring.

The tax authorities shall be in charge of monitoring the application of this Act. The Minister of Social Affairs may, however, decide on another arrangement.

The Minister of Social Affairs shall set further rules on monitoring in the form of a regulation.]¹⁾

¹⁾ Act No. 90/2004, Article 6.

SECTION V

Exceptional circumstances.

Art. 16

Multiple births.

Parents shall have a joint right to the extension of maternity/paternity leave by three months for each child after the first in a multiple birth [that is born alive]¹⁾.

[Parents who adopt, or take into permanent foster care, more than one child at the same time, shall have a joint right to extend maternity/paternity leave by three months in respect of each child after the first.

Payments shall be in accordance with Article 13.]

¹⁾ Act No. 90/2004, Article 7.

Art. 17

Illness of a child or its mother.

Should a child need to stay in hospital for more than seven days directly following the birth, it is permitted to extend the parents' joint right to maternity/paternity leave by the number of days the child has to stay in hospital, prior to its first homecoming, by up to four months.

It is also permitted to extend the parent's joint right to maternity/paternity leave by up to three months in the case of a serious illness of the child which requires more intensive parental attention and care.

It is permitted to extend the mother's maternity leave by up to two months due to a serious illness suffered by her in connection with the birth.

Should it become necessary for a pregnant woman to cease paid employment for the sake of her health more than a month prior to the expected birth of her child, she shall be entitled to payment during her maternity leave during this period, though not for more than two months. Should the birth occur prior to the expected birth date of the child, the authorization for extension under this provision shall cease to apply from that time. The Minister shall issue regulations on further conditions regarding the application of this provision.

The need for the extension of a maternity/paternity leave under paragraphs 1-4 shall be established by a medical certificate. The Chief Medical Officer of the State Social Security Institute shall assess whether the extension of maternity/paternity leave is necessary under this provision. His/her decision may be referred to the Maternity/Paternity and Parental Leave Complaints Committee, *cf.* Article 5.

The application for the extension of maternity/paternity leave under paragraph 4 shall be accompanied by a certificate from the employer. In this certification, it shall be stated when wage payments were discontinued.

Payments shall be effected under Art. 13.

SECTION VI

Parents not active in the labour market or attending full-time educational programmes.

Art. 18

Maternity/paternity grants to a parent who is not active in the labour market.

Parents who are not active in the labour market, or who are employed in less than 25% of a full employment position, shall have an independent right to a maternity/paternity grant for up to three months each in connection with a birth, primary adoption or permanent foster care of a child. This right shall not be assignable. In addition, parents shall have a joint right to a maternity/paternity grant for three additional months, which may be exercised entirely by one parent or divided between them. The right to a maternity/paternity grant [in connection with the birth of a child]¹⁾ shall lapse when the child reaches the age of 18 months.

[The maternity/paternity grant shall be ISK 40,409²⁾ per month. A parent shall be domiciled in Iceland at the time of the birth of a child, adoption or beginning of permanent foster care, and shall have been domiciled in Iceland for the 12 months preceding that date.

The amount of the maternity/paternity grant shall be revised in connection with the enactment of the Fiscal Budget every year to take account of trends in wages, price levels and the economy. However, the Minister of Social Affairs shall be authorized, with the approval of the government, to raise this amount if significant changes in wage trends and conditions in the national economy take place after the enactment of the Fiscal Budget. When the aforementioned conditions result in an increase in the amount of the maternity/paternity grant, the Minister of Social Affairs shall change the amount by means of a regulation.]¹⁾

Regarding adoption, or permanent foster care of a child, the payment of the maternity/paternity grant to the parents shall be made on the basis of the time when the child enters the home, providing this is confirmed by the child welfare committee in question, or other competent bodies. If the parents have to fetch the child from another country, the payment of the maternity/paternity grant could start at the beginning 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 a maternity/paternity grant in connection with adoption or permanent foster care shall expire 18 months after the child enters the home.]¹⁾

A parent's rights to a maternity/paternity grant shall be conditional on the fact that the parent himself/herself has custody of the child, or has joint custody with the other parent when the payment of the maternity/paternity grant has begun.

Payments of a maternity/paternity grant to a parent shall be made in retrospect, on the first working day of each month, covering the previous month.

If one of the parents exercises part of the parents' joint right to a maternity/paternity leave, and receives payment from the Maternity/Paternity Leave Fund under Art. 13, the period of payment of the maternity/paternity grant shall be shortened accordingly.

[If either parent dies before the child reaches the age of 18 months, any entitlement to a maternity/paternity grant that the deceased parent has not already used shall revert to the surviving parent. In the case of adoption or permanent foster care, the time references stated in paragraph 4 shall apply regarding the expiry of rights. 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.]¹⁾

¹⁾ Act No. 90/2004, Article 8.

²⁾ Regulations No. 1148/2005, *cf.* regulations No. 1056/2004.

Art. 19

Maternity/paternity grant to parents attending full-time educational programmes.

[Parents who have been occupied in full-time programmes of study during at least six months out of the 12 months preceding a birth of a child, primary adoption or permanent foster care shall have an independent right to a maternity/paternity grant for up to three months each in connection with the birth, primary adoption or permanent foster care. This right is not transferable. In addition, such parents shall have a joint right to a maternity/paternity grant for a further three months, which either parent may exercise in its entirety or which the parents may divide between them. The right to a maternity/paternity grant in connection with a birth shall expire when the child reaches the age of 18 months.]¹⁾

[The maternity/paternity grant to a parent in a full-time programme of studies shall be ISK 91,200²⁾ per month. Normally, the parent shall be domiciled in Iceland at the time of the birth, adoption or beginning of the period of permanent foster care and shall have been domiciled in Iceland for the last 12 months preceding that date. Exemptions from the condition regarding domicile may be granted, however, if the parent has transferred his/her domicile temporarily in connection with studies abroad, providing that the parent was domiciled in Iceland continuously for at least five years before the transfer. If the parent receives payments in connection with the same birth, adoption or permanent foster care in the country where he/she is domiciled, these shall be deducted from the maternity/paternity grant, *cf.* paragraph 3 of Article 33.

The amount of the maternity/paternity grant shall be revised in connection with the enactment of the Fiscal Budget every year to take account of trends in wages, price levels and the economy. However, the Minister of Social Affairs shall be authorized, with the approval of the government, to raise this amount if significant changes in wage trends and conditions in the national economy take place after the enactment of the Fiscal Budget. When the aforementioned conditions result in an increase in the amount of the maternity/paternity grant, the Minister of Social Affairs shall change the amount by means of a regulation.]¹⁾

Regarding adoption, or permanent foster care of a child, the payment of the maternity/paternity grant to the parents shall be made on the basis of the time when the child enters the home, providing this is confirmed by the child welfare committee in question, or other competent bodies. If the parents have to fetch the child from another country, the payment of the maternity/paternity grant 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 a maternity/paternity grant in connection with adoption or permanent foster care shall expire 18 months after the child enters the home.]¹⁾

A parent's rights to a maternity/paternity grant shall be conditional on the fact that the parent herself/himself has custody of the child, or has joint custody with the other parent when the payment of the maternity/paternity grant is begun.

Payments of a maternity/paternity grant to a parent shall be made in retrospect, on the first working day of each month, covering the previous month.

If one of the parents exercises part of the parents' joint right to a maternity/paternity leave, and receives payment from the Maternity/Paternity Leave Fund under Article 13, the period of payment of the maternity/paternity grant will be shortened accordingly.

[The maternity/paternity grant as provided for under paragraph 1 may be paid to a parent even though the condition regarding a continuous full-time programme of study during at least six months out of the 12 months preceding the birth, first adoption or period of permanent foster care is not met, providing that the parent was in continuous employment on the domestic labour market for at least six months preceding the date on which the programme of studies began.

Furthermore, a parent may be paid a maternity/paternity grant as a student when the parent has completed at least one term of studies under paragraph 1 and has been on the labour market continuously thereafter. The condition is that the programme of studies and employment shall have lasted for at least six continuous months.

If either parent dies before the child reaches the age of 18 months, any entitlement to a maternity/paternity grant that the deceased parent has not already used shall revert to the surviving parent. In the case of adoption or permanent foster care, the time references stated in paragraph 4 shall apply regarding the expiry of rights. 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.

The minister may issue a regulation containing further provisions on the application of this provision.]¹⁾

¹⁾ Act No. 90/2004, Article 9.

²⁾ Regulations No. 1148/2005, *cf.* regulations No. 1056/2004.

Art. 20

The right to payment of a maternity/paternity grant in the event of a stillbirth or a miscarriage.

Parents have a joint right to a maternity/paternity grant for up to three months in the event of a stillbirth after 22 weeks of pregnancy. In the event of a miscarriage after 18 weeks of pregnancy, the parents shall have joint right to maternity/paternity grant of up to two months.

If one of the parents takes maternity/paternity leave under Article 12 and receives payment from the Maternity/Paternity Leave Fund under Article 13, the period of payment of the maternity/paternity grant shall be shortened accordingly.

Art. 21

Multiple births.

Parents are entitled to a joint maternity/paternity grant for three additional months for each child after the first in a multiple birth.

If one of the parents takes maternity/paternity leave under Article 16 and receives payment from the Maternity/Paternity Leave Fund under Article 13, the period of payment of the maternity/paternity grant shall be shortened accordingly.

Art. 22

Illness of a child or its mother.

Should a child need to stay in hospital for more than seven days directly following the birth, it shall be permitted to extend the parents' joint right to maternity/paternity grant by the number of days the child has to stay in hospital, prior to its first homecoming, by up to four months.

It shall also be permitted to extend the parents' joint right to maternity/paternity grant by up to three months in the case of a serious illness of the child which requires more intensive parental attention and care.

It shall be permitted to extend the mother's right to a maternity grant by up to two months due to a serious illness suffered by her in connection with the birth.

The need for the extension of a maternity/paternity grant under paragraphs 1-3 shall be established by a medical certificate. The Chief Medical Officer of the State Social Security Institute shall assess whether the extension of maternity/paternity grant is necessary under this provision. His decision may be referred to the Maternity/Paternity and Parental Leave Complaints Committee, *cf.* Article 5.

If one of the parents takes maternity/paternity leave under Article 17, and receives payment from the Maternity/Paternity Leave Fund under Art. 13, the period of payment of the maternity/paternity grant shall be reduced accordingly.

Art. 23

Applications to the Social Security Institute.

A parent, *cf.* paragraph 2 of Article 1, shall apply to the State Social Security Institute for a maternity/paternity grant three weeks before the expected birth of the child, *cf.*, however, Article 15.

Applications shall be made in writing and shall state the intended starting date of the payment of the maternity/paternity grant and the length of the period of payment. Furthermore, the intended division of the joint maternity/paternity leave between the parents shall be stated. The application shall be signed by the prospective mother and father, providing they will both exercise custody of the child. The same shall apply even though one of the parents is active in the labour market, *cf.* paragraph 1 of Article 1

The Minister may issue a regulation on further arrangements regarding payments by the State Social Security Institute.

SECTION VII

Parental leave.

Art. 24

Parents' right to take parental leave.

Parent, *cf.* paragraph 1 of Article 1, shall be entitled to parental leave for 13 weeks to care for their child.

The right to parental leave shall be established upon the birth of a child. In the event of adoption, or permanent foster care of a child, account shall be taken of the time when the child enters the home, providing this is confirmed by the child welfare committee in question, or other competent bodies. If a parent has to fetch the child from another country, parental leave may begin at the beginning 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 a parental leave shall lapse when the child reaches the age of eight years.

Each parent shall have an independent right to parental leave, which shall not be assignable.

Parental leave is not accompanied by payment from the Maternity/Paternity Leave Fund.

Art. 25

Structure of parental leave.

A parent shall have the right to take parental leave in one continuous period.

However, the employee shall be permitted to make other arrangements with his/her employer for the parental leave to be divided into number of periods and/or it will be taken concurrently with a reduced worktime ratio.

The employer shall make efforts to meet the wishes of the employee regarding the structure of the parental leave.

An employee shall not be entitled to take parental leave amounting to more than 13 weeks in each 12-month period without the special approval of the employer.

Art 26

Notification of parental leave.

An employee shall acquire the right to parental leave when he/she has been employed for six consecutive months by the same employer.

An employee who intends to exercise his/her right to parental leave shall notify his/her employer thereof as soon as possible and at the latest six weeks prior to the intended first day of the leave. Notice of parental leave shall be given in writing and shall state the intended starting day of the leave, its length and its structure. The employer shall sign the notification with the date of receiving it and deliver a copy thereof to the employee.

The employer shall record the taking of parental leave, enabling the employee to obtain a certificate stating the number of days of parental leave if he/she wishes to do so.

Art. 27

Postponement or other changes regarding parental leave.

If the employer is unable to grant the employee's wishes regarding the structure of the parental leave, he/she shall, in consultation with the employee, propose a different arrangement within one week from the day of reception of the notification, *cf.* paragraph 2 of Article 26. This shall be done in writing, stating the reasons therefore and, if it involves a postponement, the length of the postponement.

Such postponement shall only be permitted in the case of extraordinary circumstances in the operations of the company/institution which necessitate it. It is possible, e.g. in the case of seasonal work, or if no qualified substitute can be found, or if a considerable number of the employees apply to take parental leave simultaneously, or if the employee in question holds a key position in the top management of the company or institution.

At no time may an employer postpone parental leave by more than six months from the time it was to start according to the employee's request without his approval.

Parental leave which is to be taken following directly on maternity/paternity leave, or in the case where serious illness of the child renders the parent's presence necessary, may never be postponed. Furthermore, postponement shall not be permitted when the employer has already agreed to the taking of parental leave, or the period of notice under paragraph 1 has passed without a reply being made by the employer.

If the decision of the employer on the postponement of parental leave results in the employee's not being able to complete his/her parental leave before his/her child reaches the age of eight years, the period during which the taking of parental leave is permitted shall be extended to the day when the child turns nine years of age.

Art. 28

Protection of accumulated rights.

The rights which an employee has gained, or is gaining, at the start of parental leave shall remain unchanged until the end of the leave. At the end of the leave, these rights shall be valid, as shall any changes which may have been made on the basis of the law or wage agreements.

SECTION VIII
Common provisions.

Art. 29

Right to employment.

The employment relations between an employee and his/her employer shall remain unchanged during maternity/paternity leave and parental leave.

The employee shall be entitled to return to her/his job upon the completion of maternity/paternity leave or parental leave. Should this not be possible, she/he shall be entitled to a comparable position with the employer according to a contract of employment.

Art. 30

Protection against dismissal.

It is not permitted to dismiss an employee due to the fact that he/she has given notice of intended maternity/paternity leave or parental leave under Articles 9 or 26 or during her/his maternity/paternity leave or parental leave, without reasonable cause, and in such a case, the dismissal shall be accompanied by written arguments. The same rule shall apply to pregnant women, and women who have recently given birth.

Art. 31

Liability.

Should an employer violate any provision of this Act, he/she shall be liable under general rules.

[Art. 31 a

Fines.

Violations of this Act can be punishable by fines, which shall be paid to the State Treasury.]¹⁾

¹⁾ Act No. 90/2004, Article 10.

Art. 32

Lapse of parental rights.

The rights of parents, *cf.* paragraph 1 of Article 1, to maternity/paternity leave and parental leave shall lapse from the day the parent gives away the child for adoption, upbringing or foster care. The same shall apply to parents' rights, *cf.* paragraph 2 of Article 1, to the payment of maternity/paternity grants.

In cases under paragraph 1, the natural parents, *cf.* paragraph 1 of Article 1, shall have the joint right to a two-months maternity/paternity leave after the birth of a child. Also, parents, *cf.* paragraph 2 of Article 1, shall have the joint right to the payment of a maternity/paternity grant for two months after the birth of a child.

If one of the parents exercises part of the parents' joint right for a maternity/paternity leave, under paragraph 3, and receives payments from the Maternity/Paternity Leave Fund, under Article 13, the payment period of the maternity/paternity grant shall be reduced accordingly.

Art. 33

Incompatible rights.

A parent enjoying maternity/paternity leave or parental leave shall not be entitled to unemployment benefit under the Unemployment Insurance Act.

A parent receiving payments during maternity/paternity leave shall not be entitled to child-care support under the Social Assistance Act regarding the same child or the same birth. The same rule applies to the payment of sick leave pay and pension payments under the Social Security Act.

Payments from other states concerning the same birth, and for the same period, are deducted from payments out of the Maternity/Paternity Leave Fund under Article 13, and concerning the payment of maternity/paternity grants under Articles 18 and 19.

Art. 34

International agreements.

When this Act is applied, attention shall be given to international agreements in the field of social security and social affairs to which Iceland is a party.

Art. 35

Authorisation for the issue of regulations.

The Minister of Social Affairs may issue regulations on the further application of this Act.

SECTION IX

Commencement.

Art. 36

Commencement.

This Act shall take effect immediately. The provisions on maternity/paternity leave shall take effect as of 1 January 2001 ... The provisions on maternity/paternity leave shall cover children who are born, adopted or taken into permanent foster care, on 1 January 2001 or thereafter.

Notwithstanding the wording of Article 8, a father's independent right to paternity leave shall be one month as of 1 January 2001, two months as 1 January 2002 and three months as of 1 January 2003.

The provisions on parental leave grants the parents of children who are born, adopted or taken into permanent foster care on 1 January 1998 or thereafter the right to parental leave.

SECTION X

Amendments to other Acts.

Art. 37

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Act. 38

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