

Fourth Study Commission
of the
International Association of Judges
Questionnaire
for the
2008 meeting.

Answers from NORWAY

Rights of parents in the employer employee
relationship

Introductory remarks:

There are different measures developed enabling men and women to reconcile their occupational and family obligations. New flexible ways of organizing work and time, which are better suited to the changing needs of society may take into account the needs of both undertakings and workers. This is also important to promote equal opportunities and equal treatment between men and women. Flexibility and diversity of child-care services is part of a strategy to meet the different preferences, needs and circumstances of children and their parents.

The three main field of this questionnaire are

- a. maternity leave for women –related to maternity and birth
- b. parental leave (distinct from maternity leave) for men and women related to the upbringing of infants and
- c. time off from work on grounds of other urgent family reasons

A Maternity leave

1. When shall pregnant employees inform their employer of their condition ?

The employee shall inform the employer as soon as possible and at least one week in advance when the employee will take leave of absence beyond two weeks, at least four weeks in advance when the employee will take leave of absence

beyond 12 weeks and at least 12 weeks in advance when the employee will take leave of absence beyond one year.

2. Are pregnant employees and employees who have recently given birth entitled to a continuous period of maternity leave. How long is this leave and when is it allocated before ?

The parents are entitled to 12 months of maternity leave all together. Six weeks after the birth are reserved for the mother. Each of the parents are in addition entitled to 12 months leave of absence for each birth, in continuance with the maternity leave.

3. Do they maintain their pay or are they entitled to allowances. How high are these allowances related to the pay before ?

Employees who are pregnant, or has given birth, are entitled to a continuous period of maternity leave with parental benefit if the following conditions are fulfilled: Employees must have had income which creates basis for pension for at least six of the last 10 months before the benefit period takes effect. Annual income must be at least half the basic amount of national insurance (G). Periods in which they have received the following are treated as employment: sickness benefit, parental benefit following birth or adoption, pregnancy benefit and unemployment benefit. Other circumstances can also be treated as employment. These may be: pay from employer during education/training, severance pay and compulsory military or compulsory civilian national service. The benefit period for parental benefit is 54 weeks with 80% of full benefit or 44 weeks at full benefit. Benefit is not granted for that part of the income that exceeds six times the basic amount of national insurance (G).

Three weeks before and six weeks after the birth are reserved for the mother. Six weeks are reserved for the father. The rest of the benefit weeks may be shared between the parents.

Lump sum benefit may be awarded if the mother has not earned entitlement of parental benefit on birth and she is a member of the National Insurance scheme.

4. What rights are acquired by the worker on the date on which maternity leave starts until the end ?

They can be entitled to get benefit, as described over, and to return to their original job after the expiring of the maternity leave.

5. Is there continuity of the entitlements to social security, in particular regarding health care ?

Yes there is a full continuance of such rights and allowances during the period of maternity leave.

6. Do workers at the end of maternity leave have the right to return to the same job or, if that is not possible, to an equivalent or similar job ?

Yes they have the right to return to the same job.

7. Are employees protected against dismissal ?

Yes they are.

8. Do exist special provisions to meet the operational and organizational requirements of small undertakings ?

No that does not exist.

9. Are employees entitled to time off in order to attend ante-natal examinations, if such examinations have to take place during working hours ?

Yes they are.

10. What are the most common cases at courts related to this ?

These questions are rarely brought to court. There is a conciliation board which deals with some of these questions.

B – Parental leave

1. What are the conditions of access and rules for applying for parental leave ? Describe Your system (full-time or part-time basis, time-credit system....).

See answer to question A 1 and A 2. You can extend the 12 months of maternity leave, with gradual drawing of parental benefit, by taking partial leave of absence within a period of three years. Partial leave of absence is based on an agreement between the employee and the employer. The employees wish should be fulfilled unless the arrangement will be to an essential disadvantage for the employer.

The parents also have the right to work reduced ours, without compensation, if it can be carried out without essential inconvenience for the employer. It is up to the employee and the employer to make an agreement on this.

2. Is the entitlement to parental leave subject to a period of work qualification and/or a length of service qualification and which period ?

No, but see answer to question A 1 and A 2.

3. Which notice periods do exist for the worker when exercising the right to parental leave, specifying the beginning and the end of the period of leave ?

See answer to question A 1. The parental leave has to be taken in continuance with the maternal leave.

4. Is an employer allowed to postpone the granting of parental leave for reasons related to the operation of the undertaking (e.g. where a replacement cannot be found within the notice period ?

No.

5. Do employees maintain their pay or are they entitled to allowances. How high are these allowances related to the pay before ?

See answer to question B 1. With births the whole benefit period can be used for flexible drawing with the exception of the three weeks prior to the birth and the six weeks following it. In those instances where the mother and father are entitled to parental benefit, 35 weeks (100% cover) or 45 weeks (80% cover) may be used for flexible drawing. Flexible drawing cannot be applied for more than three years following birth.

Parents who have children between one and three years of age who do not use publicly maintained day care institutions, can receive full cash benefit. If the child has a part-time place in a day care institution, they may receive partial cash benefit. Cash benefit is tax-free and is paid once a month.

Cash benefit may also be granted in some instances for children who are residing in another EEA country if the breadwinner is working in Norway, on a

Norwegian ship, or on the Norwegian continental shelf, or receives a pension from Norway based on employment, or is an employee posted abroad from Norway.

6. What rights are acquired by the employees on the date on which parental leave starts until the end of parental leave?

See answer to question B 5.

7. Is there a continuity of the entitlements to social security, in particular regarding health care ?

Yes there is.

8. Do employees at the end of parental leave have the right to return to the same job or, if that is not possible, to an equivalent or similar job ?

Yes they have.

9. Are employees protected against dismissal on the grounds of an application for, or the taking of, parental leave ?

Yes they are.

10. Do exist special provisions to meet the operational and organizational requirements of small undertakings ?

No.

11. Does Your system also grant access to parental leave for adoption cases and are there specific rules for applying parental leave to the special circumstances of adoption.

The rules are in general the same as for maternal leave/parental leave in connection with the birth of a child, but parental benefit cannot be granted when more than three years have elapsed since the parents took the child into care. In order to receive parental benefit, the child must be under 15 years of age. Parental benefit is not granted when a spouse's child is adopted.

The benefit period for parental benefit in connection with adoption is 41 weeks at full cover, or 51 weeks at 80% cover. The parents also have the right flexible drawing of parental benefit, and to work reduced ours without compensation, see answer to question B 1 and B 5.

The parents may receive cash benefit for up to 23 months for adopted children after the benefit period for full adoption allowance has expired, even if the child has reached the age of three or will become three during this period, provided that the child has not started school.

12. What are the most common cases at courts related to this ?

These questions are rarely brought to court. There is a conciliation board which deals with some of these questions.

C. Time off from work on grounds of urgent family reasons

1. Are employed parents with responsibility for the care and upbringing of children entitled to time off from work on grounds of urgent family reasons in cases (sickness or other reasons related to family members making the immediate presence of the worker indispensable) ?

Yes they are.

2. What are the conditions of access for applying for this kind of time off ?

The conditions are important welfare or care reasons.

3. Is this time off limited to a certain amount of time per year or per case ?

Yes, in general 10 days per year.

Employees caring for children under 12 years of age, or under 18 years of age if the child is chronically ill or disabled, are entitled to care allowance while away from work when the child is ill. The same applies if the employee has to be away from work because the person minding the child on a daily basis is ill.

Care allowance is given from 10 to 90 days depending on how many children the employee has, if there are one or two carers for the children and if the employee has chronically ill or disabled children and this leads to a significantly higher risk of absence from work.

4. Do employees maintain their pay or are they entitled to allowances. How high are these allowances related to the pay before ?

If the employees have been working for four weeks immediately before they need the time off, they maintain their full pay.

5. Is there a continuity of the entitlements to social security, in particular regarding health care ?

Yes there is.

6. Are these employees protected against dismissal ?

Yes they are.

7. Do there exist special provisions to meet the operational and organizational requirements of small undertakings ?

No.

8. What are the most common cases at courts related to this ?

These questions are rarely brought to court. There is a conciliation board which deals with some of these questions.