



**ACT**  
**on Maternity/Paternity Leave and Parental Leave**  
**No. 144/2020**

**SECTION I**  
**Aim and scope.**

Article 1

*Scope.*

This Act applies to the entitlement of parents on the domestic labour market to maternity/paternity leave and parental leave. It applies to parents who are employees and/or are self-employed.

The Act also applies to the entitlement of parents who are not active on the labour market, or are in less than 25% of full-time employment, and to parents pursuing full-time studies, to maternity/paternity grants.

Article 2

*Aim.*

The aim of this Act is to ensure a child's access to both parents.

The Act is also intended to enable parents to co-ordinate family life and work outside the home.

Article 3

*Maternity/paternity and parental leave.*

Maternity/paternity and parental leave is leave from paid employment which is occasioned by a birth of a child, the primary adoption of a child under the age of eight or the taking of a child under the age of eight into permanent foster care. Entitlement to maternity/paternity leave under this Act is also established in the event of a miscarriage after 18 weeks of pregnancy or the still-birth of a child after 22 weeks of pregnancy.

Article 4

*Definition of terms.*

In this Act, the following terms are used as defined below:

1. Full-time studies: A 75–100% continuous programme of studies, practical or theoretical, at a recognised educational establishment within the ordinary educational system in Iceland which lasts at least six months and may, consequently, cover a period that is not defined in whole calendar months. The definition also covers 75-100% programmes of studies at university (post-secondary) level and other studies for which the entry requirements are comparable with those applying to post-secondary education. Individual workshops do not qualify as studies.
2. Continuous employment: Work constituting at least 25% of full-time employment each month on the domestic labour market over a specific period; consequently, this could cover a period that is not defined in whole calendar months. Also counted as constituting part of continuous periods of employment are periods in the circumstances enumerated in indents a-e in the second paragraph of Article 22.
3. Self-employed person: A parent who works at its own business, continuously, in at least 25% of full-time employment, irrespective of the corporate structure involved, providing that its share of the company is greater than 25% and the parent is required, every month or in another regular manner in accordance with a decision by the tax authorities, to pay social security tax. The same applies to any parent who is the spouse of a parent as defined in the



first sentence and to any parent who is a child under the age of 18 if they perform continuous work in the service of its parent's business operations and that parent falls under the definition in the first sentence.

4. Employee: A parent who works in paid employment in the service of others, in at least 25% of full-time employment, in total, each month. The same applies to any parent who falls under the definition in point 3 who works at its own business, continuously, in at least 25% of full-time employment, in a company in which they own a share of 25% or less. The term 'employee' is nevertheless used in Section XI to refer to all those who work in paid employment in the service of others.

5. Employee and self-employed person: Any parent who works continuously in a total of at least 25% of full-time employment each month shall be considered as an employee in accordance with point 4 if they have worked as an employee in 50% or more of full-time employment; otherwise, they shall be considered as self-employed in accordance with point 3.

## SECTION II

### **Administration.**

#### Article 5

##### *Overall responsibility*

The minister shall be in overall charge of the maternity/paternity and parental leave under this Act.

#### Article 6

##### *The Maternity/Paternity Leave Fund.*

The Maternity/Paternity Leave Fund shall handle payments (*cf.* Section V) to parents who are entitled to payments during maternity/paternity leave. Maternity/paternity grants to parents under Section VIII and payments under Section X shall be made by the Treasury.

The Maternity/Paternity Leave Fund shall be managed by the Directorate of Labour, which shall see to its accounts and day-to-day operations and the payment of maternity/paternity grants on behalf of the minister.

The Maternity/Paternity Leave Fund shall be financed from social insurance tax (*cf.* the Social Insurance Tax Act) and by interest earned on the fund's assets.

The minister shall ensure that the fund has sufficient cash in hand to meet its obligations. Each year, the fund shall draw up a budget which the minister shall present to the minister responsible for state finances when the national budget legislation is being prepared.

The Maternity/Paternity Leave Fund's annual accounts shall be audited by the National Audit Office.

The fund's operating costs shall be met from its revenues.

The Directorate of Labour shall prepare annual reports on the utilisation of entitlements under this Act.

#### Article 7

##### *The Welfare Complaints Committee.*

The Welfare Complaints Committee shall deliver rulings on matters of dispute which may arise on the basis of this Act.

Procedure in cases before the Welfare Complaints Committee shall be in accordance with the Welfare Complaints Committee Act and the general principles of the Civil Procedure Act on the handling of cases.

The Directorate of Labour shall provide the Welfare Complaints Committee with all case materials and all information and explanations that the committee considers it requires from the directorate.

Rulings by the committee regarding the repayment of sums paid in excess of what was due under this Act shall be enforceable in law.



The lodging of an administrative complaint shall not defer the legal effect of the decision to which it refers. Lodging an administrative complaint shall, however, defer an enforcement action (*cf.* the sixth paragraph of Article 41) on the basis of a decision by the Directorate of Labour on the recovery of sums paid in excess of what was due from the Maternity/Paternity Leave Fund or excess payments of maternity/paternity grants.

### SECTION III

#### **Maternity/paternity leave.**

##### Article 8

###### *Parents' entitlement to maternity/paternity leave.*

Parents have an independent entitlement to maternity/paternity leave of up to six months each following the birth of a child, the primary adoption of a child or the taking of a child into permanent foster care. Without prejudice to the foregoing provision, either parent may assign six weeks of its independent entitlement to the other parent.

Entitlement to maternity/paternity leave is established by the birth of a child. Even though entitlement to maternity/paternity leave is established by the birth of a child (*cf.* Article 3), parents may begin taking maternity/paternity leave up to one month prior to the expected date of the birth, which must be confirmed by a certificate from a midwife; this period shall be counted as part of the parent's independent maternity/paternity leave entitlement. Entitlement to maternity/paternity leave in connection with a birth shall expire when the child attains the age of 24 months.

A parent who has given birth to a child shall be on leave for at least the first two weeks following the birth. This period shall be counted as part of the parent's independent maternity/paternity leave entitlement and shall not commence later than at the time of the birth of the child. If the parent does not comply with its obligation under the first sentence, the period in question shall nevertheless be considered as part of that parent's independent maternity/paternity leave entitlement.

In the case of a primary adoption or the taking of a child into permanent foster care, entitlement to maternity/paternity leave is established when the child enters the home, providing that the measure has been confirmed by a child welfare committee or other competent authority. In cases where the child enters the home for a trial period before a primary adoption or foster-care period can begin, entitlement to maternity/paternity leave may be considered as being established at the beginning of this period, providing that the measure has been confirmed by a child welfare committee or other competent authority. If the parents have to fetch the child from another country, entitlement to maternity/paternity leave may be counted as being established at the beginning of their journey, providing that the competent authorities have confirmed that the child is to be adopted in a primary adoption. Entitlement to maternity/paternity leave based on a primary adoption or the taking of a child into permanent foster care expires 24 months after the child enters the home.

##### Article 9

###### *Extension, or transfer of a parent's entitlement to maternity/paternity leave.*

Without prejudice to the first paragraph of Article 8, a parent shall acquire entitlement to up to twelve months' maternity/paternity leave if the other parent dies during the gestation of the child and the child is born live. The same applies in the case of a single parent who has undergone assisted fertilisation or a single parent who adopts a child in a primary adoption or takes a child into permanent foster care.

A parent who has given birth to a child shall acquire entitlement to maternity leave for up to twelve months in those cases where the parent is unable to comply with its obligation to identify the child's father.



If a parent is under a restraining order against its own child or against the other parent, and/or an exclusion order from the home, and is, in consequence, incapable of caring for their child during the first 24 months following the birth, then the maternity/paternity leave entitlement which was established under the first paragraph of Article 8, and which that parent has not already utilised, shall be transferred to the other parent. The same shall apply when a parent is incapable of caring for their child for the same reasons during the first 24 months after the child enters the home in the case of a primary adoption or being taken into permanent foster care. This shall apply irrespective of whether or not the parents have joint custody of the child. A commissioner of police or the courts shall confirm that the parent is to be under a restraining order against their child, or against the other parent, and/or an exclusion order, during the aforementioned period. When the transfer of entitlement takes place, the entitlement held by the parent who is under the restraining order and/or exclusion order shall become an entitlement acquired by the other parent under this Act.

If either parent dies before the child attains the age of 24 months, the maternity/paternity leave entitlement established under the first paragraph of Article 8 which the deceased parent has not already utilised shall be transferred to the surviving parent. This shall apply irrespective of whether the deceased parent exercised custody over the child, exercised joint custody over the child with the surviving parent or did not have custody of the child at the time of their death. In the case of a primary adoption or the taking of a child into permanent foster-care, the period shall be the 24 months after the child arrives in the home. When the transfer of entitlements takes place, the deceased parent's entitlement shall become an entitlement which the surviving parent has acquired under this Act.

A parent who, due to illness or the consequences of an accident, is unable to care for their child during the first 24 months following the child's birth may assign its unutilised maternity/paternity leave entitlement to the other parent, in part or entirely. The same applies when a parent is unable to care for their child for the same reasons during the first 24 months after the child enters the home in connection with a primary adoption or being taken into permanent foster care. This shall apply whether or not the parents exercise joint custody of the child. Exemption may be granted from the requirement that parents give their consent for the transfer of entitlements in cases where the parent is not capable of indicating consent due to illness or the consequences of an accident, in which case the Directorate of Labour shall assess whether the conditions for the transfer of entitlement are met. That the parent is, due to illness or the consequences of an accident, unable to care for the child during the aforementioned period, or to give consent for the transfer of its entitlement, shall be confirmed by a certificate from the medical specialist attending the parent, the original of which shall be submitted to the Directorate of Labour. When the transfer of entitlements takes place, the entitlement of the assigning parent shall become an entitlement which the other parent has acquired under this Act.

A parent who, due to serving a prison sentence, is unable to care for their child during the first 24 months following the child's birth, may assign their unutilised maternity/paternity leave entitlement to the other parent, partly or entirely. The same applies when a parent is unable, for the same reasons, to care for their child during the first 24 months after the child enters the home in connection with a primary adoption or being taken into permanent foster care. This shall apply whether or not the parents exercise joint custody of the child. The prison and probation authority shall confirm that the parent is to serve the prison sentence during the aforementioned period. When the transfer of entitlements takes place, the entitlement of the assigning parent shall become an entitlement which the other parent has acquired under this Act.

If a parent is entitled neither to maternity/paternity leave nor to a maternity/paternity grant under this Act, and has no independent entitlement to maternity/paternity leave or a maternity/paternity grant in another state, the other parent shall acquire an entitlement to up to twelve months' maternity/paternity leave due to the birth of a child, a primary adoption or the



taking of a child into permanent foster care. If a parent has an independent entitlement to maternity/paternity leave or a maternity/paternity grant in another state, the other parent may acquire an entitlement to up to twelve months' maternity/paternity leave withdrawn the entitlement held by the aforementioned parent in the other state due to the birth of a child, a primary adoption or the taking of a child into permanent foster care.

If it is foreseen that a non-custodial parent will not care for their child during the first 24 months after the child's birth, or during the first 24 months after the child enters the home in connection with a primary adoption or being taken into permanent foster care, because the parent does not have the right of access to the child in accordance with a decision by a competent authority or court of law, the Directorate of Labour may transfer the non-custodial parent's maternity/paternity leave entitlement, which has been established in accordance with the first paragraph of Article 8, and which the parent has not already utilised, to the custodial parent, providing that the custodial parent applies to the Directorate of Labour requesting the transfer. The same applies in the event of a decision by a competent authority or court of law that access to the child by the non-custodial parent is to be restricted, e.g. under supervision. The Directorate of Labour shall assess whether the conditions for the transfer of entitlements as provided for above are met; the directorate may request the necessary documents from the custodial parent or from other parties when making its assessment. When the transfer of entitlements takes place, the entitlement of the non-custodial parent shall become the entitlement which the custodial parent has acquired under this Act. The minister may issue regulations setting out the conditions for the transfer of entitlements in greater detail.

#### Article 10

##### *Custody.*

The precondition for a parent's being able to exercise on their entitlement to maternity/paternity leave is that they exercise custody over the child, or exercises joint custody together with the other parent, during the period in which they draw on the entitlement to maternity/paternity leave.

Without prejudice to the first paragraph, the non-custodial parent may exercise their entitlement to maternity/paternity leave when the custodial parent agrees that the non-custodial parent is to have access to the child during the period covered by the non-custodial parent's maternity/paternity leave. The same applies when an agreement, confirmed by a district commissioner, has been made between the non-custodial and the custodial parent on access by the non-custodial parent to the child during the period in which the non-custodial parent exercises its maternity/paternity leave entitlement or when a decision has been taken by a competent authority or a court of law on access between the non-custodial parent and the child during the period in which the parent exercises its maternity/paternity leave entitlement.

#### Article 11

##### *Maternity/paternity leave entitlement following stillbirth or miscarriage.*

Each parent has an independent entitlement to up to three months' maternity/paternity leave from the date of a stillbirth after 22 weeks' pregnancy. In the event of a miscarriage after 18 weeks' pregnancy, each parent has an independent entitlement to up to two months' maternity/paternity leave from the date on which the miscarriage occurs. Maternity/paternity leave entitlement due to a stillbirth or miscarriage expires 24 months after the stillbirth or miscarriage.

The length of pregnancy according to the first paragraph shall be confirmed by a certificate from a medical specialist, the original of which shall be submitted to the Directorate of Labour. If the parents are not married or living in a registered partnership at the time of the stillbirth or miscarriage under the first paragraph, then the certificate shall also contain information about the parents.



## Article 12

### *Notification of maternity/paternity leave.*

Employees intending to exercise their maternity/paternity leave entitlements shall notify their employers of this at the earliest opportunity and not later than eight weeks prior to the expected date of the birth, primary adoption or taking of a child into permanent foster care. Employees who wish to change a previously notified date of commencement of maternity/paternity leave, or to give notification of a new period of maternity/paternity leave (*cf.* the second paragraph of Article 8), shall notify their employers of this three weeks prior to the proposed new date of commencement of maternity/paternity leave.

If the employee first gives notification of the taking of maternity/paternity leave after the birth, primary adoption or taking of a child into permanent foster care, they shall be received by the employer not less than eight weeks before the employee intends to exercise their maternity/paternity leave entitlement, and the leave shall be structured in accordance with Article 13. If employee and employer fail to agree on the arrangement, the employee shall in all cases have the right to take maternity/paternity leave in a single period following the other parent's maternity/paternity leave or if the child becomes so seriously ill as to necessitate the parent's presence. In other cases, the employer may defer the taking of maternity/paternity leave by the employee, if special circumstances in the operation of the business or institution necessitate this, for a maximum of eight weeks, though not for more than will result in the leave period's being concluded before the child attains the age of 24 months.

Notifications of the taking of maternity/paternity leave shall be made in the form determined by the Directorate of Labour, e.g. as to whether they are to be electronic or in writing, and shall state the proposed starting date of the leave, its length and how it is to be structured. The employer shall then write the date of receipt of the notification on it and give the employee a copy of it. The employer may demand proof that the employee exercises custody of the child, or that the consent of the custodial parent has been given for the non-custodial parent's having access to the child during the period of the non-custodial parent's maternity/paternity leave (*cf.* Article 10) if the employer considers this necessary.

## Article 13

### *Structure of maternity/paternity leave.*

Employees shall have the right to take maternity/paternity leave in one continuous period.

Without prejudice to the first paragraph, employees may, by arrangement with their employers, structure maternity/paternity leave in such a way that it is divided into more than one period and/or that it will be taken concurrently with work in a reduced job proportion (*cf.*, however, the third paragraph of Article 8). At no time may maternity/paternity leave be taken in periods of less than two weeks at a time. The employer shall nevertheless try to accommodate the employee's wishes regarding maternity/paternity leave under this provision.

If the employee wishes to structure its maternity/paternity leave in accordance with the second paragraph but the employer is unable to accommodate this wish, employer and employee shall agree on another arrangement regarding the structure of maternity/paternity leave within a week of the date of receipt of the notification concerning the taking of maternity/paternity leave (*cf.* the third paragraph of Article 12). This shall be done in writing, the reasons for the change in the structure being stated.

If employee and employer are unable to agree on the taking of the employee's maternity/paternity leave (*cf.* the third paragraph), the employee shall at all times have the right to take its maternity/paternity leave in a single period beginning on the date decided by the employee.

## Article 14

### *Accumulation and protection of entitlements.*



Maternity/paternity leave shall be calculated as working time for the purpose of assessing employment-related entitlements such as the right to take vacation and to extended vacation under collective agreements, age-related wage increases, entitlement to sick-leave, notice periods and unemployment benefit.

#### SECTION IV

#### **Additional maternity/paternity leave entitlement.**

##### Article 15

##### *Multiple births.*

Parents shall have a joint right to an extension of maternity/paternity leave by three months for each child after the first in a multiple birth that is born alive or stillborn after 22 weeks' pregnancy.

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.

##### Article 16

##### *Safety and health in workplaces.*

If the safety and health of a pregnant parent who is an employee under point 4 of Article 4, a parent who has recently given birth to a child, or a parent who is breastfeeding a child, is considered to be in danger according to a special assessment, the employer shall make the necessary arrangements to ensure their safety by temporarily changing its working conditions and/or working hours. If this cannot be done for technical reasons, or other valid reasons, the employer shall entrust them with other tasks or else grant them leave of absence for the length of time necessary to protect their safety and health and they shall be entitled to an extension of maternity/paternity leave and to payments from the Maternity/Paternity Leave Fund for the period involved (*cf.* the third paragraph). This provision shall be implemented under further rules be issued by the minister.

The changes considered necessary to the parent's working conditions and/or working hours (*cf.* the first paragraph) shall not affect the wage terms applying between them and the employer or abridge their other employment-related entitlements.

If it is necessary to grant a pregnant parent leave of absence from work under this provision, they shall be entitled to an extension of maternity/paternity leave and to payments from the Maternity/Paternity Leave Fund in direct proportion to the employment engagement from which leave is granted. If the birth occurs prior to the expected date, the parent's entitlement to payment from the Maternity/Paternity Leave Fund under this provision shall expire.

##### Article 17

##### *Illness during pregnancy.*

If it becomes necessary for a pregnant parent for health reasons relating to the pregnancy to obtain leave of absence from work or to cease participation in the employment market in accordance with section b of the second paragraph of Article 22 more than one month before the expected date of birth, in the opinion of a medical specialist, the parent shall be entitled to an extension of maternity/paternity leave and of payments from the Maternity/Paternity Leave Fund during the period involved, though in no case for more than two months. 'Health reasons relating to the pregnancy' refers to illnesses that may arise in consequence of the pregnancy which render the parent incapable of working, temporary or chronic illnesses which become worse during pregnancy and render the parent incapable of working and also treatment to prevent premature birth or to protect the health of the foetus, providing that the treatment results in the parent's becoming incapable of working. If the birth occurs prior to



the expected date, the authorisation for an extension under this provision shall expire from that time.

Reasons for the need to extend maternity/paternity leave under the first paragraph shall be stated in a certificate from the medical specialist who has attended the parent; the original of the aforementioned certificate shall be submitted to the Directorate of Labour. The Directorate of Labour shall assess whether an extension of maternity/paternity leave is necessary and may request the opinion of another medical specialist when making its assessment.

Applications for the extension of maternity/paternity leave under the first paragraph shall be accompanied by a confirmation by the employer and/or the Directorate of Labour, as appropriate. The confirmation shall state when payments were discontinued.

#### Article 18

##### *Illness of a parent in connection with childbirth.*

The maternity leave of a parent who has given birth to a child may be extended by up to two months in the event of serious illness of the parent in connection with the birth, providing that the illness can be traced to the birth and that the parent has, as a consequence, been incapable of taking care of the child during its maternity leave, in the opinion of a medical specialist.

Reasons for the need to extend maternity leave under the first paragraph shall be stated in a certificate from a medical specialist; the original of the aforementioned certificate shall be submitted to the Directorate of Labour. The Directorate of Labour shall assess whether an extension of maternity leave as provided for in the first paragraph is necessary and may request the opinion of another medical specialist when making its assessment.

#### Article 19

##### *Illness or disability of the child.*

Parents' joint entitlement to maternity/paternity leave may be extended by up to seven months when the child has to stay in a hospital for more than seven days directly following the birth or in the case of a serious illness of the child or serious disability of the child which demands more intensive care by the parent.

Reasons for the need to extend maternity/paternity leave under the first paragraph shall be stated in a certificate from a medical specialist who has attended the child; the original of the aforementioned certificate shall be submitted to the Directorate of Labour. The Directorate of Labour shall assess whether an extension of maternity/paternity leave as provided for in the first paragraph is necessary and may request the opinion of another medical specialist when making its assessment.

### SECTION V

#### **Payments from the Maternity/Paternity Leave Fund.**

#### Article 20

##### *Application to the Directorate of Labour.*

A parent shall apply for payments during maternity/paternity leave to the Directorate of Labour six weeks prior to the expected date of birth, primary adoption or taking of a child into permanent foster care. Parent who wishes to begin taking maternity/paternity leave before the expected date of birth (*cf.* the second paragraph of Article 8) shall notify the Directorate of Labour of this three weeks prior to the proposed starting date of maternity/paternity leave.

Applications shall be made in the form determined by the Directorate of Labour, e.g., as to whether they are to be electronic or in writing, and shall be accompanied by a copy of the notification concerning maternity/paternity leave under Article 12 which the parent has received, signed by the employer, stating the intended starting date, length and structure of maternity/paternity leave. When the parent is self-employed, this shall be stated in the





application, with the intended starting date, length and structure of maternity/paternity leave set out.

When, due to unforeseeable circumstances, a parent is unable to take maternity/paternity leave at the time the parent has stated to the Directorate of Labour under the second paragraph, it shall be obliged to notify the Directorate of Labour of the change in the form determined by the Directorate of Labour, e.g., as to whether this is to be done electronically or in writing. The parent's employer shall record in writing, receipt of the change to the structure of the parent's maternity/paternity leave.

#### Article 21

##### *Parents' entitlement to payments from the Maternity/Paternity Leave Fund.*

A parent acquires entitlement to payments from the Maternity/Paternity Leave Fund after being in continuous employment on the domestic labour market for six months prior to the date of birth, primary adoption or taking of a child into permanent foster care, and also from the date on which a stillbirth or miscarriage occurs (*cf.* the second and fourth paragraphs of Article 8 and the first paragraph of Article 11); the period involved may therefore be one that is not defined in whole calendar months.

When the parent begins taking maternity/paternity leave prior to the date of birth of the child (*cf.* the second paragraph of Article 8, Article 16 and Article 17), however, the entitlement acquisition period shall be based on the date on which the parent begins taking maternity/paternity leave. When the parent has worked on the domestic labour market for at least the last month of the reference period according to the first paragraph, the Directorate of Labour shall, to the extent necessary, take account of periods of employment during which the parent worked as an employee and/or self-employed person in another member state of the European Economic Area, the Nordic Agreement on Social Insurance, the Convention Establishing the European Free Trade Association or the Agreement between the Government of Iceland, on the one hand, and the Government of Denmark and the Domestic Administration of the Faroe Islands, on the other, during the period for acquisition of entitlement, providing that the parent's employment conferred on their entitlements according to the legislation of the state involved covering maternity/paternity leave. If, on the other hand, the parent has worked on the domestic labour market for less than the last month of the entitlement acquisition period under the first paragraph, then the Directorate of Labour shall assess whether the parent has worked on the domestic labour market for the purposes of this Act in such a manner that consideration is to be given, to the extent necessary, to their periods of employment in another member state of the aforementioned agreements during the entitlement acquisition period, providing that the parent's employment conferred on their entitlements under the legislation of that state on maternity/paternity leave. A condition for this is that the parent shall have begun work on the domestic labour market within ten working days of having ceased work on the labour market in another member state of the aforementioned agreements. The parent shall submit the required certificates of accredited employment periods and insurance periods in the other state in accordance with the provisions of the agreements together with its application for payments from the Maternity/Paternity Leave Fund under Article 20.

#### Article 22

##### *Parents' participation in the domestic labour market.*

Parents' participation in the domestic labour market under Article 21 involves working as an employee (*cf.* point 4 of Article 4), a self-employed person (*cf.* point 3 of Article 4) or as both an employee and a self-employed person (*cf.* point 5 of Article 4). Full-time work by an employee is based on 172 working hours per month; however, consideration shall normally be given to the number of working hours that is regarded as full-time work according to the collective agreement. Full-time work in the case of self-employed persons shall be based on



the person's having paid monthly deductions of tax at source and social insurance tax on calculated remuneration or wages that are equivalent to the minimum reference amount applied by the Directorate of Internal Revenue in occupation in question, or to what is regarded as full-time employment according to a collective agreement.

The following also counts as participation in the domestic labour market:

a. vacation or leave granted to an employee (*cf.* point 4 of Article 4) in accordance with the law, a collective agreement or an employment contract, even if it is partly or completely without pay, and the employee has, during the period in question, been engaged in a job proportion of at least 25%;

b. the period during which a parent receives unemployment benefit, is waiting for such benefit, would have been entitled to it if they had registered as unemployed, or has temporarily stopped seeking employment due to a vacation taken abroad, not more than ten working days having elapsed until the search for employment is resumed under the valid legislation on unemployment insurance, providing that the job proportion in which the parent worked during the reference period for the aforementioned payments was at least 25%;

c. the period during which a parent receives *per diem* benefit allowance due to illness or accident, is waiting for such allowance or would have been entitled to it if the parent had applied for it to the health insurance institution under the Health Insurance Act and the Social Security (Accident Insurance) Act, or receives *per diem* benefit payments from the sick-pay fund of a trade union, providing that the parent has stopped paid employment due to health reasons, if the job proportion in which the parent worked during the reference period for the aforementioned payments was at least 25%;

d. the period during which a parent receives compensation from an insurance company in lieu of wages due to temporary loss of employment resulting from an accident, if the job proportion in which the parent worked during the reference period for the aforementioned payments was at least 25%;

e. the period during which a parent receives income-related payments under Section III of the Payments to the Parents of Chronically Ill or Seriously Disabled Children Act, No. 22/2006, or would have been entitled to such payments if they had applied for them to the Social Insurance Administration, if the job proportion in which the parent worked during the reference period for the aforementioned payments was at least 25%.

The Directorate of Labour shall assess, on the basis of the Unemployment Insurance Act, whether parents would have been entitled to unemployment benefit if they had registered as unemployed during the period in question (*cf.* section b of the second paragraph).

Icelandic Health Insurance (*Sjúkratryggingastofnunin*) shall assess, on the basis of the Health Insurance Act and the Social Security (Accident Insurance) Act, whether parents would have been entitled to *per diem* benefit due to illness or accident if they had applied for them for the period involved (*cf.* section c of the second paragraph).

The Social Insurance Administration shall assess, on the basis of the Payments to the Parents of Chronically Ill or Seriously Disabled Children Act, whether parents would have been entitled to income-related payments under Section III of that Act if they had applied for them for the period involved (*cf.* section e of the second paragraph).

### Article 23

#### *Reference periods and calculation of payments from the Maternity/Paternity Leave Fund.*

Monthly payments from the Maternity/Paternity Leave Fund to employees (*cf.* point 4 of Article 4) during maternity/paternity leave shall amount to 80% of their average aggregate wages according to the fourth and fifth paragraphs, based on a continuous twelve-month period ending six calendar months before the month of the birth of the child or the calendar month in which the child enters the home in the case of a primary adoption or a child's being taken into permanent foster care. Consideration shall be given solely to average aggregate



wages for those calendar months during the reference period in which the parent was on the domestic labour market (*cf.* also the second paragraph of Article 22), irrespective of whether wages under that provision or calculated remuneration was involved. In no case, however, shall fewer than four calendar months be used as a basis for the calculation of average aggregate wages.

Monthly payments from the Maternity/Paternity Leave Fund to self-employed parents (*cf.* point 3 of Article 4) shall amount to 80% of their average aggregate wages and calculated remuneration on which social insurance tax has been paid, the period being the income year preceding the year in which the child is born or enters the home in the case of a primary adoption or being taken into permanent foster care. In other respects, the provisions of the first, third and fifth paragraphs shall apply as appropriate.

Monthly payments from the Maternity/Paternity Leave Fund to parents who are both employees and self-employed persons (*cf.* point 5 of Article 4) shall amount to 80% of their average aggregate wages and calculated remuneration on which social insurance tax has been paid. If the parent in question works as an employee according to point 4 of Article 4 in 50% or a greater proportion of full-time employment, the reference period according to the first paragraph shall be used. Otherwise, the reference period according to the second paragraph shall be used. In other respects, the provisions of the first, second, fourth and fifth paragraphs shall apply, as appropriate.

Wages on the domestic labour market as referred to in the first, second and third paragraphs shall include all types of wages and other fees and considerations according to the Social Security Tax Act. The items considered as constituting participation on the domestic labour market under sections a-e of the second paragraph of Article 22 shall also be regarded as constituting wages. Other items to be counted as wages are the payments under sections a and b of Article 5 of the Wage Guarantee Fund Act, No. 88/2003. In the case of 100% payments during the reference period in connection with items under sections a-e of the second paragraph of Article 22 to which the parent was entitled, the reference wages on which those payments were based shall be used. If, on the other hand, the parent chose to spread the payments in connection with circumstances under sections a-e of the second paragraph of Article 22 over a longer period concurrent with part-time employment or being on leave, paid or unpaid, then the reference wages on which those payments were based shall be used, in the same proportions as the payments were made over the reference period in question. The same shall apply if the parent chose to spread the payments in connection with circumstances under sections a-e of the second paragraph of Article 22 over a longer period, even though the parent was not under a contract of engagement during the same period. At no time shall a higher figure be used than corresponds to the reference wage figure to be used according to the foregoing, even if the parent received, at the same time as these payments, payments to make up the shortfall between payments in connection with circumstances under sections a-e of the second paragraph of Article 22 and its average aggregate wages. When payments under sections a and b of Article 5 of the Wage Guarantee Fund Act, No. 88/2003, were made during the reference period, the reference wages on which they were based shall be used as a basis.

Calculation of payments to parents during maternity/paternity leave shall be based on information on parents' income gathered by the Directorate of Labour from tax returns and the tax authorities' registers of tax deductions at source and social security tax payments. The Directorate of Labour shall seek confirmation from the tax authorities that information from the registers of tax deductions at source and social security tax payments is in conformity with that tax authorities' assessment of tax for the reference periods specified in the first, second and third paragraphs. The Directorate of Labour shall notify the applicant of the proposed gathering of information in accordance with the second paragraph of Article 17 of the Personal Data Act, No. 90/2018 (*cf.* Article 14 of Regulation (EU) No. 2016/679 of the European Parliament and of the Council.).



The tax authorities shall provide the Directorate of Labour with the information necessary for the implementation of this Act, free of charge and in the form requested.

#### Article 24

##### *Payments from the Maternity/Paternity Leave Fund.*

Without prejudice to the first, second and third paragraphs of Article 23, monthly payments from the Maternity/Paternity Leave Fund to parents on maternity/paternity leave shall at no time exceed ISK 600,000.

When parents are entitled to payments from the Maternity/Paternity Leave Fund under the first paragraph of Article 21 but have not worked on the domestic labour market during the reference period under the first, second or third paragraphs of Article 23, they shall acquire entitlement to minimum payments under the third paragraph in accordance with their job proportions.

Payments to parents on maternity/paternity leave who worked on average, in 25–49% of full-time employment during each calendar month of the entitlement acquisition period under Articles 21 and 22 shall at no time be less than ISK 137,632 per month in direct proportion to the structure of their maternity/paternity leave for the calendar month, or part thereof, for which payment is made (*cf.* the fourth paragraph and Article 13). Payment to a parent who has worked in 50–100% of full-time employment, on average, in each calendar month of the entitlement acquisition period under Articles 21 and 22 shall at no time be less than ISK 190,747 per month in direct proportion to the structure of their maternity/paternity leave for the calendar month, or part thereof, for which payment is made (*cf.* the fourth paragraph and Article 13).

Payments during maternity/paternity leave shall be made retrospectively, for the preceding calendar month or part thereof, on the first working day of each month. Payments may not be made to parents retrospectively for more than three months prior to the calendar month in which applications for payments under Article 20 are received.

If one parent utilises part of the parents' joint maternity/paternity leave entitlement under Article 15 and/or Article 19 and receives payment from the Maternity/Paternity Leave Fund, the payment period of a maternity/paternity grant under Article 34 and/or Article 36 shall be correspondingly shortened.

During maternity/paternity leave, parents shall pay at least 4% of their maternity/paternity leave payments into a pension fund and the Maternity/Paternity Leave Fund shall pay a counter-contribution of at least 11.5%. Parents may, additionally, make payments into private pension funds.

#### Article 25

##### *Reduction of payments.*

The entitlement of parents who are employees and/or self-employed persons (*cf.* points 3-5 of Article 4) to payments during maternity/paternity leave is contingent on their meeting the requirements for maternity/paternity leave under Sections III and IV and discontinuing paid employment during the time in which they exercise their entitlement to maternity/paternity leave. Payments from the employer to the parent during maternity/paternity leave which form the base for social security tax under the Social Security Tax Act, and which are higher than the difference between payments from the Maternity/Paternity Leave Fund under Article 24 and the parent's average aggregate wages during the reference period according to the first, second and third paragraphs of Article 23 in direct proportion to the structure of the parent's maternity/paternity leave during the calendar month, or part thereof, for which the payment is made (*cf.* the fourth paragraph of Article 24 and Article 13) shall be deducted from payments from the Maternity/Paternity Leave Fund. Income of a parent on maternity/paternity leave concurrently with work in a reduced proportion (*cf.* the second paragraph of Article 13) that is in accordance with its average aggregate wages during the reference period under the first,



second and third paragraphs of Article 23 shall not affect payments from the Maternity/Paternity Leave Fund for the same period. Only payments from the employer that are intended in respect of the period during which the parent is on maternity/paternity leave in each calendar month shall be deducted from payments from the Maternity/Paternity Leave Fund. This refers to the period that begins on and including the first day of the parent's maternity/paternity leave within a specific calendar month and ends on and including the day on which the parent no longer utilises its entitlement to maternity/paternity leave within the specified calendar month. The same shall apply whether the parent utilises its entitlement to maternity/paternity leave in full or concurrently with work in a reduced proportion during the aforementioned period. Account may, however, be taken of wage increases that are specified in collective agreements, other payments according to collective agreements and wage increases that may be traced to changes in the parent's employment from the end of the reference period under the first, second and third paragraphs of Article 23 until the first day of the parent's maternity/paternity leave. Changes during the period defined above shall be taken into account in the same way as is done when parents' average aggregate wages are calculated under the first, second and third paragraphs of Article 23. The parent shall demonstrate by means of written materials the basis on which the wage changes under the seventh sentence are based, and the Directorate of Labour may request confirmation by the employer of the materials submitted in this connection. If a parent receives unusually high payments from the employer before or after maternity/paternity leave, or during maternity/paternity leave, as compared with its income during the reference period under the first, second and third paragraphs of Article 23 such that they may be regarded as being intended to cover the same period as the parent exercises its entitlement to maternity/paternity leave, the Directorate of Labour shall request that the parent in question demonstrate by means of written documents the period which the payments in question were intended to cover. The same shall apply to unusually high payments from the employer to the parent during the period during which the parent has reduced its job proportion at the same time as drawing on its entitlement to maternity/paternity leave. The Directorate of Labour may request confirmation by the employer of the materials submitted in this connection.

Parents who are entitled to maternity/paternity leave under Sections III and IV but do not meet the conditions of Article 21 are entitled to a maternity/paternity grant according to Article 26 or 27, as appropriate. Payments from the employer to a parent on maternity/paternity leave which are higher than the difference between the amount of a maternity/paternity grant and the parent's average aggregate wages shall be deducted from the grant. For the purpose of calculating average aggregate wages under this paragraph, account shall be taken of the two calendar months preceding the month in which the child is born or the calendar month in which the child enters the home in the case of a primary adoption or being taken into permanent foster care. In other respects, the provisions of the first paragraph shall apply, as appropriate.

## SECTION VI

### **Maternity/paternity grants.**

#### Article 26

*Entitlement of parents who are outside the labour market or are employed in less than 25% of full-time employment to maternity/paternity grants.*

Parents who are outside the labour market or are employed in less than 25% of full-time employment shall each have an independent entitlement to a maternity/paternity grant for up to six months in connection with the birth, primary adoption or the taking of a child into permanent foster care. Without prejudice to the foregoing, a parent may assign up to six weeks of its independent entitlement to the other parent. Entitlement to a maternity/paternity grant in connection with the birth of a child is established at the time of the birth and expires when the child attains the age of 24 months.



In the case of primary adoption or the taking of a child into permanent foster care entitlement to a maternity/paternity grant is established when the child enters the home, providing that the measure has been confirmed by a child welfare committee or other competent authority. In cases where the child enters the home for a trial period before a primary adoption or permanent foster-care period can begin, entitlement to a maternity/paternity grant may be considered as being established at the beginning of this period, providing that the measure has been confirmed by a child welfare committee or other competent authority. If the parents have to fetch the child from another country, entitlement to a maternity/paternity grant may be counted as being established at the beginning of their journey, providing that the competent authorities have confirmed that the child is to be adopted in a primary adoption. Entitlement to a maternity/paternity grant based on a primary adoption or the taking of a child into permanent foster care expires 24 months after the child enters the home.

#### Article 27

##### *Entitlement of parents in full-time studies to maternity/paternity grants.*

Parents who have been occupied in full-time studies study during at least six months out of the 12 months preceding the birth, primary adoption or the taking of a child into permanent foster care and who have met the requirements regarding academic progress during that time shall have an independent right to a maternity/paternity grant for up to six months each in connection with the birth, primary adoption or the taking of a child into permanent foster care. Without prejudice to the foregoing, a parent may assign up to six weeks of its independent entitlement to the other parent. Parents shall submit confirmation from the educational establishment in question stating that they have been registered in full-time studies and have met the requirements regarding academic progress during the period. Pursuit of studies, rather than academic achievement, during the academic semester in which the child is born may be taken into account. Entitlement to a maternity/paternity grant in connection with the birth of a child is established at the time of the birth and expires when the child attains the age of 24 months.

In the case of the taking of a child into permanent foster care entitlement to a maternity/paternity grant is established when the child enters the home, providing that the measure has been confirmed by a child welfare committee or other competent authority. In cases where the child enters the home for a trial period before a primary adoption or permanent foster-care period can begin, entitlement to a maternity/paternity grant may be considered as being established at the beginning of this period, providing that the measure has been confirmed by a child welfare committee or other competent authority. If the parents have to fetch the child from another country, entitlement to a maternity/paternity grant may be counted as being established at the beginning of their journey, providing that the competent authorities have confirmed that the child is to be adopted in a primary adoption. Entitlement to a maternity/paternity grant based on a primary adoption or the taking of a child into permanent foster care expires 24 months after the child enters the home.

#### Article 28

##### *Exemptions from the condition of full-time studies.*

Maternity/paternity grants as provided for under the first paragraph of Article 27 may be granted to parents even though the condition regarding full-time studies during at least six months out of the 12 months preceding the birth, primary adoption or the taking of a child into permanent foster care is not met, providing that the parent was continuously on the domestic labour market for at least six months (*cf.* also the second paragraph of Article 21) before studies began.

Furthermore, a parent may be paid a maternity/paternity grant as a student when the parent has completed studies of at least one semester under the first paragraph of Article 27 and has



subsequently been continuously on the domestic labour market. A condition for this is that the studies and employment shall have lasted for at least six continuous months.

A parent who has given birth to a child may be paid a maternity/paternity grant under the first paragraph of Article 27 even though the parent does not meet the condition of having met the requirements regarding academic progress and/or pursuit of studies, providing that the inability to pursue studies during pregnancy was due to health conditions related to the pregnancy (*cf.* the second sentence of the first paragraph of Article 17). A parent who has given birth to a child shall submit a certificate from a medical specialist who attended them during the pregnancy confirming this; the original of the aforementioned certificate shall be submitted to the Directorate of Labour. Furthermore, the parent shall submit a certificate from the educational establishment stating that the parent was registered in full-time studies. The Directorate of Labour may request the comments of another medical specialist when making its assessment.

A maternity/paternity grant under the first paragraph of Article 27 may be paid to a parent when the parent has less than 75% of the last semester of studies remaining and it is clear that the person concerned is completing a degree course by examination. The parent shall also meet the other conditions of the first paragraph of Article 27.

#### Article 29

##### *Conditions regarding domicile.*

In order to be entitled to payment of maternity/paternity grants under this Act, parents shall be domiciled in Iceland at the time of the birth, primary adoption or taking of a child into permanent foster care and shall have been domiciled in Iceland for the last twelve months prior to that time in order to be entitled to payment of maternity/paternity grants under this Act.

Parents who have been granted residence permits in Iceland on grounds of international protection or on humanitarian grounds for the first time under the Foreign Nationals Act may be entitled to maternity/paternity grants under this Act even though they have not been domiciled in Iceland for the last twelve months prior to the birth, primary adoption or taking of a child into permanent foster care, providing that less than twelve months has elapsed since the granting of their residence permit and the other conditions laid down in this Act are met.

Exemption from the conditions regarding domicile may be granted if the parent has transferred its domicile temporarily in connection with studies abroad, providing that the parent was domiciled in Iceland for at least five continuous years before the transfer. The same shall apply if the parent has transferred its domicile temporarily and pursues studies in an Icelandic educational establishment via distance learning during the period, providing that the parent was domiciled in Iceland for at least five continuous years before the transfer and meets the other requirements made of parents in full-time studies regarding maternity/paternity grants.

If a parent has been domiciled in Iceland for at least some time during the last month prior to the date of birth of a child or the date on which the child enters the home, in the case of a primary adoption or the taking into a permanent foster care, the Directorate of Labour shall, to the extent necessary, take account of the parent's periods of domicile in another member state of the European Economic Area, the Nordic Agreement on Social Insurance, the Convention Establishing the European Free Trade Association or the Agreement between the Government of Iceland, on the one hand, and the Government of Denmark and the Domestic Administration of the Faroe Islands, on the other, when assessing whether the parent meets the conditions regarding domicile under the first paragraph, providing that the parent was insured at the same time in that state and not more than one month has elapsed since the insurance period under the legislation of that state ended. The parent shall submit the required certificates demonstrating periods of domicile and periods of insurance in the other state in



accordance with the provisions of the treaties together with its application for payments under Article 37.

#### Article 30

##### *Extension, assignment and transfer of a parent's entitlement to a maternity/paternity grant.*

Without prejudice to the first paragraph of Article 26 and the first paragraph of Article 27, parents shall be entitled to a maternity/paternity grant for up to twelve months if the other parent dies during a pregnancy which ends in the live birth of a child. The same shall apply in the case of a single parent who has undergone assisted fertilization or a single parent who has made a primary adoption of a child or taken a child into permanent foster care.

A parent who has given birth to a child shall acquire entitlement to a maternity/paternity grant for up to twelve months in those cases where the parent is unable to comply with its obligation to identify the child's father.

If a parent is under a restraining order against its own child or against the other parent, and/or an exclusion order from the home, and is, in consequence, incapable of caring for its child during the first 24 months following the birth, then the maternity/paternity grant entitlement which was established under the first paragraph of Article 26 or the first paragraph of Article 27, and which that parent has not already utilised, shall be transferred to the other parent. The same shall apply when a parent is incapable of caring for its child for the same reasons during the first 24 months after the child enters the home in the case of a primary adoption or being taken into permanent foster care. This shall apply irrespective of whether or not the parents have joint custody of the child. A commissioner of police or the courts shall confirm that the parent is to be under a restraining order against its child, or against the other parent, and/or an exclusion order during the aforementioned period. When the transfer of entitlement takes place, the entitlement held by the parent who is under the restraining order and/or exclusion order shall become an entitlement acquired by the other parent under this Act.

If either parent dies before the child attains the age of 24 months, then the maternity/paternity grant entitlement which was established under the first paragraph of Article 26 or the first paragraph of Article 27, and which the deceased parent has not already utilised, shall be transferred to the other parent. This shall apply irrespective of whether the deceased parent exercised custody over the child, exercised joint custody over the child with the surviving parent or did not have custody of the child at the time of its death. In the case of a primary adoption or the taking of a child into permanent foster-care, the period shall be the 24 months after the child arrives in the home. When the transfer of entitlements takes place, the deceased parent's entitlement shall become an entitlement which the surviving parent has acquired under this Act.

A parent who is unable, due to illness or the consequences of an accident, to care for its child during the first 24 months following the child's birth, may assign its unutilised maternity/paternity grant entitlement to the other parent, in part or entirely. The same applies when a parent is unable to care for its child for the same reasons during the first 24 months after the child enters the home in the case of a primary adoption or being taken into permanent foster care. This shall apply whether or not the parents exercise joint custody of the child. Exemption may be granted from the requirement that parents give their consent for the transfer of entitlements in cases where the parent is not capable of indicating consent due to illness or the consequences of an accident, in which case the Directorate of Labour shall assess whether the conditions for the transfer of entitlement are met. That the parent is, due to illness or the consequences of an accident, unable to care for the child during the aforementioned period or to give consent for the transfer of its entitlement shall be confirmed by a certificate from the medical specialist attending the parent, and the original of the certificate shall be submitted to the Directorate of Labour. When the transfer of entitlements





takes place, the entitlement of the assigning parent shall become an entitlement which the other parent has acquired under this Act.

A parent who, due to serving a prison sentence, is unable to care for its child during the first 24 months following the child's birth, may assign its unutilised maternity/paternity grant entitlement to the other parent, partly or entirely. The same applies when a parent is unable, for the same reasons, to care for its child during the first 24 months after the child enters the home in the case of a primary adoption or being taken into permanent foster care. This shall apply whether or not the parents exercise joint custody of the child. The prison and probation authority shall confirm that the parent is to serve the prison sentence during the aforementioned period. When the transfer of entitlements takes place, the entitlement of the assigning parent shall become an entitlement which the other parent has acquired under this Act.

If one parent is entitled neither to maternity/paternity leave nor to a maternity/paternity grant under this Act, and also has no independent entitlement to maternity/paternity leave or a maternity/paternity grant in another state, the other parent shall acquire an entitlement to a maternity/paternity grant for up to twelve months in connection with the birth, primary adoption or taking of a child into permanent foster care. If one parent has an independent entitlement to maternity/paternity leave or a maternity/paternity grant in another state, the other parent may acquire an entitlement to a maternity/paternity grant for up to twelve months, withdrawn the entitlement which the aforementioned parent has in another state in connection with the birth, primary adoption or taking of a child into permanent foster care.

If it is foreseeable that a non-custodial parent will not care for a child during the first 24 months after its birth or during the first 24 months after the child enters the home in the case of a primary adoption or being taken into permanent foster care because the parent is not to have access to the child in accordance with a decision by a competent authority or a court of law, the Directorate of Labour may transfer the non-custodial parent's entitlement to a maternity/paternity grant, which has been established under the first paragraph of Article 26 or the first paragraph of Article 27, and on which the parent has not already utilised, to the custodial parent, providing that the custodial parent applies to the Directorate of Labour for the transfer. The same shall apply if a decision has been taken by a competent authority or a court of law to the effect that access by the non-custodial parent is to be substantially restricted, e.g. taking place under supervision. The Directorate of Labour shall assess whether the conditions for a transfer of entitlements under the foregoing are met, and may request the necessary materials from the custodial parent or other parties when making its assessment. When the transfer of entitlements takes place, the entitlement of the non-custodial parent shall become an entitlement which the custodial parent has acquired under this Act. The minister may issue regulations containing further provisions on the conditions for the transfer of entitlements.

#### Article 31 *Custody.*

A condition for a parent's being able to exercise its entitlement to a maternity/paternity grant is that the parent itself exercises custody of the child, or exercises joint custody together with the other parent during the period in which payment of the maternity/paternity grant to the parent take place (see, however, the second paragraph).

Without prejudice to the first paragraph, the non-custodial parent may exercise its entitlement to a maternity/paternity grant if the custodial parent has given its consent for the non-custodial parent to have access to the child during the period in which the non-custodial parent draws on its entitlement to a maternity/paternity grant. The same shall apply when an agreement, confirmed by a district commissioner, has been made between the non-custodial and the custodial parent on access by the non-custodial parent to the child during the period in which the non-custodial parent draws on its maternity/paternity grant entitlement or when a



decision has been taken by a competent authority or a court of law on access between the non-custodial parent and the child during the period in which the parent draws on its maternity/paternity grant entitlement.

#### Article 32

##### *Maternity/paternity grant entitlement following stillbirth or miscarriage.*

Each parent has an independent entitlement to a maternity/paternity grant for up to three months from the date of a stillbirth after 22 weeks' pregnancy. In the event of a miscarriage after 18 weeks' pregnancy, each parent has an independent entitlement to a maternity/paternity grant for up to two months from the date on which the miscarriage occurs. Maternity/paternity grant entitlement due to a stillbirth or miscarriage expires 24 months after the stillbirth or miscarriage.

The length of pregnancy according to the first paragraph shall be confirmed by a certificate from a medical specialist; the original of the certificate shall be submitted to the Directorate of Labour. If the parents are not married or living in a registered partnership at the time of the stillbirth or miscarriage under the first paragraph, then the certificate shall also contain information about the parents.

#### Article 33

##### *Payment of maternity/paternity grants.*

Parents may spread the payment of maternity/paternity grants over more than one period (*cf.* the second paragraph of Article 38). However, the shortest payment period shall be two weeks at a time.

### SECTION VII

#### **Additional entitlement to maternity/paternity grants.**

#### Article 34

##### *Multiple births.*

Parents have a joint entitlement to a maternity/paternity grant for an additional three months in respect of each child after the first that is born live or that is stillborn following 22 weeks' pregnancy.

Parents who adopt in a primary adoption, or take into permanent foster care, more than one child at the same time shall have a joint entitlement to a maternity/paternity grant for an additional three months in respect of each child after the first.

#### Article 35

##### *Illness of the parent in connection with birth.*

The maternity/paternity grant entitlement of a parent who has given birth to a child may be extended by up to two months due to serious illness affecting the parent in connection with the birth of the child, providing that the illness can be traced to the birth and the parent has, in consequence, been unable, in the opinion of a medical specialist, to care for its child during the period for which the maternity/paternity grant was paid.

Grounds for the need to extend a parent's maternity/paternity grant entitlement (*cf.* the first paragraph) shall be demonstrated by a certificate from the medical specialist who has attended the parent; the original of the aforementioned certificate shall be submitted to the Directorate of Labour. The Directorate of Labour shall assess whether an extension of the parent's maternity/paternity grant entitlement is necessary, and may request the comments of another medical specialist when making its assessment.

#### Article 36

##### *Illness or disability of the child.*



Parents' joint maternity/paternity grant entitlement may be extended by up to seven months when the child has to spend more than seven days in hospital following the birth or in the case of serious illness or disability of the child which requires more intensive parental attention and care.

Grounds for the need to extend a parent's maternity/paternity grant entitlement (*cf.* the first paragraph) shall be demonstrated by a certificate from the medical specialist who has attended the child; the original of the aforementioned certificate shall be submitted to the Directorate of Labour. The Directorate of Labour shall assess whether an extension of the parent's maternity/paternity grant entitlement is necessary, and may request the comments of another medical specialist when making its assessment.

## SECTION VIII

### **Payment of maternity/paternity grants.**

#### Article 37

##### *Applications to the Directorate of Labour.*

Parents shall apply for maternity/paternity grants to the Directorate of Labour three weeks before the expected date of birth, primary adoption or taking of the child into permanent foster care (*cf.*, however, Article 20).

Applications shall be made in the form determined by the Directorate of Labour, e.g., as to whether they are to be electronic or in writing, stating the intended starting date of the payment of the maternity/paternity grant to the parent and the length of the payment period.

#### Article 38

##### *Payment of maternity/paternity grants.*

Maternity/paternity grants to parents who are outside the labour market or are employed in less than 25% of full-time employment shall at no time be less than ISK 83,233 per month. Maternity/paternity grants to parents in full-time studies shall at no time be less than ISK 190,747 per month.

Payments of maternity/paternity grants to parents shall be made retrospectively, for the preceding calendar month or part thereof (*cf.* Article 33), on the first working day of each month. Maternity/paternity grants may be made for the month in which the child was born irrespective of which day of the month on which the child was born. Where a child is adopted in a primary adoption or taken into permanent foster care, a maternity/paternity grant may be paid for the calendar month in which the child entered the home, or the calendar month in which the parents began their journey to another country to fetch the child, irrespective of the day of the month on which the child entered the home or the journey began. Maternity/paternity grants may not be paid to parents retrospectively for periods of more than three months before the calendar month in which the application for payment under the first paragraph of Article 37 was received.

If one parent utilises part of the joint maternity/paternity grant entitlement under Article 34 and/or Article 36, and receives payments of the maternity/paternity grant, the period during which maternity/paternity leave payments are made from the Maternity/Paternity Leave Fund under Article 15 and/or Article 19 shall be correspondingly shortened.

#### Article 39

##### *Reduction of payments of maternity/paternity grants.*

Parents' entitlements to maternity/paternity grants are contingent on their meeting the requirements for eligibility for maternity/paternity grants under Sections VI or VII. Payments to the parent from the employer which amount to more than half the grant which the parent has received under Article 38 shall be deducted from the grant. In other respects, the provisions of the first paragraph of Article 25 shall apply, as appropriate.



## SECTION IX

### **Monitoring, correction of payments and reassessment of entitlements.**

#### Article 40

##### *Monitoring.*

The Directorate of Labour shall monitor the application of this Act, including as regards whether parents receive payments during maternity/paternity leave, and of maternity/paternity grants under the Act, in excess of their entitlements under the Act.

The tax authorities shall provide the Directorate of Labour with such information on parents' income from their tax returns, the register of taxation deductions at source and the register of social security tax as may be necessary for the Directorate of Labour to monitor the application of this Act, providing that the parent concerned in any given case has been informed of such a measure.

The Directorate of Labour may process personal data, including data that may be considered sensitive, to the extent that such processing is considered necessary for monitoring under the first paragraph.

To the extent necessary for monitoring of the application of this Act, including to ensure that parents do not receive higher payments during maternity/paternity leave or higher maternity/paternity grants than they are entitled to under the provisions of the Act, it shall be permitted, for the purpose of processing personal data (*cf.* the third paragraph) to link data from the Directorate of Labour and data from the tax authorities regarding parents' income obtained from tax returns, the register of taxation deductions at source and the register of social security tax for the period during which parents exercise their maternity/paternity leave or maternity/paternity grant entitlements. In other respects, procedure in the handling of personal data shall be subject to the Personal Data Act.

If, in the course of monitoring of the application of this Act, there is found to be reason to believe that a parent has received higher payments during maternity/paternity leave, or higher payments of maternity/paternity grants than they were entitled to under this Act, the Directorate of Labour shall request that the parent in question demonstrate by means of written materials that this was not the case. The Directorate of Labour may request confirmation from the employer of materials submitted by the parent in this connection, as appropriate.

The minister may issue regulations setting more detailed rules on the conduct of monitoring by the Directorate of Labour under this provision.

#### Article 41

##### *Correction of payments from the Maternity/Paternity Leave Fund and payments of maternity/paternity grants.*

If changes have been made to a parent's income tax assessment due to income on which payments from the Maternity/Paternity Leave Fund are based (*cf.* the fifth paragraph of Article 23), the Directorate of Labour shall correct payments from the Maternity/Paternity Leave Fund in accordance with the assessment by the tax authorities.

If a parent has received higher payments from the Maternity/Paternity Leave Fund, or a higher maternity/paternity grant, than the parent was entitled to under the provisions of this Act, based on the tax authorities' assessment or for other reasons, then the parent shall pay the excess back to the Maternity/Paternity Leave Fund, with a 15% supplement, irrespective of intention or negligence on the part of the parent. If the parent is able to demonstrate, with written materials, that the parent cannot be blamed for any errors that led to the decision by the Directorate of Labour, then the supplement under this Article shall be waived.

Excessive amounts paid by the Maternity/Paternity Leave Fund, or excess payments of maternity/paternity grants, may be offset against credit balances of the parent due to excess payments of tax, child benefit and interest supplement under the Income Tax Act. The



minister responsible for state revenues shall issue a regulation setting out more detailed rules on offsets and priority ranking.

Article 111 of the Income Tax Act, No. 90/2003, shall apply to the collection of excessive amounts paid by the Maternity/Paternity Leave Fund or excessive payments of maternity/paternity grants. The minister may entrust a special collection agent with collecting such amounts.

If a parent has received lower payments from the Maternity/Paternity Leave Fund than the parent should have received according to the tax authorities' assessment, then the Directorate of Labour 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 the first paragraph of Article 8 of the Interest and Indexation Act, No. 38/2001. The same shall apply when the conclusion reached by the Welfare Appeals 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.

Decisions by the Directorate of Labour on the repayment of excessive amounts paid from the Maternity/Paternity Leave Fund or excessive payments of maternity/paternity grants according to the second paragraph may be enforced.

#### Article 42

##### *Reassessment of entitlement to maternity/paternity leave and maternity/paternity grants.*

Where a parent has received higher payments from the Maternity/Paternity Leave Fund, or a higher maternity/paternity grant, than they were entitled to under the provisions of this Act, based on the tax authorities' assessment or for other reasons and repays the excess to the Maternity/Paternity Leave Fund, then the Directorate of Labour shall reassess whether or not the parent has fully utilised its entitlement to maternity/paternity leave or a maternity/paternity grant and inform the parent of the conclusion of the reassessment.

### SECTION X

#### **Limited access to birthing center**

#### Article 43

##### *Special grants due to restricted access to birthing services.*

If, in the opinion of a medical specialist, it is necessary for a pregnant parent to live far from its home in connection with necessary services pertaining to the birth of a child, the parent may be paid a special grant for up to 14 days prior to the expected date of the birth, and up to 28 days in the case of a multiple pregnancy, and also for the days that pregnancy may continue beyond the expected date, providing that the parent lives away from its home on the days in question. Time spent by the pregnant parent staying in a hospital or healthcare facility shall not be counted as part of the period covered by the first sentence. If the child is born before the expected birth date, the parent's entitlement under the first sentence shall lapse as from, and including, the day of the child's birth.

The amount of the grant shall be based on the same rules as apply at any given time regarding *per diem* allowances to public employees as regards accommodation costs on trips within Iceland (*cf.* the advertisement by the Travelling Costs Committee and the committee's circulars).

Applications for grants under the first paragraph shall be made in the form determined by the Directorate of Labour, e.g. as regards whether they are to be electronic or in writing, and shall be accompanied by a certificate from the relevant medical specialist who has attended the parent, giving the specialist's reasons for why, in its opinion, it is necessary for the parent to live far from its home for a specific period before the expected date of this child's birth so



as to secure the appropriate obstetric services for the birth. The original of this certificate shall be submitted to the Directorate of Labour. The Directorate of Labour shall assess the reasoning given by the medical specialist under the first sentence and may request the opinion of another physician when making its assessment.

Payment of the grant under the first paragraph shall be made after the date of the child's birth. Entitlement to grants under the first paragraph shall lapse six months after the child's birth if no application (*cf.* the third paragraph) has been received by the Directorate of Labour before that time.

## SECTION XI **Parental leave.**

### Article 44

#### *Parents' entitlement to take parental leave.*

Parents shall be entitled to four months' parental leave in order to look after their children.

Entitlement to parental leave is established on the birth of a child. In the event of a primary adoption, or the taking of a child into permanent foster care, the time reference shall be when the child enters the home, providing that the measure has been attested by a child welfare committee or other competent authority. If a parent has to fetch the child from another country, parental leave may start at the beginning of the journey, providing that the relevant authorities or institution has confirmed that the child is to be adopted in a primary adoption.

Entitlement to parental leave shall expire when the child reaches the age of eight years. Parental leave entitlement that expires without being utilised, in part or entirely, when the child reaches the age of eight years, shall become valid once again if the child is later diagnosed as suffering from a serious and chronic illness or severe disability, if this happens before the child attains, in full, the age of eighteen years.

Each parent shall have a separate parental leave entitlement, which is not assignable.

Parental leave does not include the right to payment of wages from the Maternity/Paternity Leave Fund.

### Article 45

#### *Structure of parental leave.*

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

By agreement with their employers, parents may, however, take parental leave in other ways, e.g., dividing it into a number of periods and/or taking it concurrently with a reduced job proportion.

Employers shall make an effort to accommodate employees' wishes regarding the taking of parental leave.

Employees may not take more than four months' parental leave in each twelve-month period without special approval from their employers.

### Article 46

#### *Notification of parental leave.*

Employees shall acquire the right to take parental leave after being employed continuously for six months with the same employer. This shall apply whether the employee has been engaged on a permanent or a temporary basis.

An employee who intends to exercise entitlement to parental leave shall notify its employer of this at the first opportunity and at least six weeks before the proposed starting date of the leave. Notifications of taking parental leave shall be made in writing, stating the proposed starting date, length and structure of the leave. The employer shall sign the notification, recording on it the date of receipt, and deliver copies of it to the employee and the Directorate of Labour.



The employer shall record the taking of parental leave, enabling the employee to obtain a certificate stating the number of parental leave days that have been taken if it so desires.

#### Article 47

##### *Postponement or other changes to the structure of parental leave.*

If the employer is unable to grant the employee's request regarding the structure of parental leave, they shall, following consultation with the employee, propose another arrangement within a week from the date of receipt of the notification (*cf.* the second paragraph of Article 46). This shall be done in writing, stating the reasons and, in the event of postponement, the duration of the postponement.

Postponement shall only be permitted when necessitated by special circumstances in the operation of the company/institution, for example in the case of seasonal work, if no qualified replacement can be found, if a considerable part of the workforce applies for parental leave at the same time or if the employee in question is in a key position in the senior management of the company or institution.

In no case may the employer defer parental leave by more than six months from the date when they were supposed to start according to the employee's wishes without the consent of the employee.

Parental leave that is to be taken directly after maternity/paternity leave, or if a child falls so seriously ill as to necessitate the presence of the parent, may not be postponed. Nor is postponement permitted if the employer has agreed to the taking of parental leave or the deadline set out in the first paragraph has passed without a response coming from the employer.

If, in consequence of postponement of parental leave by the employer, the employee is not able to complete the taking of parental leave before its child reaches the age of eight years, then the period during which parental leave may be taken shall be extended to the day on which the child reaches the age of nine.

#### Article 48

##### *Protection of accumulated entitlements.*

Entitlements that an employee has already earned, or is earning on the starting date of parental leave, shall remain unchanged until the end of the leave period. At the end of the leave period, these entitlements, together with any changes that may have occurred on the basis of legislation or collective agreements, shall remain in force.

### SECTION XII

#### **Common provisions.**

#### Article 49

##### *Right to employment.*

The contractual relationship between employee and employer shall remain unchanged during maternity/paternity and parental leave.

The employee shall have the right to return to its job after maternity/paternity or parental leave. If this is not possible, then they shall be entitled to a comparable position with the employer in accordance to the employment contract.

#### Article 50

##### *Protection against termination.*

Employees may not have their employment terminated by reason of having notified the employer of their intention of taking maternity/paternity leave or parental leave under Article 12 or Article 46, or being on maternity/paternity leave or parental leave unless valid reasons apply, in which case reasons for the termination shall accompany notice of termination. The



same shall apply regarding termination of employment of pregnant employees who have recently given birth.

#### Article 51

##### *Compensatory liability.*

Violation of the provisions of this Act by the employer shall entail compensatory liability according to ordinary rules.

#### Article 52

##### *Lapse of parents' entitlements.*

Parents' entitlements to maternity/paternity leave and parental leave shall lapse from the date on which the parent gives the child away for adoption, upbringing or foster care. The same shall apply to parents' entitlements to the payment of maternity/paternity grants under the second paragraph of Article 1.

In cases referred to in the first paragraph, the natural parents shall have a joint entitlement to two months of maternity/paternity leave following the birth of the child. The natural parents (*cf.* the second paragraph of Article 1) shall also have a joint entitlement to the payment of a maternity/paternity grant for two months after the birth of a child.

If one of the parents is entitled to payments from the Maternity/Paternity Leave Fund under Section V and exercises part of the parents' joint entitlement to a maternity/paternity grant under the second paragraph, then the other parent's entitlement to a maternity/paternity grant (if the other parent is entitled to a maternity/paternity grant) under Section VIII shall be reduced proportionally. Similarly, the period during which a parent is entitled to payments from the Maternity/Paternity Leave Fund under Section V shall be shortened if the other parent exercises its entitlement to a maternity/paternity grant during the period in which the parents have a joint entitlement under the second paragraph.

#### Article 53

##### *Incompatible entitlements.*

No parent who draws a maternity/paternity grant or receives payments from the Maternity/Paternity Leave Fund may, during the same period, exercise its entitlement to a maternity/paternity grant or payments from the Maternity/Paternity Leave Fund under this Act in respect of another child.

No parent who receives payments from the Unemployment Insurance Fund under the Unemployment Insurance Act may, during the same period, exercise its entitlement to a maternity/paternity grant, payments from the Maternity/Paternity Leave Fund or parental leave under this Act.

No parent who receives *per diem* accident benefit under the Social Security (Accident Insurance) Act, *per diem* sickness benefit under the Health Insurance Act or a rehabilitation pension under the Social Assistance Act may during the same period exercise its entitlement to a maternity/paternity grant or payments from the Maternity/Paternity Leave Fund under this Act.

No parent who receives payments of *per diem* sickness benefit from the sick-pay fund of a trade union may during the same period exercise its entitlement to a maternity/paternity grant or payments from the Maternity/Paternity Leave Fund under this Act.

No parent who draws compensation from an insurance company replacing wages due to temporary loss of employment may during the same period exercise its entitlement to a maternity/paternity grant or payments from the Maternity/Paternity Leave Fund under this Act.

No parent who receives payments under the Act on Payments to the Parents of Chronically Ill or Seriously Disabled Children may, during the same period, exercise its entitlement to a maternity/paternity grant or payments from the Maternity/Paternity Leave Fund under this Act.





Act. No parent who draws vacation pay may exercise its entitlement to a maternity/paternity grant or payments from the Maternity/Paternity Leave Fund under this Act during the same period as that covered by those payments.

No parent who receives payments in connection with the end of employment, including vacation pay, may exercise its entitlement to a maternity/paternity grant or payments from the Maternity/Paternity Leave Fund under this Act during the same period as that covered by those payments. If a parent receives vacation pay in connection with the end of employment at the same time as they receive a maternity/paternity grant or payments from the Maternity/Paternity Leave Fund, they shall inform the Directorate of Labour of the aforementioned vacation pay immediately, and also of the period for which the vacation pay is intended, this assuming that it will be before the end of the following vacation pay year (*cf.* the Vacation Pay Act). The parent is then not entitled to a maternity/paternity grant or payments from the Maternity/Paternity Leave Fund for the same period, and the parent's maternity/paternity leave shall then be viewed as being postponed for this period, if the period is not yet ended. The parent may then apply for a corresponding change in the structure of maternity/paternity leave or payment of the maternity/paternity grant. Without prejudice to the second sentence, a parent who has given birth to a child shall be on maternity leave for the first two weeks after the birth of the child (*cf.* the third paragraph of Article 8), the parent's maternity leave being deferred until after that time. In other respects, e.g. as regards payments in connection with the end of employment other than vacation pay, the first paragraph of Article 25 shall apply, as appropriate.

Payments from other states in respect of the same birth, primary adoption or taking of a child into permanent foster care, and for the same period, shall be deducted from payments from the Maternity/Paternity Leave Fund under Section V and payments of maternity/paternity grants under Section VIII.

#### Article 54

##### *Annual revision of monetary amounts.*

The monetary amounts of payments to parents from the Maternity/Paternity Leave Fund under the first and third paragraphs of Article 24 and payments of maternity/paternity grants under the first paragraph of Article 38 shall be revised when the national budget is passed each year, taking account of trends in wages, prices and the economy.

Without prejudice to the first paragraph, the minister may, after receiving the approval of the cabinet, change the monetary amounts referred to in the first paragraph, raising them at the beginning of each year if substantial changes have taken place in wage trends and the underlying premises of the national economy since the passing of the budget.

In the event of a change in the monetary amounts on the basis of the first or second paragraphs, the minister shall issue a regulation in which the amounts are changed.

#### Article 55

##### *Prohibition on liens.*

A lien (execution order) may not be imposed on payments from the Maternity/Paternity Leave Fund or maternity/paternity grants under this Act that have not been paid to a parent. It shall furthermore not be permitted to take payments from the Maternity/Paternity Leave Fund or maternity/paternity grants for the payment of public levies other than deductions at source of payments of public levies.

#### Article 56

##### *International agreements.*

International agreements on social security and social affairs to which Iceland is a signatory shall be taken into account in the application of this Act.



#### Article 57

##### *Authorisation for regulations.*

The minister may issue regulations on the application of this Act in further detail, including as regards payments from the Maternity/Paternity Leave Fund, e.g. on the assessment of the employment proportions of self-employed persons, the entitlement of those who are employed on the domestic labour market and are exempt by law from the payment of social insurance tax, the entitlement of those who have worked in other Member States of the Agreement on the European Economic Area (*cf.* also the deeds that have been incorporated under Protocol VI to the Agreement), Member States of the Nordic Agreement on Social Insurance, Member States of the Convention Establishing the European Free Trade Association or the Agreement between the Government of Iceland on the one hand and the Government of Denmark and the Domestic Administration of the Faroe Islands on the other, and what payments from employers may be taken into consideration when calculations are made under the first paragraph of Article 25. The minister's authorisation to issue regulations under the first sentence shall also cover the issuing of regulations setting out more detailed provisions on conditions for the transfer of entitlements under the eighth paragraph of Article 9 and the eighth paragraph of Article 30.

#### Article 58

##### *Commencement and conflict of laws.*

This Act takes effect on 1 January 2021 and applies to the parents of children who are born, adopted or taken into permanent foster care on 1 January 2021 or later.

On commencement of this Act, the Maternity/Paternity and Parental Leave Act, No. 95/2000, shall stand repealed, retaining its validity as regards the entitlements of parents of children who are born, adopted or taken into permanent foster care before 1 January 2021.

#### Article 59

##### *Amendments to other statutes. ...*

### **Interim provisions.**

#### **I.**

The provisions of the first paragraph of Article 8, the first paragraph of Article 26 and the first paragraph of Article 27 shall be revised, particular attention being given to how successfully the aims of this Act (*cf.* Article 2) have been achieved. The minister shall deliver a report to the Althingi on the revision and, as appropriate, submit a bill, within two years of the commencement of this Act.

#### **II.**

A task force shall be appointed by the Ministry of Justice and the Ministry of Social Affairs, including a representative of the National Commissioner of Police, to submit proposals with the aim that unutilised maternity/paternity leave entitlement of a parent who has been placed under a restraining order will be transferred to the other parent. The task force shall examine how this Act is to be amended for this purpose and whether, at the same time, it is necessary to amend the Restraining and Exclusion Orders Act. The working group shall submit its conclusions not later than 1 March 2021. The minister shall, as appropriate, present a bill based on the working group's proposals not later than 1 April 2021.

*Passed by the Althingi on 18 December 2020.*