

Consolidation Act on Entitlement to Leave and Benefits in the Event of Childbirth¹⁾

An Act to consolidate the Act no. 566 of 9 June 2006 on Entitlement to Leave and Benefits in the Event of Childbirth with the amendments that are consequences of section 7 in Act no. 1336 of 19 December 2008 and section 4 in Act no. 494 of 12 June 2009.

Part 1

Objects

1. The objects of this Act are to ensure that parents are entitled to absence in case of pregnancy, childbirth and adoption and to ensure that parents with attachment to the labour market are entitled to maternity benefits during absence in case of pregnancy, childbirth and adoption, etc.

Part 2

Delimitation of the group of persons entitled to absence and maternity benefits under this Act

2. - (1) All parents shall be entitled to absence under this Act.
(2) Benefits, under this Act shall be granted in the form of maternity benefits to employees and self-employed persons.
(3) It shall be a condition for the right to maternity benefits for the persons referred to in subsection (2) that the person fulfils the employment requirement under section 27 for employees or section 28 for self-employed persons.
(4) Maternity benefits that employees are entitled to under subsections (2) and (3) may be disbursed to employers that have paid a salary to an employee during absence, cf. section 39 (1).
(5) The Minister for Family and Consumer Affairs shall lay down specific rules governing maternity benefits for seafarers.

Part 3

Residence and taxation in Denmark

3. - (1) The right to maternity benefits shall be conditional upon the person, at the beginning of the period of absence, residing legally in Denmark or, under Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employees, to self-employed persons, and to members of their families moving within the Community, being Subject to Danish legislation on social security.
(2) Maternity benefits may, however, be disbursed during residence abroad to a person who has been posted abroad by an employer domiciled in Denmark for a maximum of one year's employment where the income of the person posted is taxable in Denmark.
(3) Maternity benefits may, furthermore, be disbursed to a person who at the beginning of the period of absence resides abroad for a period which under section 27 (3) or section 28 (2) is disregarded where assessment is made of whether the employment requirement has been fulfilled.
(4) Persons who under an international agreement on social security are subject to Danish legislation on social security shall be entitled to maternity benefits even if they are not residents of Denmark.
(5) A person who at the beginning of a period of absence is entitled to maternity benefits under subsections (1)-(4) shall retain the right to maternity benefits for the remaining part of this period irrespective of where the person resides.
4. - (1) The right to maternity benefits shall be conditional upon the income included in the basis of calculation under Part 8 being taxable in Denmark.
(2) Maternity benefits may, however, be disbursed to persons whose income is not subject to subsection (1) where
(i) the income is taxable in the Faroe Islands or in Greenland and
(ii) those concerned are not or are no longer entitled to maternity benefits or other compensation for loss of income under the legislation for the Faroe Islands and Greenland, and those concerned in other respects are either residents of Denmark or are residents of Greenland or the Faroe Islands, and the income derives from employment in Denmark or aboard a Danish ship.

(3) Persons who under Regulation (EEC) No 1408/71 are subject to Danish legislation on social security shall be entitled to maternity benefits even if their income subject to subsection (1) is not taxable in Denmark.

(4) Persons who under an international agreement on social security are subject to Danish legislation on social security shall be entitled to maternity benefits even if their income subject to subsection (1) is not taxable in Denmark.

(5) Where a person who is entitled to maternity benefits under this Act receives a salary from a foreign employer in case of pregnancy, childbirth and adoption, the employer shall be entitled to reimbursement of maternity benefits, cf. section 39.

5. Persons who are residents of Denmark or have income subject to section 4 (1) may not obtain maternity benefits if they under the legislation of another country or under the legislation for the Faroe Islands or Greenland are entitled to benefits or other compensation for loss of income or if they under Regulation (EEC) No 1408/71 are subject to another Member State's legislation on social security.

Part 4

Right to absence in case of pregnancy, childbirth and adoption

Right to absence during pregnancy

6. - (1) A woman shall be entitled to absence from work due to pregnancy from the beginning of a four-week period preceding the expected date of childbirth.

(2) A pregnant woman shall be entitled to absence prior to the four-week period before childbirth if

(i) it appears from a medical assessment that the pregnancy is taking an abnormal course, thereby involving a risk to the woman's health or to the health of the foetus in case of continued employment or

(ii) the special nature of the work involves a risk to the foetus, or where the pregnancy prevents her from carrying out her work due to public authority requirements, and the employer is unable to offer her any suitable alternative employment.

(3) A woman shall be entitled to absence from work in order to attend ante-natal examinations where such examinations must take place during working hours.

Right to absence for the first 14 weeks after childbirth

7. - (1) A mother shall have a right and a duty to absence for the first two weeks after childbirth. Subsequently, she shall be entitled to absence for another 12 weeks.

(2) The father shall assume the mother's right to absence under subsection (1) if the mother dies or due to illness proves unable to care for the child.

(3) A father shall be entitled to absence for two consecutive weeks after childbirth or from the reception of the child in the home or subject to agreement with his employer within the first 14 weeks after childbirth.

Adopters' right to absence in case of adoption

8. - (1) Prospective adopters residing abroad in order to receive a child shall each of them be entitled to absence from work for up to four weeks prior to receiving the child. The right to absence shall be prolonged for up to four weeks if the stay abroad prior to the reception of the child exceeds four weeks for reasons that cannot be ascribed to the prospective adopters.

(2) The child shall be considered received when the official conditions for returning to Denmark with the child have been fulfilled.

(3) It shall be a condition for entitlement to absence under subsection (1) that it is a matter of an adoption arranged by an organisation approved under the Danish Adoption Act, or a privately conducted adoption of a foreign child subject to the approval of the Department of Family Affairs.

(4) Prospective adopters who are to receive an adopted child in Denmark are entitled to absence for up to one week prior to receiving the child unless the child already resides in the adopters' home. It shall be a precondition that the adopters in consideration of the child stay in the place where the child is staying prior to the reception of the child. The right to absence shall be prolonged by up to one week if the stay exceeds one week for reasons that are not the fault of the prospective adopters.

(5) Where the authorities in charge of the adoption have decided that the adopter or one of the adoptive spouses must stay at home for a period of time, the parents shall be entitled to absence under subsections (6) and (7).

(6) For the first 14 weeks after receiving the child, one of the adoptive parents at a time shall be entitled to absence apart from a right to absence at the same time for two consecutive weeks. It shall be possible to begin exercising the right to absence under subsection (7) within the first 14 weeks after the reception of the child.

(7) After the 14th week following the reception of the child, the adopters shall be entitled to absence from work during parental leave under sections 9 and 10.

(8) In case of adoption a stepchild of a registered partner's child, the adopter shall be entitled to absence for two consecutive weeks after childbirth or from the reception of the child in the home or subject to agreement with the adopter's employer within the first 14 weeks after childbirth. After the 14th week after the childbirth or from the reception of the child in the home the adopter is entitled to absence under sections 9 and 10. If the mother dies or due to illness proves unable to care for the child, the adopter shall be entitled to assume the mother's right to absence under section 7 (2).

Right to absence during parental leave

9. After the 14th week following childbirth or the reception of the child, either parent shall be entitled to parental leave for 32 weeks. The father shall, however, be entitled to begin the parental leave within the first 14 weeks after childbirth.

10. Either parent shall be entitled to prolong the parental leave under section 9 from 32 weeks to 40 weeks. Employees and self-employed persons shall be entitled to prolong the parental leave under section 9 from 32 weeks to 46 weeks.

Right to return to work and to postpone the right to absence

11. Employees shall be entitled to return to work and postpone a minimum of eight weeks and a maximum of 13 weeks of the right to absence under section 9. The right to postpone absence may only be exercised by one of the parents. When taken, the postponed absence must be taken in one consecutive period. The postponed right to absence must be exercised before the child reaches the age of nine.

12. - (1) Subject to agreement with the employer, an employee may return to work in full or in part during absence under sections 6-11, but see subsection (5).

(2) In case of agreement on a partial return to work during absence under section 7, section 8 (6) and (8) and section 9, it may be agreed to prolong the right to absence by the time in which work has been resumed.

(3) In case of agreement on a full return to work during absence under section 9, it may be agreed to postpone the right to absence by the time in which work has been resumed.

(4) Any postponed right to absence must be exercised before the child reaches the age of nine. If an employee resigns before the postponed right to absence has been exercised, the right to absence shall be conditional upon the employee concluding an agreement with the new employer on the postponed right to absence.

(5) The right to return to work under subsection (1) shall not include the mother's absence for the first two weeks after childbirth.

Right to absence in special cases

13. - (1) If the child is stillborn, dies or is put up for adoption before the 32nd week after childbirth, the mother shall be entitled to absence for 14 weeks after the death of the child or after the child has been put up for adoption. In cases where the mother suffers from a pregnancy-related disease, the right to absence shall be prolonged, but no longer than until 46 weeks after childbirth. If the child is stillborn or dies before the 32nd week after childbirth, the father shall retain the right to absence under section 7 (3). Similarly, the registered partner, who has adopted the stepchild, shall retain the right to absence under section 8 (8) 1st sentence, if the child is stillborn or dies before the 32nd week after childbirth.

(2) If an adopted child dies before the 32nd week after the reception of the child, one of the adoptive parents shall be entitled to absence for 14 weeks after the death of the child.

14. - (1) If the child has been admitted to hospital, the period of right to absence shall be prolonged or postponed.

(2) Provided work is not resumed at the time of admittance to hospital, the period of right to absence shall be prolonged by the period in hospital if admittance to hospital takes place during the first 46 weeks after childbirth or the reception of the child. The right to absence may, however, not be prolonged for more than three months. The right to prolong the period of absence shall not apply to the parents' right to absence under section 7 (3) or adopters' right to absence at the same time under section 8 (6) and (8).

(3) If work is continued or resumed at the time of admittance to hospital, the right to absence for the remaining period shall be postponed till after discharge from hospital. It shall be a condition that discharge takes place within 60 weeks from childbirth or the reception of the child.

Employees' obligation to inform their employers regarding the exercise of the right to absence

15. - (1) A female employee must at three months' notice inform her employer of the expected date of childbirth and whether she intends to exercise the right to absence before childbirth, cf. section 6 (1).

(2) A female employee who exercises her right to absence for the first 14 weeks after childbirth, cf. section 7 (1), must within eight weeks after childbirth inform her employer of when she will return to work.

(3) A male employee who wishes to exercise his right to absence after childbirth, cf. section 7 (3), must no later than four weeks before the expected beginning of the absence inform his employer hereof and of the duration of the absence.

(4) An employee who wishes to exercise his/her right to parental leave, cf. sections 9 and 10, must within eight weeks after childbirth or the reception of the child inform the employer of the date of the beginning of the absence and of the duration of the absence. Provided the right to absence is exercised so that the employee's absence falls in several periods, the information must include the beginning and the duration of later absence.

(5) In case of absence under section 8, adopters must to the extent possible observe deadlines corresponding to the deadlines referred to in subsections (1)-(4).

(6) An employee who exercises his/her right to absence because the child has been admitted to hospital within the first 46 weeks after childbirth or the reception of the child in the home, cf. section 14, must, without undue delay, inform the employer of the admission to hospital. The parents must, without undue delay, inform their employers of when the child is received in the home after admission to hospital. If the child is received before notice has been given under subsections (2)-(5), the deadline for this shall be prolonged by the time the child has spent in hospital. If the child is received in the home after notice has been given under subsections (2)-(5), the notices given shall lapse and new notice must be given within two weeks after the reception of the child.

(7) A father who assumes the mother's right to absence under section 7 (2) or section 8 (8) must, without undue delay, inform his employer hereof and of the duration of the absence.

16. - (1) An employee who wishes to postpone between 8 and 13 weeks of the parental leave, cf. section 11, must inform the employer hereof no later than eight weeks after childbirth or the reception of the child.

(2) An employee who wishes to exercise the right to leave that has been postponed under section 11 must at 16 weeks' notice inform the employer of the date of the beginning of the absence and of the duration of the absence. If the employee fails to give notice of the absence in time, the right to absence cannot be exercised until the notice given has expired.

17. The employee shall be entitled to change the exercise of the right to absence if new notice is given before the expiry of the deadline for giving notice under section 15 (1)-(5) and section 16. The employee shall be entitled to change the exercise of the right to absence if circumstances arise that make it unreasonable to maintain the right to absence as noticed.

Part 5

Right to maternity benefits during absence in case of pregnancy, childbirth and adoption, etc.

18. The employer shall pay benefits during absence from work due to ante-natal examinations cf. section 6 (3). The provision shall not apply to the extent that a duty for the employer to pay benefits or other adequate allowance follows from a collective agreement that as a minimum corresponds to the provisions laid down in Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant employees and employees who have recently given birth or are breastfeeding

19. Under the rules of this Part, the local authority shall pay maternity benefits during absence in case of pregnancy, childbirth and adoption to persons who fulfil the conditions for entitlement to maternity benefits, including the employment requirement for employees laid down in section 27 or for self-employed persons laid down in section 28.

20. - (1) In case of absence under section 6 (1) and (2) and sections 7, 8, 13 and 14, the local authority shall pay maternity benefits calculated under Part 9.

(2) In case of payment of benefits during absence under section 6 (2) (i), the local authority shall conduct referral and follow-up under Part 6 of the Act on Sickness Benefits.

21. - (1) In case of absence during parental leave, cf. sections 9 and 19, the parents shall jointly be entitled to maternity benefits calculated under Part 9 for 32 weeks until 46 weeks after childbirth or the reception of the child.

(2) If the absence is prolonged under section 10, the payment of benefits shall cease when maternity benefits have been disbursed in total to the parents without any reduction under subsection (3) for 32 weeks.

(3) If the parents request the local authority therefore, the payment of maternity benefits during absence under section 10 may, however, be extended, making them payable for 40 weeks in that the weekly benefit amount calculated under Part 9 is reduced so that the total benefit payment does not exceed an amount corresponding to full maternity benefits for 32 weeks. For employees and self-employed persons, the payment of maternity benefits during parental leave may be extended, making them payable for 46 weeks.

(4) The reduction under subsection (3) which must include the maternity benefits for both parents shall take place from the time requested of the local authority by the parents and shall be distributed on the remaining extended benefit period.

(5) After the payment of reduced maternity benefits has started, the parents shall not have the possibility to return to work partly or entirely with the effect that the right to maternity benefits that is not exercised may be exercised at a later stage under section 23.

(6) The Minister for Family and Consumer Affairs may lay down specific rules governing the right to benefits under subsection (1) where only one of the parents is subject to Danish legislation on social security.

22. - (1) Employees and self-employed persons may return to work in full or in part in the periods in which there is a right to maternity benefits under sections 20 and 21. This shall, however, not apply to a mother for the first two weeks after childbirth.

(2) No maternity benefits shall be paid for weeks in which there is a full return to work.

(3) The Minister for Family and Consumer Affairs shall lay down rules governing the payment of maternity benefits for weeks in which there is a partial return to work.

23. - (1) In case of a partial return to work during absence under sections 7, 8 (6) and (8) and section 9, the right to maternity benefits, to the extent that this is not exercised by the other parent, may be prolonged by the time in which work has been resumed and be disbursed during later absence, but see section 21 (5).

(2) In case of a return to work or beginning of work during absence under section 9, the right to maternity benefits, to the extent that this is not exercised by the other parent, may be postponed by the time in which work has been resumed and be disbursed during later absence, but see section 21 (5).

(3) The right to maternity benefits during later absence shall be conditional upon the benefit recipient fulfilling the employment requirement laid down in section 27 or section 28 when the postponed leave is to be taken.

(4) The right to maternity benefits during later absence shall, furthermore, be conditional upon the applicant being in employment immediately prior to the period of absence.

(5) The right to maternity benefits during later absence shall lapse when the child reaches the age of nine.

24. The Minister for Family and Consumer Affairs may lay down specific rules governing the right to benefits under sections 18-23, including rules governing how the maternity benefits are to be distributed between the child's parents.

Entitlement to holiday allowance during maternity leave

25. - (1) Where maternity benefits are disbursed during absence under section 7 (1) or (2), or section 8 (6) 1st sentence and section 8 (8), a right to holiday allowance shall accrue. The holiday allowance shall be disbursed in the following holiday year.

(2) This right shall not apply to the extent that a right is earned within the period referred to in subsection (1) to

- (i) holiday with pay and holiday supplement under the Holiday Act, collective agreement, etc.,
- (ii) holiday allowance under the Holiday Act, etc., which as a minimum corresponds to the benefit rate under section 35 (1), or
- (iii) holiday benefits with a right to payment in the following holiday year under the Act on Unemployment Insurance, etc.

(3) The employment requirement, cf. section 27, shall, similarly, apply to the payment of holiday allowance under this provision at the beginning of the holiday in the following holiday year.

(4) Section 33 (1) and section 35 shall, similarly, apply to the calculation of holiday allowance under this provision.

(5) The Minister for Family and Consumer Affairs shall lay down specific rules governing the entitlement to holiday allowance and payment of holiday allowance.

Right to benefits in order to care for seriously ill children

26. - (1) Parents with seriously ill children under the age of 18 shall be entitled to benefits from the local authority if they, due to the child's illness, wholly or partly give up paid work or personal work in a self-employed business.

(2) It shall be a condition that the child's illness is deemed to require a period of admission to hospital or a similar institution for 12 days or more. Treatment or care provided in the home may be equated with a period of admission to hospital if the child's needs in connection with the illness so advocate.

(3) The requirement set out in subsection (2) of a sickness period of 12 days or more shall not apply to periods of admission to hospital for children of single providers who are entitled to ordinary child benefits under section 2 (i) or (ii) of the Consolidation Act on Child Benefits and Advance Payment of Child Support.

(4) The local authority may in special cases decide that the child's parents may be granted a higher benefit amount than laid down in section 35 (1).

(5) Under subsection (1), benefits may be granted for a maximum of 52 weeks within the previous 18 calendar months.

(6) The Minister for Family and Consumer Affairs shall lay down specific rules governing the conditions for payment of benefits to parents with seriously ill children under the age of 18, including rules governing how the benefits are to be distributed between the child's parents.

Part 6

Employment requirements

27. - (1) An employee shall be entitled to maternity benefits from the local authority where the person concerned

- (i) has been attached to the labour market continuously for the last 13 weeks prior to the beginning of the period of absence and in this period has been employed for a minimum of 120 hours,

- (ii) would have been entitled to unemployment benefits or an allowance in lieu thereof, cf. the Act on Unemployment Insurance, etc., if there had been no right to benefits under this Act,

- (iii) has within the last month completed vocational training of a minimum of 18 months' duration or

- (iv) is a trainee in paid practice as part of training that is regulated by or pursuant to statute.

(2) In the calculation of the 13-week period of subsection (1) (i), periods shall be included in which the employee has

- (i) worked as an employee,

- (ii) worked as a self-employed person immediately prior to the work as an employee and with the activity has fulfilled the employment requirement under section 28,

- (iii) received benefits under the Act on Sickness Benefits or benefits under this Act,

- (iv) received unemployment benefits or an allowance in lieu thereof,

- (v) taken holiday with pay or holiday allowance,

(vi) received compensation during a period under notice from the Employees Guarantee Fund or
(vii) been subject to an industrial dispute.

(3) Where assessment is made of whether the employment requirement under subsection (1) has been fulfilled, periods of up to one year in which leave allowance has been disbursed under the Act on Childcare Leave shall be disregarded. Furthermore, periods of up to two years shall be disregarded where, under the Act on Social Services, compensation has been granted for lost earnings in order to care for a disabled child in the home or where, under the same Act, payment has been granted in order to care for a dying person or, under section 26 of this Act, benefits have been granted to parents with seriously ill children.

28. - (1) The right to maternity benefits for a self-employed person shall be conditional upon self-employed activity having been exercised within the last 12 months for at least half of the normal weekly working hours relating to collective agreements for a minimum of six months, the last month of which prior to the absence. If the self-employed activity has been exercised for less than six months, periods of prior employment as an employee shall be included.

(2) Where assessment is made of whether the employment requirement under subsection (1) has been fulfilled, periods of up to one year in which leave allowance has been disbursed under the Act on Childcare Leave shall be disregarded. Furthermore, periods of up to two years shall be disregarded where, under the Act on Social Services, compensation has been granted for lost earnings in order to care for a disabled child in the home or where, under the same Act, payment has been granted in order to care for a dying person or, under section 26 of this Act, benefits have been granted to parents with seriously ill children.

29. - (1) It shall be a condition for the payment of maternity benefits that the employment requirement of section 27 or the employment requirement of section 28 has been fulfilled at the beginning of a period of absence.

(2) Maternity benefits may, however, be disbursed from the date when a person after the beginning of the absence fulfils the employment requirement referred to in section 27 (1) (ii).

(3) Where a calculation is made of the employment requirement under subsection (1), periods shall be included in which a woman due to the special nature of the working conditions has had to cease working more than four weeks before childbirth or where it is deemed necessary from a medical assessment for the woman to be spared work.

(4) The conditions laid down in subsection (1) shall not apply to the payment of benefits during ante-natal examinations under section 18.

Part 7

The submission of application for maternity benefits by persons entitled to benefits

30. - (1) Where a request is submitted for maternity benefits under section 20 in case of absence prior to four weeks before expected childbirth, cf. section 6 (2), the absence must be reported and documented to the local authority under the rules laid down in sections 38 and 39 of the Act on Sickness Benefits for employees and under the rules laid down in sections 43 and 44 of the Act on Sickness Benefits for self-employed persons.

(2) A request for maternity benefits under sections 20-23 otherwise must be submitted to the local authority no later than eight weeks after childbirth or the reception of the child. If a period of absence begins at a later stage, the request for maternity benefits must be submitted no later than eight weeks after the first day of absence in this period.

(3) If the employer has paid a salary to an employee during the absence, the employee's request for maternity benefits after the salary has ceased to be paid shall be submitted to the local authority no later than eight weeks after the salary has ceased to be paid by the employer.

(4) If the request has been submitted after the deadlines set out in subsections (2) and (3), the right to maternity benefits shall lapse for the period prior to the request.

(5) The Minister for Family and Consumer Affairs may lay down specific rules governing the way in which an application under subsection (2) must be submitted.

31. - (1) A request for benefits in order to care for seriously ill children under section 26 must be submitted to the local authority no later than one week after the child has recovered. A request for benefits under section 26 (3) and (4) must be submitted no later than one week after the child has been discharged from hospital or a similar treatment institution.

(2) The Minister for Family and Consumer Affairs may lay down specific rules governing the way in which an application under subsection (1) must be submitted.

Part 8

The basis of calculation of maternity benefits

32. - (1) Maternity benefits shall be granted on the basis of income from employment or other earnings that replace income from employment, cf. subsection (2), and income from self-employed activity.

(2) The Minister for Family and Consumer Affairs shall lay down rules governing which earnings are to be considered income from employment, and which earnings are to be considered income from self-employed activity, and rules governing the calculation of maternity benefits on the basis of earnings from self-employed activity, including rules governing the application of income information from the tax administration.

33. - (1) Maternity benefits for employees who are absent shall be calculated on the basis of the weekly hours and the hourly income which the employee would have had during absence after payment of the social security contribution. If this income in the individual case is not appropriate for the calculation of maternity benefits, average earnings within the last four weeks prior to the beginning of the absence shall be used instead.

(2) The Minister for Family and Consumer Affairs shall lay down rules governing

(i) cases in which average earnings within the last four weeks may be applied, cf. subsection (1),

(ii) cases in which other calculation periods than those laid down in (i) may be applied, and

(iii) the possibility of departing from the rules laid down in subsection (1) and section 35 (1) for employees with changing working hours.

(3) The Minister for Family and Consumer Affairs shall lay down rules governing the payment of maternity benefits for weeks in which there is a partial return to work.

34. Maternity benefits for persons who work flexible hours, cf. Part 13 of the Act on Active Employment Measures, shall be calculated on the basis of the number of hours multiplied by the payment by the hour on which the calculation of the local authority's grant to the employer is based.

Part 9

The amount of maternity benefits

35. - (1) Maternity benefits for employees under section 33 may not exceed DKK 3,332 a week and not more per hour than this amount divided by the normal weekly working hours relating to collective agreements.

(2) Unless otherwise stated, maternity benefits shall be disbursed to employees on the basis of a five-day week in equally large proportions per day.

36. Maternity benefits for an unemployed member of a recognised unemployment fund shall total the same amount as the person could have received in the form of unemployment benefits if the person concerned had not received benefits under this Act.

37. - (1) Maternity benefits for self-employed persons may not per week total more than the amount referred to in section 35 (1). If a voluntary insurance has been taken out under the rules laid down in Part 16 of the Act on Sickness Benefits, the maternity benefits shall total at least 2/3 of the amount referred to in section 35 (1).

(2) Maternity benefits shall be paid to self-employed persons on the basis of a five-day week from Monday to Friday in equally large proportions per day.

(3) The Minister for Family and Consumer Affairs shall lay down rules governing the payment of maternity benefits for weeks in which there is a partial return to work.

Adjustment of the maternity benefit amount

38. The benefit amount referred to in section 35 (1) shall be adjusted once a year as of the first Monday in January by the rate adjustment percentage, cf. the Act on a Rate Adjustment Percentage. The adjusted amount shall be rounded to the nearest full amount divisible by five. The rounded amount shall constitute the basis for the rate adjustment of the year ahead.

Part 10

Reimbursement and funding, etc.

The employer's right to reimbursement of maternity benefits

39. - (1) An employer who pays a salary to an employee during absence from work shall be entitled to have the maternity benefits disbursed which the employee otherwise would have a right to from the local authority regarding the same employment relationship, subject to a maximum amount corresponding to the salary disbursed during the absence.

(2) If the employee is paid a salary during absence by several employers, the maternity benefits shall be distributed among the employers relative to the benefit amounts to which the individual employment relationships are entitled.

(3) An employer who pays a salary to an employee during absence under section 6 (2) must in order to claim reimbursement, cf. section 40 (2), notify the absence to the employee's municipality of residence no later than four weeks after the first day of absence.

Notification of reimbursement claim

40. - (1) An employer who under section 39 is entitled to reimbursement of maternity benefits must notify the reimbursement claim to the employee's municipality of residence.

(2) The employer's request for reimbursement of a salary paid to an employee in case of absence prior to four weeks before expected childbirth, cf. section 6 (2), shall be made under the provisions laid down in Part 22 of the Act on Sickness Benefits.

(3) The employer's request for reimbursement of a salary paid to an employee in case of absence otherwise due to pregnancy, childbirth and adoption under sections 20-23 must be submitted to the local authority no later than eight weeks after the end of a leave period. If the request is submitted after this deadline, the right to reimbursement shall lapse for this period.

(4) A leave period shall be regarded as ended when within one week there has been no absence that entitles the employer to reimbursement.

(5) The employer's request for reimbursement of benefits paid under section 26 in order to care for seriously ill children must be submitted to the local authority within the deadlines for application set out in section 31.

(6) No reimbursement can be provided for any salary or benefits paid in case of absence due to ante-natal examinations, cf. section 18.

(7) Where a reimbursement claim is notified, the employee must confirm the information regarding absence and salary paid.

(8) The employee's confirmation of the employer's information may be disregarded where special reasons so advocate and the employer in another satisfactory manner documents absence or a reimbursement claim.

(9) The Minister for Family and Consumer Affairs may lay down specific rules governing the way in which the employer's reimbursement claim must be notified to the local authority.

Funding

41. No reimbursement shall be provided for expenditure on benefits under section 18.

42. - (1) The Government shall pay 100 per cent of the local authority's expenditure under this Act, but see subsection (2).
(2) The Government shall pay 50 per cent of the local authority's expenditure on benefits under section 26.

43. The Government shall provide reimbursement in advance for the local authority's expenditure that is refundable under this Act.

Part 11

Contributions to the Danish Labour Market Supplementary Pension Scheme

44. - (1) In case of payment of benefits from the local authorities under this Act to employees aged 16-66, twice the amount shall be paid of the contribution determined under section 15 (1) compared with section 2 a and section 4 a of the Act on the Labour Market Supplementary Pension Scheme. No contribution shall be paid where the person concerned has decided to have the supplementary pension disbursed from the age of 65 or later.

(2) Detailed rules governing the calculation of the contribution shall be determined by the board of the Labour Market Supplementary Pension Scheme under the principles laid down in section 15 of the Act on the Labour Market Supplementary Pension Scheme.

(3) The employee shall pay 1/3 of the contribution whereas 2/3 shall be paid by the local authority.

(4) The employee's contribution calculated by the local authority shall be rounded to the nearest full amount. The local authority's share of the contribution shall constitute twice this amount.

(5) The employee's share of the contribution shall be withheld from the benefits paid.

45. - (1) The local authority's payment to the Labour Market Supplementary Pension Scheme shall be covered by a contribution from the employer. The local authority's expenditure on payment under section 44 (3) shall be paid by the Government.

(2) The employer's contribution shall be calculated in proportion to the number of employees from employers who receive maternity benefits from the local authority.

(3) The employers' financing contribution shall be paid together with the employers' contribution to cover the local authority's payment to the Labour Market Supplementary Pension Scheme for sickness benefits under the rules hereof laid down in section 66 of the Act on Sickness Benefits.

46. In case of payment of benefits under section 18 from employers during absence due to ante-natal examinations, contributions shall be paid to the Labour Market Supplementary Pension Scheme under the rules that appear from Part 26 of the Act on Sickness benefits.

47. - (1) In case of payment of benefits under this Act to employees, special pension savings shall be paid that constitute the amount laid down in section 17 (3) of the Act on the Labour Market Supplementary Pension Scheme.

(2) The local authority or the employer shall deduct the savings from the calculated benefits with a view to paying the amount to the Labour Market Supplementary Pension Scheme at the end of each quarter. Each share of amount for one week shall be rounded down to the nearest full amount.

(3) Subject to recommendation by the board of the Labour Market Supplementary Pension Scheme, the Minister for Family and Consumer Affairs shall lay down specific rules governing the payment of the amount under subsections (1) and (2) and governing the notification thereon to the Labour Market Supplementary Pension Scheme, including that amounts withheld by the employer shall be deemed to be and shall be paid and reported together with contributions under section 65 (1) of the Act on Sickness Benefits.

Part 12

Administration, etc.

48. - (1) The local authority shall decide on the right to maternity benefits, cf. the rules governing residential local authority and inter-municipal reimbursement laid down in Part 3 of the Act on Legal Protection and Administration in Social Matters.

(2) The Minister for Family and Consumer Affairs shall lay down rules governing which local authority has the obligation to act in matters regarding maternity benefits for persons staying or residing abroad.

49. - (1) Persons who receive allowances under this Act must inform their employer of any changes to their conditions or other circumstances that may imply changes to or a lapse of benefits, including the employer's possibility of receiving reimbursement.

(2) A person who has disregarded his/her duty of disclosure under subsection (1) or under section 11 of the Act on Legal Protection and Administration in Social Matters or otherwise against his/her better judgement has wrongfully received allowances under this Act must pay back the amount that has wrongfully been received.

(3) The repayment of amounts shall be demanded by the local authority under rules laid down by the Minister for Family and Consumer Affairs in consultation with the Minister for Taxation.

(4) Claims for the repayment of overpaid allowances under this Act may be offset against other statutory allowances.

50. Claims for allowances under this Act may not be taken in execution or other legal proceedings unless three months have passed from the day when a claim could be made for the allowance to be disbursed. Agreements on such claims shall be invalid.

51. - (1) The payment of maternity benefits shall cease for a person who has been detained as a result of a court decision or administrative decision. If the person concerned performs work on the ordinary labour market during detention with the permission of the Prison and Probation Service, the right to maternity benefits shall, however, be upheld under the general rules.

(2) The Prison and Probation Service must notify the local authority if a maternity benefit recipient is subjected to serving a sentence or other detaining measures, including custody.

52. - (1) The payment of maternity benefits shall cease for a person who consciously evades prosecution in this country in cases where

(i) the person concerned is remanded in custody,

(ii) the police are searching for the person concerned with a view to remanding him/her in custody or

(iii) a custody order has been issued.

(2) The payment of benefits shall, furthermore, cease for a person who consciously evades the enforcement of sentence in this country if the person concerned has been sentenced to an unconditional prison term or other criminal sanction that implies or opens up for detention.

(3) Where the police or the Prison and Probation Service suspects that a person who consciously evades prosecution, cf. subsection (1), or the enforcement of sentence, cf. subsection (2), at the same time receives maternity benefits, the local authority must be notified of the evasion.

53. If prosecution, cf. section 52 (1), is not followed by a conviction, the local authority shall disburse maternity benefits for the period in which the person was detained or evaded prosecution. The benefits shall, however, not be paid back to the deceased's estate if the person dies before judgement has been pronounced in the case.

Part 13

Complaints rules

54. - (1) Until 31 December 2006, decisions by the local authority on the right to maternity benefits may be brought before the social complaints board, cf. Part 10 of the Act on Legal Protection and Administration in Social Matters.

(2) As of 1 January 2007, decisions by the local authority on the right to maternity benefits shall be brought before the Employment Appeals Board, cf. Part 8 of the Act on Responsibility for and Management of Active Employment Measures. The complaint shall be considered under the rules laid down in Part 10 of the Act on Legal Protection and Administration in Social Matters.

(3) Employees who use their right to absence under Part 4 shall be subject to the protective provisions laid down in the Act on Equal Treatment of Men and Women as regards Access to Employment, etc.

Part 14

Commencement and transitional provisions

55. - (1) The Act shall come into force on 3 July 2006.

(2) Section 11, section 12 (1), sections 13, 14, 15, 16, 16 a, 17, 18, 19 and 19 a of the Act on Benefits in the Event of Illness or Childbirth, cf. Consolidation Act no. 1047 of 28 October 2004, shall be repealed, but see section 56 (3).

56. - (1) Where calculations are performed of periods with a right to benefits under this Act, periods shall be included in which prior to the commencement of the Act benefits have been disbursed in case of pregnancy, childbirth and adoption and in order to care for seriously ill children under the Act on Benefits in the Event of Illness or Childbirth.

(2) Where calculation is made of periods of employment under sections 27 and 28, employment prior to the commencement of the Act shall be included.

(3) For periods of absence in which the first day of absence is prior to 3 July 2006, and in which the absence continues after this date, the existing rules shall apply.

(4) The rate adjustment under section 64 of the maternity benefit amount referred to in section 35 (1) shall take place on the first Monday in January 2007 on the basis of the rate as of 1 January 2006 for unemployment benefits.

57. – 59. (omitted)

60. This Act shall not extend to the Faroe Islands and Greenland.

Act no. 566 of 9 June 2006 on Entitlement to Leave and Benefits in the Event of Childbirth, that contains amendment concerning section 49, contains following commencement provision:

Section 167

(1) This Act shall come into force on 1 January 2009 ---

(2) ---

Act no. 566 of 9 June 2006 on Entitlement to Leave and Benefits in the Event of Childbirth, that contains amendment concerning section 8 (8), section 12 (2), section 13 (1), section 14 (2), section 15 (7), section 23 (1) and section 25 (1), contains following commencement provision:

Section 6

(1) This Act shall come into force on 1 October 2009.

(2) --- section 8 (8), section 12 (2), section 13 (1), section 14 (2), section 15 (7), section 23 (1) and section 25 (1) in Act no. 566 of 9 June 2006 on Entitlement to Leave and Benefits in the Event of Childbirth, as drafted respectively amended in section 4 of this Act, shall come into force on 1 July 2009.

Ministry of Employment, 13 November 2009

Inger Støjberg

/Lise Fangel

Official notes

¹⁾ This Act contains provisions that implement Article 8 and Article 9 of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant employees and employees who have recently given birth or are breastfeeding. Furthermore, this Act contains provisions that implement section 2 (1) of the framework agreement on parental leave concluded by UNICE, CEEP and the EFS, and which are to be implemented under Council Directive 96/34/EC of 3 June 1996.