

## **REPUBLIC OF SAN MARINO**

### **MEASURES TO SUPPORT THE FAMILY**

**We, the Captains Regent**

**of the Most Serene Republic of San Marino**

*promulgate and order the publication of the following Law passed by the Great and General Council in its sitting of 29 October 2003.*

#### **Article 1**

(Pregnancy and puerperium)

Without prejudice to the allowances granted to pregnant women and puerperae for a maximum period of 150 days, working mothers may request that such period be calculated starting from 90-60 days prior to the expected date of delivery.

Working mothers shall also have the right to be absent from work as from the 30th day prior to the expected date of delivery, provided that the treating specialist physician, having heard, if necessary, the opinion of the occupational physician of the Occupational Medicine Service, certifies that this shall not prejudice, nor pose any risk to the health of the mother and/or the foetus, in consideration of the nature of the mother's working activity. After the birth of the baby, the allowance shall be granted for a maximum period of 120 days.

From the 90th till the 30th day prior to the expected date of delivery, working mothers shall be declared temporarily unable to work, as certified by the treating specialist physician, due to pregnancy and puerperium. In any case, working mothers shall be entitled to a 150-day allowance as a whole, starting from the date on which they are granted the mandatory maternity leave.

In case of premature delivery, working mothers may receive, upon request, a 150-day allowance as a whole.

Starting from the date on which the payment of the allowance is requested, women cannot resume working for 150 days, and in any case for 60 days following delivery.

At the end of the 150 days, and provided that 60 days have elapsed since delivery, the Social Security Institute shall provide the working mother with a special certificate stating that the mandatory maternity leave has ended.

Working fathers shall have the right to be absent from work until the 90th day following the birth of the child if the mother dies, is seriously disabled or abandons the child. The mother's serious disability shall be certified according to the procedures in paragraph 6 of Article 5.

The father shall be entitled to an allowance equivalent to that envisaged for puerperium.

## **Article 2**

(Rules safeguarding working mothers during pregnancy and puerperium)

It shall be absolutely prohibited for women to work during the 30 days prior to the expected date of delivery, or during the 60 days prior to the expected date of delivery if the treating specialist physician, having heard, if necessary, the opinion of the occupational physician of the Occupational Medicine Service, certifies that this shall prejudice or pose a risk to the health of the mother and/or the foetus, in consideration of the nature of the mother's working activity, and during the 60 days following delivery. During this period, working mothers may formally accept any working task, which, however, remain suspended until the end of the same period.

Similarly, it shall be prohibited to dismiss working mothers throughout the mandatory maternity leave provided for by law.

The absolute nullity of any dismissal for reasons connected with pregnancy and puerperium is reconfirmed.

With regard to fixed-term labour contracts, in case of expiry during the mandatory maternity leave, working mothers shall be equally entitled to the allowances under the first paragraph of the preceding Article, for a maximum period of 150 days. To this end, working mothers must have been employed for at least two months and, in the six preceding months, they must have been employed with an open-term labour contract, or registered in the unemployment lists.

The temporary allowance under the preceding Article shall be paid directly by the Social Security Institute only for the period following the termination of the working relationship.

## **Article 3**

(Post-partum leave)

Working mothers shall be entitled to be absent from work, after the mandatory maternity leave envisaged by law, for a maximum period of 16 months, within the first 18 months of life of the child. During such period, working mothers shall not lose their job.

Such leave shall not be computed for pension or carrier purposes, nor for any other economic or contractual purpose. However, working mothers shall receive 30% of their daily net wage until the first year of age of the child and 20% for the remaining period, if the child – only in this latter case – does not attend a nursery school.

In alternative to the allowances in the preceding paragraphs, working mothers resuming their job after the mandatory maternity leave shall be entitled, within the following ten months, and in any case until the first year of age of the child, to be absent from work for two paid hours a day, even separate.

In case of multiple delivery, the two paid nursing hours a day shall be doubled, till a maximum of half the weekly working hours established by contract.

The provisions in the preceding paragraphs shall also apply to working mothers registered in the so-called mobility list envisaged by Law No. 108 of 29 September 1986.

Under Article 5 of Law No. 40 of 25 May 1981, working fathers shall be entitled to post-partum leave instead of the mother.

Dependent workers entitled to the above mentioned benefits shall submit the relevant applications to the competent office of the Social Security Institute.

**Article 4**  
(Related expenses)

The daily allowance granted for post-partum leave or, alternatively, the paid absence from work under Article 3 above, shall be paid directly by the employer, who shall have the right to deduct such amounts from the contributions due to the Social Security Institute, under the terms of the special regulation approved by the Board of Directors.

The expenses related to the allowances above granted until the 12th month of life of the child, and the paid absence from work shall be charged to the Account “Allowances granted to dependant workers unable to work”, while the same allowances paid for the following period shall be charged to the Account “Family allowance provision for dependant workers”.

**Article 5**  
(Parental leaves)

In the first eight years of life of the child, either the mother or the father shall have the right to be absent from work, in case of illness of the child, duly certified by the treating physician, according to the following terms and modalities:

- 1) for the entire duration of the illness, without remuneration, if the child is less than three;
- 2) up to five working days per year, without remuneration, if the child is three to eight years of age.

The hospitalisation of a child under eight shall interrupt the holidays or leaves being enjoyed by the parent.

For the purposes of the leaves in this Article, the mother or the father shall be required to submit a declaration stating that the other parent is not absent from work in the same days for the same reason.

A working parent, both employee or self-employed, or alternatively the relative who usually looks after a permanent serious disabled, shall have the right to be absent from work up to three days a month, not cumulative during one year, or, exceptionally, for an equivalent number of hours in proportion to the weekly working hours, considered as paid special leave.

Applications for paid special leaves to look after a permanent serious disabled shall be submitted at least three days in advance, except for cases of proved urgency.

A serious permanent disability shall be certified – the first time – by the Directorate of the Hospital and Specialized Care Services, after having heard the opinion of the Neuropsychiatric and Minor Services, according to their competences. The relevant application shall be submitted to the Fiscal Doctor who, having verified full compliance with all requirements, shall issue the necessary authorization.

Expenses related to paid special leaves in favour of families with a dependant permanent serious disabled shall be charged to the Account “Family allowance provision” of the Social Security Institute. Such expenses shall be anticipated by the employer, who shall then deduct them from the monthly contributions due.

Dependant workers on special leave shall receive 100% of their net remuneration, while self-employed workers shall receive 100% of the income declared or assessed in the preceding year, divided by 365 days.

A special regulation approved by the Board of Directors of the Social Security Institute shall establish the criteria to apply for the above-mentioned special leaves and to calculate the amount to be paid to the self-employed worker, under the preceding paragraph, failing a declared or assessed income in the reference year or whenever the 365-day ratio cannot be applied.

## **Article 6**

(Application of these provisions to adoptive parents)

The provisions of the preceding Articles, governing paid nursing hours and post-partum leaves, shall be also applied to adoptive parents of children under 14 starting from the moment in which the minor enters the family. Parental leaves shall be applied taking into account the age limitations envisaged in this Law.

Adopting parents shall be entitled to a maximum of 60-day leave without remuneration, for family reasons, to adopt a minor. This period, if following the adoption, shall be considered to all effects as mandatory pregnancy leave for the adoptive mother. Moreover, the mother shall be entitled to mandatory puerperium leave for a maximum period of 90 days starting from the date on which the request for the declaration in Article 5 of Law No. 83 of 20 July 1999 is submitted to the Law Commissioner.

## **Article 7**

(Pension provisions)

The working mother or, alternatively, the working father who has benefited from post-partum leaves, shall be entitled to redeem such periods by paying the relevant contributions to the mandatory Pension Fund.

The right of redemption, subject to a special application to be filed with the competent office, shall be exercised within one year since the end of the period of leave or within one year since the entry into force of this Law for those who have already benefited from this leave.

The amount to be paid shall be calculated on the basis of the average contractual remuneration under Law No. 15 of 11 February 1983 in the months of paid leave and of the rate established by the mandatory Pension Fund applied at the time of the application for redemption.

The implementation criteria shall be established in a special regulation approved by the Board of Directors of the Social Security Institute.

## **Article 8**

(Date of application)

The benefits in the preceding Articles shall apply starting from the first day of the month following the entry into force of this Law.

Such benefits shall also apply to those who, on that date, are enjoying the benefits envisaged by the preceding legislation in this field.

Similarly, the provisions in the first and second paragraphs of Article 3 shall also apply to working mothers or, alternatively, fathers whose child is 13 – 18 months old on the date of entry into force of this Law.

**Article 9**  
(Entry into force)

This Law shall enter into force on the 15th day following that of its legal publication and it shall repeal and substitute Laws No. 24 of 19 February 1991, No. 111 of 16 December 1994, Article 6 of Law No. 33 of 28 February 2001, Article 4 of Law No. 30 of 7 June 1977, as well as any provisions contrary to this Law.

*Done at Our Residence, on 3 November 2003.*

THE CAPTAINS REGENT  
*Giovanni Lonfernini – Valeria Ciavatta*

The Secretary of State for the Interior  
*Loris Francini*