

Legislation on maternity protection in countries belonging to the Americas

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ANTIGUA & BARBUDA

Name of Acts:

- Social Security (Benefits)(Maternity) Regulations, 1973
- Labour Code of Antigua and Bermuda of 1975, Act No. 14, 1975
- The Civil Service Regulations, 1993
- The Social Security Act, Chapter 408, 1972.

Scope:

- Are included all employees of employers operating or doing business in Antigua & Barbuda, including the non-established employees of the Government.
- Are excluded, established employees of the Government; persons in the naval, military, or air forces of the Government; the Police Force; persons holding the status of diplomatic agents; or persons employed by the United Nations or its specialised agencies.

Maternity leave:

- **Conditions:** A female employee is entitled to enjoy maternity leave if she has been working a minimum of 12 months of unbroken service.
Civil servants shall comply at least 6 continuous months for being entitled to enjoy maternity leave.
A female employee shall, on production of a medical certificate stating the presumed date of her confinement, be entitled to a period of maternity leave.
- **Length:** Maternity leave is granted for a period not less than 6 weeks and up to 13 weeks.
- **Compulsory leave:** No mention.
- **Extension:** Where there is incapacity for work arising from *pathological complications* of confinement immediately following cessation of rights to maternity, the sickness benefits apply, including the right to leave during the time the worker is physically incapacitated for performing her work.

Cash benefits:

- **Maternity leave benefits:** Maternity benefits shall consist of a maternity grant (one-time payment), a maternity allowance (weekly benefit), or both.
- **Maternity grant: Conditions:** Maternity benefits shall be granted in the case of the pregnancy of a woman who is an insured person or the wife of an insured person.
Amount: The maternity grant is paid in a lump sum of EC\$560.
Benefits are paid by Social Security. The contributions to the Social Security Fund, into which are provided all benefits including maternity benefits, shall be payable by the insured persons and by employers.
- **Maternity allowance: Conditions:** Maternity benefits shall be granted in the case of the pregnancy of a woman who is an insured person or the wife of an insured person.
Amount: The rate of the maternity allowance is 60% of the insured's average weekly earnings in the 52 weeks before the last 6 weeks prior to the expected week of childbirth.
Duration: Maternity allowance is paid for a maximum of 13 weeks, commencing as early as 6 weeks before confinement or as late as the week of confinement.
Benefits are paid by Social Security. The contributions to the Social Security Fund, into which are provided all benefits including maternity benefits, shall be payable by the insured persons and by employers.

Medical benefits:

- No mention.

Health protection:

- No mention.

Non-discrimination/Job protection:

- **General:** A general provision for all workers: every employee has the right to not be unfairly dismissed by his employer and so no employer shall dismiss any such employee without just cause.

No special right for pregnant/breastfeeding workers or workers on maternity leave.

- **Dismissal:** Upon termination or notice thereof of the labour relation between the employer and the employee, the employer shall, within the next seven (7) days, furnish a written statement of the precise reason for this termination.

In an unfair dismissal or suspension without pay matter, a decisional officer may order the reinstatement or restoration of the person dismissed or suspended, or the payment of a sum of money in lieu of such reinstatement.

- **Job guarantee:** No mention.

Breastfeeding:

- **Breastfeeding breaks:** No mention.

ARGENTINA

ARGENTINA HAS RATIFIED C3 (30.11.1933)

Name of Acts:

- Decree No. 1245, regulating the Legal System of Family Allowances of Act No. 24,714 1996
- Act No. 22,248 approving the National Regulation on Agricultural Work, 1980
- Act No. 24,714, on Family Allowances, 1996
- Act No. 20,744 on Employment Contracts, 1976
- Act No. 24,557 on Labour Risks, 1995
- Act No. 24,716 on Special Leave for Working Mothers as a Result of a Child Born With Down Syndrome, 1996
- Act 26.678, approving the ILO Convention 102 of 1952 on Social Security Minimum Standards, 2011
- Decree 446, modifying Act. No 24.714 related to Social Protection Pregnancy Allowance, 2011
- Act 26.565, Social Security- Special Regime for Domestic Workers, 2009
- Act 26.592, modifying Act No.20.744, 2010
- Act No. 24.013 B.O. 17/12/1991 superseding Art. 173 on Female Night Work, 1991
- Provincial Decree No. 2988, regulating Leaves Art. 114 of Act. 10.579 (Maternity, Adoption Leaves and Other), 2002.

Scope:

- Maternity protection is conferred by the *Act on Employment Contracts* and covers all working women, with the exception of public employees (except where they are expressly included within its scope or within the scope of collective labour agreements), domestic workers and agricultural workers.
- The law on agricultural employment establishes a similar protection scheme for maternity, which covers all agricultural workers.

Maternity leave:

- **Length:** 13 weeks (90 days: 45 days before and the 45 days after confinement). However, the worker may opt to reduce her pre-natal leave but this shall not be less than 30 days. The remainder of the total leave period shall then be added to her post-natal leave.
- **Compulsory leave:** minimum 4 weeks (30 days) before confinement.
- **Extensions:** A woman worker who has worked for more than 1 year in the enterprise may extend her maternity leave for a period of not less than 3 months and not more than 6 months to care for the child.

In the case of a *premature* birth, the full period of leave that the worker did not take before her confinement shall be carried over to the period of her confinement, so that she is granted 13 weeks (90 days) altogether.

If the woman worker is absent from her work for a period exceeding the maternity leave period because of an *illness arising from her pregnancy* or confinement, she shall be entitled to sick leave for up to 3 months if she has worked for the same employer for less than 5 years and for up to 6 months if she has worked for the same employer for more than 5 years. In case she remains absent from work for longer as a result of illness medically certified which owes its origin to pregnancy or childbirth and in consequence does not allow her to resume work in due time, she can claim benefits.

Should the child be born with *Down syndrome*, the mother shall be entitled to a further 6 months' leave without pay under the same conditions as paid maternity leave.

Paternity leave:

- **Scope/Length:** Workers are entitled to paid paternity leave for a period of 2 days, with the exception of public, domestic and agricultural workers.

Adoption leave:

- **Scope:** Not provided for workers covered by the *Contracts Act*.

Professors covered by the *Statute of Professors* are entitled in case of adoption of children under 7 years old to paid leave during 13 weeks (90 days).

Cash benefits:

- **Maternity leave benefits: Scope:** Are covered, women who are privately employed, whatever the form of employment contract, beneficiaries of the *Act on Labour Risks*, beneficiaries of unemployment benefits, beneficiaries of the *Act on the Integrated Retirement and Pensions System*, beneficiaries of the non-contributory pensions plan for disability, and national, provincial or municipal civil service employees.
Excluded are domestic workers, without prejudice to the executive authority including them in the scope of application of the *Act on Labour Risks*.
Conditions: the female worker must have been in employment for a continuous period of 3 months or have received unemployment benefits.
Temporary workers must have a proven record of employment with one or more employers in the 12 months immediately preceding the start of their current employment.
Amount: 100% of wages for a period of 13 weeks (90 days).
Benefits are paid: by Social Security (family allowance funds), which are financed through state and employer contributions.
- **Paternity leave benefits: Scope:** Concerns men who are privately employed, whatever the form of employment contract, beneficiaries of the *Act on Labour Risks*, beneficiaries of unemployment benefits, beneficiaries of the *Act on the Integrated Retirement and Pensions System*, beneficiaries of the non-contributory pensions plan for disability, and national, provincial or municipal civil service employees.
Public sector workers are usually covered by special statutes that include maternity and paternity leave.
Excluded are domestic workers, without prejudice to the executive authority including them in the scope of application of the *Act on Labour Risks*. However, they receive their regular pay, paid by their employer.
Amount: paid but no mention of how much nor who pays.

Medical benefits:

- Pre-natal, childbirth and post-natal care are included in the Mandatory Medical Programme of the health-care system. Furthermore, “Plan Nacer” ensures registered disadvantaged women with free medical health-care during pregnancy, confinement and after confinement.
- Medical benefits are covered by Social Security for people affiliated to the system and by the State for women registered in “Plan Nacer”.

Health protection:

- **Night work:** the prohibition of night work has been abolished.
- **Overtime:** is not prohibited.
- **Dangerous or unhealthy work:** It is prohibited to order the execution of work at home to women employed in local or other units in the company.
It is forbidden to occupy women in painful, dangerous or unhealthy jobs.
The regulations establish the industries covered by this prohibition.
No special mention of work forbidden for pregnant/lactating workers.

Non-discrimination/Job protection:

- **General:** Under no circumstances can women be discriminated based on gender or marital status.
All behaviours that discriminate against women in either public and private sectors; that are an obstacle to their enrollment, promotion, stability and permanence in employment; or by demanding their civil status, maternity, physical appearance and pregnancy tests is considered labour violence against women.
- **Dismissal:** Although the *Act on Employment Contracts* does not have any provision that expressly prohibits the dismissal of a woman on the grounds of pregnancy, it does guarantee that, during this period, every woman shall be guaranteed stability of employment, which shall constitute an acquired right from the date on which she duly notifies her employer of the fact that she is pregnant, with confirmation in the form of a medical certificate.

In the absence of proof to the contrary, a woman worker shall be presumed to have been dismissed on account of her pregnancy or maternity if her dismissal is ordered within the 7.5 months before or after the date of her confinement, on condition that she has discharged her obligation to give due notice and confirmation of her pregnancy and, where appropriate, of the birth of her child.

Where an employer does not comply with this prohibition, he shall pay compensation equal to 1 year's remuneration.

- **Job guarantee:** A woman with a valid working relationship that gives birth to a child and continues residing in Argentina will enjoy of a right called "Excedencia" that allows her to return to a job of equal category after the end of her maternity leave. On the other hand it is not expressly mentioned that pregnant workers will return to the same job they were performing before getting sick during pregnancy.

Breastfeeding:

- **Breastfeeding breaks:** A woman worker who is a nursing mother shall be entitled to two breaks of half an hour each during working hours to nurse her child and shall enjoy such entitlement for a period not exceeding 1 year from the date of the child's birth, except where it is necessary on medical grounds for her to nurse her child for a longer period.
- **Breastfeeding facilities:** When there is a minimum number of workers (as stated by legal provisions), the employer should provide for nursing facilities.

ARGENTINA HAS RATIFIED C3 (30.11.1933)

BAHAMAS

BAHAMAS HAS RATIFIED C103 (14.06.2001)

Name of Acts:

- National Insurance Act, No. 21, 1972
- Employment Act 2001, No. 73, 2000
- National Insurance and Assistance Regulations, No. 53, 1984
- Health and Safety at Work Act, 2001, No. 2, 2002.

Scope:

- Any female employed for remuneration (including wages, benefits in kind and allowances) under a contract of employment (a contract of service or apprenticeship).

Maternity leave:

- **Conditions:** Employment for at least 12 months by the same employer and delivery of a certificate issued by a medical practitioner or midwife setting forth the expected or actual date of confinement. Where an employee by reason of geographical or other circumstances beyond her control is unable to produce such certificates, an employer shall accept such other evidence as is produced by her in reasonable proof of her entitlement to maternity leave.
- **Length:** 12 weeks.
- **Compulsory leave:** 1 week before and 8 weeks after confinement.
- **Extensions:** When granted maternity leave and the date of *confinement is a later date* than the expected date, the maternity leave shall be extended to include the period that elapsed between those dates.

Where a confinement takes place without an employee having been granted maternity leave; or the period of maternity leave before her confinement amounts to less than 4 weeks, the period of leave after confinement shall, if the employee so desires, be extended so that the total period of leave does not amount to less than 12 weeks.

An employee who, after confinement, suffers any *illness* arising out of confinement shall be granted, in addition to the normal duration of maternity leave, such additional leave not exceeding 6 weeks as a medical practitioner recommends. (This leave is not paid by the employer but by the National Insurance Board.)

Paternity leave:

- **Conditions/Length:** An employee who has been employed for at least 6 months is entitled to family leave without pay for a period not exceeding 1 week per annum following the birth of a child.

Cash benefits:

- **Maternity leave benefits:** Mixed system of benefits payment: Maternity benefits (weekly payment) and maternity grant (one-time payment) from the National Insurance Board (NIB), awarded in the case of the pregnancy and confinement of a woman who is an insured person+ payment by employer.

Where an employee has been granted maternity leave and the employee dies during such leave, the guardian of the child shall be entitled to any unpaid maternity benefits due to the mother from her employer and the NIB.

- **Maternity grant:** A one-time payment of \$430 is made to a woman whose pregnancy results in the birth of a live infant. It is financed by the National Insurance Board.
- **Maternity allowances (Paid by NIB): Conditions:** Maternity benefits are payable only if a) the woman had been engaged in an occupation as an employed or self-employed person and has paid contributions for at least 50 contribution weeks; and b) has paid and been credited with at least 26 contributions in the 40 weeks immediately preceding the week on which benefits are due to commence, or has paid and been credited with at least 26 contributions in the immediately preceding contribution year.

Amount: 66.6 % of the average weekly insurable wage or income of the insured person during the 40 weeks of the contribution year immediately preceding the date from which benefits are due to commence, whichever is the more favourable to the insured person.

Duration: 13 weeks starting from the date which is 6 weeks before the expected date of confinement, or from the day following the day the woman stops remunerative work in respect of her confinement, whichever is later.

- **Maternity allowances (Paid by employer): Conditions:** Payment by the employer while on maternity leave shall be granted to any female employed for remuneration (including wages, benefits in kind and allowances) under a contract of employment (a contract of service or apprenticeship). A woman on maternity leave may not receive payment from her employer more than once in every 3 years.

Amount: In addition to NIB allowance, the employee receives a minimum sum equivalent to 33.3% of that portion of her wages that does not exceed the National Insurance ceiling on insurable wages.

Duration: 12 weeks.

- **Benefits are paid** by the National Insurance Board (2/3) and by the employer (1/3). The source of funds for the NIB are contributions made by the insured persons and by employers. Any temporary insufficiency in the Fund to meet the liabilities under the National Insurance Act shall be met from monies provided by the Parliament.
- **Paternity leave benefits:** Unpaid leave.

Medical benefits:

- No mention.

Health protection:

- **Dangerous or unhealthy work:** It is the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all employees.

Non-discrimination/Job protection:

- **General:** No right to discriminate against an employee or applicant for employment on the basis of sex and marital status by: a) refusing to offer employment to an applicant for employment or not affording the employee access to opportunities for promotion, training or other benefits, or by dismissing or subjecting the employee to other detriment solely because of his or her sex or marital status; b) paying the employee at a rate of pay less than the rate of pay of another employee, for substantially the same kind of work or for work of equal value...
- **Dismissal:** No a) dismissal or notice of dismissal to a female employee at any time between the date of her delivery of a medical certificate setting forth the expected or actual date of confinement and the date of the expiration of her maternity leave or additional leave granted due to illness arising out of confinement; b) no notice of dismissal that would expire during maternity leave or extension thereof; c) no dismissal or requiring that an employee resign on the ground that she is pregnant; d) no requiring an employee to resign during any of the times referred to in a) or b). Exceptions exist.

An employee shall be treated as *unfairly dismissed* if the reason or principal reason for her dismissal is that she is pregnant or is for any reason connected with her pregnancy. Unless the contrary is shown, the dismissal is presumed on the grounds of pregnancy, maternity leave or extension thereof.

- **Job guarantee:** On her resumption of work after maternity leave, an employee is entitled to her seniority rights and reinstatement in her former position or equivalent position. She shall not by reason only because she went on maternity leave, be paid a smaller remuneration than she received before her leave.

Any employer who contravenes these provisions shall be liable to a fine of 5,000 dollars. An employer may also be liable to pay the female employee any payment due to her under the *Employment Act*.

Breastfeeding:

- No mention.

BAHAMAS HAS RATIFIED C103 (14.06.2001)

BARBADOS

Name of Acts:

- National Insurance and Social Security Act, Act No. 15, 1966
- National Insurance and Social Security (Benefit) Regulations, Statutory Instrument No. 45, 1967
- Employment of Women (Maternity Leave) Act, Act No. 16, 1976
- Factories Act, 1984.

Scope:

- Every female employee is entitled to maternity leave with the exception of women working at home for wages.

Maternity leave:

- **Conditions:** In order to enjoy maternity leave, female employees shall have been employed at least 12 months by the employer from whom she requests such leave. Female employees are not entitled to enjoy maternity leave from the same employer more than three times.
- **Length:** not less than 12 weeks (no more than 6 weeks before and not less than 6 weeks after birth), except where an employee wishes otherwise.
- **Compulsory leave:** not less than 6 weeks after the date of confinement.
- **Extensions:** When the birth occurs *after the due date*, maternity leave is extended accordingly. An employee who, after confinement, suffers any *illness* arising out of such confinement shall be granted, in addition to the maternity leave to which she is entitled, an additional leave not exceeding 6 weeks as a medical practitioner recommends.

Cash benefits:

- **Maternity leave benefits:** Two types of benefits: maternity grant and maternity allowances.
- **Maternity grant: Conditions/Scope:** In the case of workers not insured through the National Insurance Scheme or who, though they are insured, are not able to meet the contribution requirements for maternity benefits and whose spouses meet such requirements, may claim the enjoyment of a maternity grant (\$1,045).
A maternity grant shall be paid where a child is born to a single man and a single woman who have been living together for a period of not less than 2 years immediately preceding the date of confinement.
Amount: \$ 1,045 in one lump sum.
- **Maternity allowances: Amount:** The daily rate is 100% of the average insurable weekly earnings, divided by 6.
Duration: Payments are made for a period starting not earlier than 6 weeks before the expected date of birth and continuing until the expiration of 12 weeks or until 6 weeks after the confinement, whichever is later.
- **Both forms of benefits are paid** by the National Insurance System. All employed persons aged 16 to 65, performing work in the country under a contract of employment, shall be insured (included public sector employees and self-employed persons), and therefore enjoy maternity benefits.

Medical benefits:

- No mention.

Health protection:

- **Dangerous or unhealthy work:** the prohibition for pregnant workers or workers who have recently given birth is not expressly mentioned concerning dangerous or unhealthy work. However, the legislation provides a general prohibition for all female workers to be employed in any of the following: work at a furnace involving the reduction or treatment of zinc or lead ores; the manipulation, treatment or reduction of ashes containing lead, the desilverising of lead or the melting of scrap lead or zinc; the manufacture of solder or alloys containing more than 10% of lead; the manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate, or silicate of lead; mixing or pasting in connection with the manufacture or repair of electric accumulators or the recovery of plates or lead compounds from discarded accumulators; the cleaning of workrooms where any of the processes

mentioned above are carried on; or the manufacture of paint containing lead or the dry rubbing down of surfaces treated with paint containing lead.

Non-discrimination/Job protection:

- **Dismissal:**A woman may not be dismissed or required to resign on the ground that she is pregnant. A female employee may not be dismissed or given notice of dismissal at any time between the deliverance to her employer of a medical certificate regarding the expected date of birth of her child and the expiration of her maternity leave or additional leave thereto. Further, she may not be given a notice of dismissal which would expire during maternity leave or additional leave thereto.
- **Dismissal is lawful** during maternity leave or extended leave only in the following cases: where there has been serious default or gross negligence amounting to abandonment of duty on the part of the employee; where there has been a fixed-term contract which expires; or if the business in which an employee had been engaged ceases to exist.
- **Job guarantee:**Upon return from statutory maternity leave, a woman worker is entitled to her seniority rights and reinstatement in her former work or equivalent work. Upon return from her maternity leave, an employee shall not be paid less than before her leave.

Breastfeeding:

- **Breastfeeding breaks:**No mention.

BELIZE

BELIZE HAS RATIFIED ILO C183 (9.11.2005)

Name of Acts:

- Social Security (Benefit) Regulations (Chapter 44s), 1981
- Labour Act (Chapter 297), 1959
- Social Security Act (Chapter 44), 1979
- Labour (Amendment) Act, 2005
- Labour (Maternity Protection) Regulations (Chapter 297), 2003.

Scope:

- A woman in any public, private, industrial, commercial undertaking, or in any branch thereof, or in any agricultural undertaking or any branch thereof, is entitled to maternity leave.

Maternity leave:

- **Conditions:** Employed by the same employer for a period of not less than 150 days during the 12 months preceding her confinement.
All applications for maternity leave must be submitted at least 10 weeks prior to the worker's expected date of confinement and must be accompanied by a medical certificate from a qualified medical practitioner stating the expected date of confinement.
- **Length:** 14 weeks (7 weeks before and 7 weeks after confinement).
- **Compulsory leave:** 2 weeks before and 7 weeks after the expected date of confinement are mandatory.
- **Extension:** Every woman may be deemed to be absent from work as a result of *illness* arising out of her pregnancy for a maximum period of 30 days.

Cash benefits:

- **Maternity benefits:** there are various forms: a maternity grant (one time) and maternity allowance (paid by Social Security and/or by employer).
- **Maternity grant:** A maternity grant of \$300.-, from the Social Security, is payable to an insured woman if she has paid 50 contributions since the appointed day and 25 contributions have been paid in the 50 weeks immediately preceding the week in which the confinement occurs.
An insured male worker is entitled to a maternity grant, if his wife is not entitled to such grant, and if he satisfies the conditions for the entitlement to this benefit (same conditions as for maternity grant to be enjoyed by an insured female worker). The insured male worker shall be entitled to enjoy a maternity grant only once in a contribution year.
Amount: \$300.-.
Paid by Social Security.
- **Maternity allowance/Social Security:** Insured women are entitled to maternity allowance from Social Security if they satisfy the qualifying conditions.
Conditions: Subject to this Act, every person who on or after the appointed day, being over the age of 14 years and under the age of 65 years, is employed in insurable employment, shall become insured under this Act.
Amount: Maternity benefits represent 100% of the wage. In the case where a female is entitled to maternity benefits under the *Labour Act* and the *Social Security Act*, she shall receive maternity benefits from Social Security and in addition she is entitled to be paid by her employer the difference, if any, between her full pay and her Social Security benefits.
Duration: Maternity allowance is payable to an insured woman for a period starting from a date no earlier than 7 weeks before the expected date of confinement and continuing until the end of 14 weeks or 7 weeks from the date on which the confinement occurs, whichever comes later.
- **Maternity allowance/Employer:** Women who are not entitled to receive maternity allowance from Social Security, because they are not insured, are paid by the employer.
Conditions: during the 12 months preceding confinement the employee has to have been employed by the same employer for a period of no less than 150 days.
Amount: 100% of salary.

Duration:Employers providing maternity benefits will pay their employees during the period up to the date of birth and the date of birth (7 weeks), and the period following confinement (7 weeks).

Paid by the employer.

Medical benefits:

- No mention if medical expenses are paid by Social Security. However, no employer shall be liable to pay medical expenses incurred by a female worker during or attributable to her pregnancy or confinement.

Health protection:

- **Night work:**A woman shall not be employed during the night (between 10 pm and 5 am), in a public or private industrial undertaking.
This prohibition does not apply to: women holding responsible positions of a managerial or technical character; women employed in health and welfare services who are not ordinarily engaged in manual work; an industrial undertaking in which only members of the same family are employed; an industrial undertaking where there occurs an interruption of work that was impossible to foresee, which is not of a recurring character, and which is approved as such by the Commissioner; in a case where the work has to do with raw materials which are subject to rapid deterioration.
- No other provisions related to health protection at the workplace.

Non-discrimination/Job protection:

- **Dismissal:**Unless an employee's absence has exceeded a maximum period of 30 days, no dismissal or notice of dismissal during such absence if she is receiving maternity allowances under the *Social Security Act*, is absent from her work during the 6 weeks before the expected date of confinement and 6 weeks following her confinement, or remains absent from her work for a longer period as a result of illness certified by a qualified medical practitioner that arose out of her pregnancy or confinement and rendering her unfit for work,.
- **Unfair dismissal:**Within 21 days of the date of dismissal or wrongful termination, every employee has the right to file a complaint to the relevant Tribunal and if the worker's complaint is proved, she shall be awarded with the reinstatement or/and economic compensation.
- **Burden of proof:**In cases of unfair dismissal or wrongfully termination, the legislation states that the worker shall file burden of the proof before the Tribunal through a complaint.
- **Job guarantee:** No mention.

Breastfeeding:

- **Breastfeeding breaks:**No mention.

BELIZE HAS RATIFIED ILO C183 (9.11.2005)

BOLIVIA

BOLIVIA HAS RATIFIED C103 (15.11.1973)

Name of Acts:

- Decree No. 16988, on Hygiene, Occupational Safety and Wellbeing, 1979
- General Labour Act, 1942
- Decree Supreme No. 28699, regulating the General Labour Act, 2006
- Social Security Code, 1956
- Supreme Decree No. 24303, establishing the National Maternity and Child Insurance (SUMI), 1996
- Act No. 2426, on National Maternity and Child Insurance, 2002
- Act No. 975, on Employment Security for Pregnant Women, 1988
- Act No. 2450, on Domestic Workers, 2003
- Decree Supreme No. 0012, 2009
- Decree Supreme No. 0496, regulating Effects of Non-observance of Security in Employment of Parents, 2010
- Decree Supreme No. 26874, regulating Provision and Management of Universal Insurance of Mother and Child, 2002
- Act No. 3250, 2005
- Decree Supreme No. 0066 to create a Mother-child Bonus Incentive for Safe Motherhood
- Decree Supreme No. 0115, Promoting Breastfeeding, 2009
- Act No. 3460, 2006
- Act No. 006, 2010, elevating to law rank: Decree Supreme No. 28719, 2006, Decree Supreme No. 0041, 2009 and Decree Law No. 13214, 1975.

Scope:

- Maternity protection is conferred by the *Labour Code* and covers working women in the public and private sectors.
- It does not cover women employed in the agricultural sector.

Maternity leave:

- **Length:** 84 days (12 weeks) since 2004. Domestic workers are entitled to 45 days before and 45 days after confinement (90 days or 13 weeks).
- **Compulsory leave:** 1 month before birth, remaining period after birth.
- **Extension:** There is no extension provided for *multiple births*. In case of *illness* or *complications*, the period of leave is indefinite.

Cash benefits:

- **Maternity leave benefits: Conditions:** to have paid at least 4 monthly contributions in the 12 months immediately preceding the date of payment of prenatal cash benefits, up to 45 days before and 45 days after confinement (domestic workers).
Amount: Cash benefits represent 100% of the national minimum wage. If the worker's wages are superior to the national minimum wage, she is entitled to 100% of minimum wage + 75% of the difference between her wage and the minimal wage.
Benefits are paid by the Social Insurance System.

Medical benefits:

- All Bolivians and foreigners with a residence visa in Bolivia are covered by the National Maternity and Child Insurance (SUMI). The insurance is funded by the General Treasury and municipal funds.
- Concerning maternity, SUMI offers universal coverage for women during pregnancy and up to 6 months after confinement, as well as for new-born infants and children under 5 years old.

Health protection:

- **Night work:** Women workers in general shall be employed only during the day.
- **Overtime:** is not expressly prohibited. However, female working hours cannot exceed 40 hours per week (in case of maternity, no special mention).

- **Dangerous or unhealthy work:**women and minors (under 18 years) cannot perform hazardous, painful or harmful work for their physical health or morality.
- **Transfer:**A pregnant woman worker whose employment requires her to carry out work that may affect her health is entitled to special treatment that allows her to perform her activities in appropriate conditions, without her wage level or her position being affected.

Non-discrimination/Job protection:

- **General:**The principle of non-discrimination amongst all workers excludes all differentiation between workers performing the same job.
- **Dismissal:**The new mother and father are protected from dismissal during pregnancy and up to the child's first year of age. Exceptions in case of just cause of dismissal attributable to the mother or father or to the fact that they hold a temporary job.
- **Job guarantee:** The parents' wages cannot be reduced, nor their job changed during pregnancy and up to their child's first year.

Breastfeeding:

- **Breastfeeding breaks:**During breastfeeding, women are entitled to daily rest periods of not less than 1 hour.
No mention of payment. However, art. 25 of the *Decree Supreme 21637(1987)* recommends a breastfeeding allowance for each child during 12 months equivalent to the national minimum wage in dairy products.
- **Breastfeeding facilities:**The *Labour Code* recommends that employers with more than 50 workers set up nursing rooms for their employees.
More recent legislation recommends this for all private and public institutions without mention of number of employees.

BOLIVIA HAS RATIFIED C103 (15.11.1973)

BRAZIL

BRAZIL HAS RATIFIED C103 (18.06.1965)

Name of Acts:

- Constitution of the Federative Republic of Brazil, 1988, amended 2007
- Codification of Labour Legislation, 1943, amended 2009
- Organic Act No. 8212, on Social Security, 1991
- Act No. 11770, on Maternity Leave, 2008
- Decree No. 3048/1999, 1999
- Act No. 12010, 2009.

Scope:

- All women, including women who are not working for a salary.

Maternity leave:

- **Length:** 120 days (17 weeks) or 180 days (23 weeks). It is optional for private companies to grant the additional 60 days (5 weeks).
- **Compulsory leave:** no mention.
- **Extension:** Maternity leave may be extended on *medical grounds* arising out of pregnancy and confinement by a maximum of 4 weeks (2 weeks before and 2 weeks after birth).

Paternity leave:

- **Scope:** Concerns all fathers
- **Length:** Period of 5 days.

Adoption leave:

- **Scope:** All female adopters and women who obtain custody of a child in order to adopt are entitled to the same maternity leave as women giving birth.
- **Length:** 120 days.

Cash benefits:

- **Maternity leave benefits: Scope:** All female workers who are employed in the private sector including domestic servants, some categories of casual workers, elected civil servants and the self-employed are entitled to maternity benefits.
Are also entitled to benefits on the basis of voluntary coverage students, housewives and other categories of workers.
The public sector and military personnel are covered by specific systems.
Conditions: All insured employed women are entitled to maternity benefit regardless of their social insurance contribution period.
Self-employed and voluntarily covered women must have at least 10 months of insurable employment.
If the birth takes place before the expected date, the period of insurable employment requirement, shall be reduced accordingly.
Amount: 100% of the monthly wage.
Duration: Maternity benefits are payable for a total of 120 days, from 28 days before until 91 days after the expected date of childbirth. Additionally to the 120 days, 60 days of maternity leave are foreseen since 2008, which are optional for private companies.
Benefits are paid directly by the employer who is then reimbursed by the Social Security Institute.
The additional 60 days which companies may provide are paid by the employer, who can deduct the costs from his taxes.
- **Paternity benefits:** covers 5 days (starting the first working day after childbirth) and represents 100% of the wage. It is paid by the employer.
- **Adoption leave benefits: Scope:** All insured employed women including domestic workers are entitled to adoption benefits regardless of their Social Insurance contribution period.
Conditions: To be eligible, self-employed and voluntarily covered women must have at least 10 months of insurable employment. In addition, the female employee must provide the Social Security competent body (INSS) with a new birth certificate stating the name of the adoptive parents.

Amount/Duration: These benefits amount to 100% of the monthly wage and are paid during the whole period of leave.

Benefits are paid by the employer who is reimbursed by the Social Security Institute. In case of *multiple adoptions*, the adoption benefits are due only for the youngest child. The adoptive mother is entitled to adopting benefits even if the biological mother also benefited from maternity leave.

Medical benefits:

- No mention.

Health protection:

- **Dangerous or unhealthy work: Transfer:** If the performing of her job poses a risk to her health, a pregnant worker shall be transferred to a suitable alternative job and is reinstated in her regular job as soon as medically practicable.

Non-discrimination/Job protection:

- **General:** Discrimination is prohibited on the basis of pregnancy. This prohibition applies to recruitment, allocation of duties, wage, training, promotion and termination of employment.
- **Pregnancy tests:** A female worker, job applicant or employee, may in no circumstances be required to produce pregnancy tests or examinations.
- **Dismissal:** of female employees is prohibited from the date the pregnancy is confirmed to 5 months after delivery.
- **Job guarantee:** The employee has the right to 120 days of maternity leave, being assured the payment of the salary during this period and the right to return to work after it.

Breastfeeding:

- **Breastfeeding breaks:** Nursing mothers are entitled to breastfeeding breaks, divided into two 30-minute breaks until the child is 6 months of age or longer if justified on medical grounds. No mention if these breaks are paid or not.
- **Breastfeeding facilities:** Employers employing more than 30 women above the age of 16 years are requested to install a day-nursery with nursing facilities satisfying hygiene and other listed conditions.
If there is no day-nursery in the enterprise, the employer shall reimburse the nursing employees the expenditure of day-nursery outside the workplace in accordance with a collective agreement.

BRAZIL HAS RATIFIED C103 (18.06.1965)

CANADA

Name of Act:

- Quebec Act respecting Labour Standards, amended 2012
- Quebec Act respecting Occupational Health and Safety (Quebec), R.S.Q., c. S-2.1, 1979, amended 2012
- Employment Insurance Act, S.C. 1996, c. 23, amended 2011
- Canada Labour Code, R.S.C. 1985, c. L-2, consolidated 2012
- Employment Standards Act (Ontario) S.O. 2000, c.41, amended 2012
- Canadian Human Rights Act, R.S.C. 1985, c. H-6, amended 2012
- Human Rights Code (Ontario), R.S.O. 1990, c. H.19, amended 2012
- Quebec Charter of Human Rights and Freedoms, R.S.Q., c. C-12, 1975, amended 2008.

Scope:

- **Federal:** All female employees working in industries under federal jurisdiction. For all other industries, maternity leave is regulated by legislation enacted by the government of the province or territory in which these are based.

The *Canada Labour Code* applies to all federal work, undertakings or businesses. It is not applicable to employees who are managers or superintendents or who exercise management functions, or are members of such professions as may be designated by regulation as professions to which this part of the Code does not apply.

“Federal work undertaking or business” means any work, undertaking or business that is within the legislative authority of Parliament including: a) a work, undertaking or business operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of ships and transportation by ship anywhere in Canada; b) a railway, canal, telegraph or other work or undertaking connecting any province with any other province, or extending beyond the limits of a province; c) a line of ships connecting a province with any other province or extending beyond the limits of a province; d) a ferry between any province and any other province or between any province and any country other than Canada; e) aerodromes, aircraft or a line of air transportation; f) a radio broadcasting station; g) a bank or an authorized foreign bank; h) a work or undertaking that, although wholly situated within a province, is before or after its execution declared by Parliament to be for the general advantage of Canada or for the advantage of two or more of the provinces; i) a work, undertaking or business outside the exclusive legislative authority of the legislatures of the provinces; and j) a work, undertaking or activity in respect of which federal laws within the meaning of the *Oceans Act* apply.

- **Provincial:** There are variations between the provinces in the scope of employees included, as well as in the notice periods, employment qualifying periods and extension of leave. Provincial laws cover all female employees in the private and public sectors, with certain exceptions as listed by state provisions

Ontario: Applies to pregnant employees performing work in Ontario. Exceptions include: employees in federal jurisdiction, diplomatic personnel, Crown employees, students in work experience programmes authorized by a school board, community college or university; participants under the *Ontario Works Act*, 1997; inmates participating in rehabilitation programmes; offenders performing court-ordered community service; individuals performing work in a simulated job or working environment for the purpose of rehabilitation; holders of political, religious or judicial office or of an elected office in an organization such as a trade union; members of a quasi-judicial tribunal; police officers and directors of a corporation.

Quebec: Applies to pregnant employees regardless of where they are working. Are excluded: employees employed in a dwelling to care for a child, a sick, disabled handicapped or aged person, unless this work is intended to procure a profit for the employer; students employed in a job induction programme approved by the Ministère de l'éducation; as well as senior managerial personnel.

Maternity leave:

- **Conditions:** differ between federal and provincial levels and between provinces.

Federal: 6 months of continuous employment with an employer, a certificate of a qualified medical practitioner certifying the pregnancy and 4 weeks of notice in writing to the employer of the intention to take leave, unless there is a valid reason why the notice cannot be given.

Ontario: 13 weeks of employment and a notice period of 2 weeks indicating the expected date of birth and the intention to take leave. An employee who is unable to comply with these notice requirements because she gives birth before the estimated date of birth, has complications related to her pregnancy or in the case of still-birth or miscarriage, is still entitled to maternity leave on production of a medical certificate provided within 2 weeks after she ceases work.

Quebec: Written notice of not less than 3 weeks before leave, stating the date on which the leave will begin and the date on which the employee will return to work, accompanied by a medical certificate attesting the pregnancy and the expected date of delivery. Where applicable, the medical certificate may be replaced by a written report signed by a midwife.

- **Length:** Differs between federal and provincial levels, and between provinces.

Federal: 17 weeks. The leave may not begin earlier than 11 weeks before the birth or end later than 17 weeks after the date of birth. Furthermore, a woman is entitled to an unpaid leave of absence until the end of the 24th week following birth.

Ontario: 17 weeks. The employee shall begin her leave not earlier than 17 weeks before her expected date of delivery or than the date of giving birth, whichever is earlier, and not later than the expected or actual date of delivery, whichever is earlier.

Quebec: 18 weeks. The employee may spread the maternity leave as she wishes before or after the expected date of delivery. However, the maternity leave shall not begin before the 16th week preceding the expected date of delivery and shall not end later than 18 weeks after the week of delivery. Where the maternity leave begins on the week of delivery, that week shall not be taken into account in calculating the maximum period of 18 consecutive weeks.

- **Compulsory leave: Ontario:** 6 weeks after the birth, still-birth or miscarriage for employees who are not taking parental leave.
- **Extension: Ontario:** If an employee stops working because of a *complication* caused by her pregnancy or because of a *birth, still-birth* or *miscarriage* that occurs earlier than the due date, the employee shall provide the employer with a medical certificate within 2 weeks after stopping work.

Extension: Quebec: An employee's maternity leave is extended if the child is *born later* than expected for the period between the expected date and actual date of birth. However, employees in this situation are not entitled to an extension if they have at least 2 weeks of maternity leave remaining after the delivery.

An employee who sends the employer, before the expiry date of her maternity leave, a notice accompanied with a medical certificate attesting that the state of health of the employee or of her child requires it, is entitled to an extension of maternity leave for the duration indicated on the medical certificate.

Paternity leave:

- **Ontario:** The *Employment Standard Act* does not provide for paternity leave. However, it entitles an employee whose employer regularly employs 50 or more employees to an annual total of 10 days' emergency leave that can be used by new fathers.
- **Quebec: Scope:** An employee is entitled to absence for birth or adoption at the birth of his child, the adoption of a child or where there is a termination of pregnancy in or after the 20th week of pregnancy. Additionally, an employee is entitled to paternity leave on the birth of his child.
Conditions: The employee must advise his employer of his absence for birth or adoption as soon as possible. Paternity leave may be taken after giving written notice to the employer of not less than 3 weeks, stating the expected date of the leave and of return to work. However, the notice may be shorter if the birth of the child occurs before the expected date.
Length: The leave is of 5 days and must be taken during the 15 days following the birth or adoption of a child.

It includes 2 days with pay if the employee has 60 days of uninterrupted service with the employer.

Such a leave may also be taken when a termination of pregnancy occurs in or after the 20th week of pregnancy. An employee who adopts the child of his consort may be absent from work for 2 days without pay.

Parental leave:

- **Federal:** see **Scope** above: Entitled for all female employees who work for an employer in industries under federal jurisdiction. For all other industries, maternity leave is regulated by legislation enacted by the government of the province or territory in which these are based. Workers covered by federal law are federal Crown corporations, works or undertakings connecting a province with another province or country (e.g., railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals, telephone and cable systems), extra-provincial shipping and related services (e.g., longshoring), air transport and airports, radio and television broadcasting, banks, uranium mining, and flour, feed and seed cleaning mills, feed warehouses and grain elevators.
Conditions: To be entitled to parental leave, 6 months of continuous employment with an employer and 4 weeks' notice in writing of the start date and expected duration of the leave.
Length: Unpaid leave of absence up to 37 weeks, which may be shared by both parents, but shall not exceed the aggregate period of 37 weeks for both employees.
Leave must be taken during the 52-week period beginning on the day on which the child is born or the day the child comes into the employee's care, at the option of the employee. Adoptive parents may take parental leave under the same conditions as mentioned above. The aggregate amount of combined maternity and parental leave that may be taken by one or two parents in respect of the same birth may not exceed 52 weeks.
- **Provinces:** All provinces provide for parental leave for natural and adoptive parents; some also provide additional adoption leaves as well. Eligibility requirements vary greatly from one province to another. Moreover, certain categories of employees are excluded from such provisions. Exclusions vary from one jurisdiction to another.
- **Ontario: Scope:** An employee who has been employed by his or her employer who is the parent of a child is entitled to a leave of absence without pay following the birth of the child or the coming of the child into the employee's custody, care and control for the first time.
Conditions: To be entitled to this leave, all employees need at least 13 weeks of employment with his or her employer.
Length: An employee who has taken pregnancy leave is entitled to 35 weeks of unpaid parental leave, beginning when pregnancy leave ends unless the child has not yet come into her custody, care and control for the first time. An eligible employee who has not taken pregnancy leave may take 37 weeks of parental leave, beginning no later than 52 weeks after the child is born or arrives home.
- **Quebec: Scope:** The father and the mother of a newborn child, and a person who adopts a child, are entitled to parental leave.
Conditions: Parental leave may be taken after giving notice to the employer of not less than 3 weeks, stating the date on which the leave will begin and the date on which the employee will return to work.
Length: Eligible fathers and mothers of a newborn child are entitled to parental leave without pay up to 52 weeks, which must be taken in the period starting on the day of the child's birth and ending 70 weeks after that date.

Adoption leave:

- **Federal:** Same provisions as for parental leave. Such leave must commence no earlier than the day on which the child comes into the employee's care and end no later than 52 weeks after that day. Length is up to 37 weeks of unpaid leave.
- **Ontario:** Same provisions as for maternity leave, parental and emergency leave apply to adoptive parents and to employees who are in a permanent relationship with a parent and who intend to treat this person's child as his or her own. 35 weeks of unpaid leave.
- **Quebec:** Same as Quebec parental leave.

Part-time work:

- **Federal:** No provisions specific to part-time work identified. However, an employee who is pregnant or nursing may, during the period from the beginning of the pregnancy to the end of the 24th week following the birth, request the employer to modify her job functions or reassign her to another job if, by reason of the pregnancy or nursing, continuing any of her current job functions may pose a risk to her health or to that of the foetus or child.

Cash benefits:

- **Maternity leave benefits:**

Federal: Scope/Conditions: Employees who have contributed to the Employment Insurance (EI) programme, including employees in the federal and provincial public and private sectors, are eligible to benefits during maternity leave as long as they have at least 600 hours of insurable employment in the previous 52 weeks or since the start of the last claim, whichever is earlier.

Amount: 55% of salary (up to a ceiling), paid by Employment Insurance. Families earning less than a certain amount are entitled to a supplement.

Moreover, an employee may continue working while receiving parental benefits; there is no financial penalty as long as weekly employment earnings are no more than \$50 or 25% of the weekly benefits, whichever is higher.

Duration: Maximum of 15 weeks beginning 8 weeks before expected date of birth (or the week in which the birth occurs, if earlier) and ending no later than 17 weeks following the expected or actual date of birth. If the child is hospitalized, the benefit is extended by the number of weeks of hospitalization (maximum 52 weeks).

Paid by Employment Insurance.

- **Paternity leave benefits:**

Quebec: Upon birth or adoption of a child, if the employee has 60 days of uninterrupted service with the employer.

Amount: 100% of salary.

Duration is 2 days

Paid by the employer.

- **Parental leave benefits: Scope/Conditions:** Employees who have contributed to the Employment Insurance (EI) programme, including employees in the federal and provincial public and private sectors, are eligible to benefits during parental leave for at least 600 hours of insurable employment in the previous 52 weeks or since the start of the last claim, whichever is earlier.

Duration: Maximum aggregate period of 35 weeks to both biological and adoptive parents. Parental benefits can be received by one parent or split between the two if both parents are eligible, and they have been payable during the 52-week period following the birth or adoption. This period may be extended if the child is hospitalised, by the number of weeks during which the child is hospitalised, to a maximum of 104 weeks. It may also be extended if an employee combines EI maternity, parental and sickness benefits within one benefit period. A 2-week waiting period (unpaid) applies before benefit payments start. Where both parents share parental benefits, only one waiting period needs to be served by one of the parents. Likewise, where a 2-week waiting period has been served for maternity benefits, it is not necessary to serve another waiting period before receiving parental benefits. The maximum number of combined weeks of benefits for birth, adoption and parental leave is 50.

Amount: 55% of weekly insurable earnings covered by the Employment Insurance.

Ontario: Amount: Unpaid leave.

Quebec: Amount: Unpaid leave.

- **Adoption leave benefits:**

Federal: The provisions concerning maternity, parental and paternity benefits also apply to adoptive parents.

Medical benefits:

- **Federal:** No specific pre-natal, childbirth and post-natal care provisions mentioned.

Quebec: An employee may be absent for work without pay for medical examinations related to pregnancy or for examinations by midwife.

Health protection:

- **Risk assessment:**

Federal: Every employer shall ensure that the health and safety at work of every person employed by the employer is protected.

Where a pregnant or nursing employee requests a modification to her job functions or reassignment on health grounds, the employer to whom the request has been made shall examine the request in consultation with the employee and, where reasonably practicable, shall modify the employee's job functions or reassign her. There are no proactive obligations specific to pregnant and nursing employees.

- **Transfer:**

Federal: Upon presentation of a medical certificate, a pregnant or nursing employee performing job functions that could pose a risk to her health or that of her foetus or child may request to be reassigned to another job during the period from the beginning of the pregnancy to the end of the 24th week after the birth. The employer must grant the employee's request where reasonably practicable, the onus being on the employer to prove that a request is not reasonably practicable. If the employer grants the employee's request, she is entitled to receive the same wages and benefits after her functions have been modified or she has been reassigned. If a modification of job functions or reassignment is not reasonably practicable, the employee may take an unpaid leave of absence for the duration of the risk.

Quebec: An employer must at his own initiative transfer a pregnant employee if working conditions are physically dangerous to herself or her unborn child. The employee may refuse the transfer, on presentation of a medical certificate attesting that the conditions are not dangerous. A pregnant or nursing worker may request a transfer to another job by presenting a medical certificate stating that a change in the nature of her work is necessary in the interest of her health or that of her child.

- **Leave of absence & reinstatement:**

Federal: If the risk requires the pregnant or nursing employee to stop working, she is entitled to a paid leave of absence while the employer examines her request to modify job functions or re-assess her post. The employer must grant the employee's request where reasonably practicable, the onus being on the employer to prove that a request is not reasonably practicable. The employee is entitled to receive the same wages and benefits after her functions have been modified or she has been reassigned. If a modification of job functions or reassignment is not reasonably practicable, the employee may take an unpaid leave of absence for the duration of the risk.

Every employee who takes or is required to take a leave of absence from employment under Division VII of Part III of the *Canada Labour Code* is entitled to be reinstated in the position that the employee occupied when the leave of absence from employment commenced, and every employer of such an employee shall, on the expiration of any such leave, reinstate the employee in that position.

Quebec: Where there is a risk of termination of pregnancy or a risk to the health of the mother or the unborn child, caused by the pregnancy and requiring a work stoppage, the employee is entitled to a special maternity leave, without pay, for the duration indicated in the medical certificate attesting the existing risk and indicating the expected date of delivery.

If a requested reassignment to another job is not made immediately, the worker may stop working until she is reassigned or until the date of the birth or the date the child is weaned. The employer must pay the worker's wages for the first 5 days of leave; income support is then provided by the Occupational Health and Safety Commission. The worker retains all the social benefits attached to her regular employment before her reassignment or work stoppage. At the end of the period of reassignment or work stoppage, she must be reinstated in her regular job and receive the benefits she would have been entitled to had she remained in her employment.

Non-discrimination/Job protection:

- **Discrimination on the grounds of sex:**

Federal: Discrimination on the grounds of sex is prohibited. Where the grounds of discrimination are pregnancy or childbirth, the discrimination is deemed to be on the grounds of sex.

Ontario: The legal right to equal treatment without discrimination because of sex includes the right to equal treatment without discrimination because a woman is or may become pregnant.

Quebec: The *Charter of Human Rights and Freedom* guarantees that every person has a right to full and equal recognition and exercise of her human rights and freedoms, without distinction, exclusion or preference based on pregnancy.

- **Dismissal:**

Federal: An employer cannot dismiss, suspend, lay off, demote or discipline an employee because of pregnancy or application for leave.

Ontario: An employer cannot dismiss or otherwise penalize an employee or threaten to do so because of maternity leave or intent to take leave.

Quebec: An employer cannot dismiss, suspend, transfer, practice discrimination or take reprisals against an employee for the exercise of his/hers right or because she is pregnant.

- **Job guarantee:**

Federal: Upon the end of the leave period, the employee must be reinstated in the position held before the leave, or if not possible in a comparable position with the same wages and benefits and in the same location. Where for any valid reason an employer cannot reinstate an employee in the previous position, the employer shall reinstate the employee in a comparable position with the same wages and benefits and in the same location.

Ontario: Upon the conclusion of maternity or parental leave, the employer shall reinstate the employee to the position the employee most recently held with the employer or if this position does not exist any longer, to an comparable one paid at the same rate as before the leave or the rate that the employee would be earning had he or she worked throughout the leave.

Quebec: At the end of a maternity, paternity or parental leave, the employer shall reinstate the employee to his or hers former position with the same benefits, including the wage to which the employee would have been entitled had the employee remained at work.

Breastfeeding:

- **Breastfeeding breaks:** No provisions mentioned.

CHILE

CHILE HAS RATIFIED C103 (14.10.1994)

Name of Acts:

- Decree Law No. 150, establishing the Revised and Standardized Text of the Regulations of the Single Fund for Family Allowances and Unemployment Benefits for Workers in the Public and Private Sectors, 1981
- Act No. 18469, regulating the Exercise of the Constitutional Right to Health Protection and Establishing a Health Benefits Scheme, 1985
- Labour Code, Decree Law No. 1, 2002
- Decree-Law No. 44, establishing the Common Standards for Sick-leave Benefits for Workers in the Private Sector, 1978
- Act No. 18418, transferring to the Single Fund for Family Allowances and Unemployment Benefits the Funding of Maternity Leave Benefits, 1985
- Ley No 20348 protecting the Right to Equality in Pay
- Act No. 20428, 2010
- Act 20545, 2011.

Scope:

- Maternity protection covers women workers in the public and private sectors, companies of mixed capital, public administration and public establishments, cooperatives, households, industrial, agricultural, mining and commercial enterprises.
- It also extends to all women covered by a welfare system.

Maternity leave:

Maternity leave is part of **Parental leave** (see below) which is composed of 18 weeks of maternity leave (mother only) + 12 or 18 weeks of paid parental leave (mother or father) + 5 days of paid paternity leave (fathers only).

Scope: Mothers only.

Conditions: maternity leave is allowed upon presentation of a medical certificate.

Length: 18 weeks.

Compulsory leave: is to be taken 6 weeks before and 12 weeks after confinement.

Extension: If the child is born *after the expected date*, prenatal leave shall be extended until the birth of the child. In case of *multiple births*, the paid maternity leave is extended for 7 more days for each child after the second one. If the *worker becomes ill* as a result of her pregnancy, or after delivery, she shall be entitled to additional leave for an unspecified period of time that is determined by the medical health-care institution.

Paternity leave:

- **Scope:** Fathers only.
- **Conditions:** There are no conditions.
- **Length:** 5 days (consecutive or not) of paid leave following the birth of the child.
- **Compulsory leave:** This right is compulsory and must be taken during the first month after birth.

Parental leave:

- **Scope:** Mothers or fathers.
- **Conditions:** The female worker must inform by writing her employer 1 month before taking the leave, indicating if she will take the long or the short parental leave. The father can take this leave instead of the mother and must inform his employer 10 days before taking the leave.
- **Length:** It is taken after the maternity leave for a period of 12 weeks (paid full time) or 18 weeks (paid part-time 50% + work part-time, 50%).

Adoption leave:

- **Scope:** A worker, either man or woman, who is the guardian of a child younger than 6 months, as a result of having had legal custody or guardianship of the child granted as a means of protection, shall be entitled to leave and benefits.

- **Length:** Adoption leave is granted for 12 weeks.
- **Parental leave** also granted for adopters.

Cash benefits:

- **Maternity/Paternity/Parental/Adoption leave benefits: Scope:** Maternity benefits are paid to all women in the public and private sectors and to self-employed workers. Since 2013, unemployed women are entitled to cash benefits related to postnatal parental leave up to 36 weeks, under certain qualifying conditions.

If the mother dies during confinement or during the postnatal leave period, the father shall be entitled to benefits and leave under the same conditions as were established for the mother.

Conditions: To be entitled to these benefits, a worker shall have been affiliated for not less than 6 months and have paid contributions for not less than 3 months in the 6 months preceding the starting date of the corresponding leave.

Amount: 100% (up to a ceiling) of the wage.

Duration: Benefits are paid for the normal duration of maternity leave (18 weeks) as well as for duration of parental leave up to 12 weeks after the ending of their maternity postnatal leave (at 100%). During parental leave workers may take part-time paid parental leave (50%) for up to 18 weeks, in this case they will receive 50% as maternity benefits and 50% in wages.

Benefits are paid: The benefits derived from post-natal *parental leave* are funded by the Single Fund for Family Allowances and Severance Allowance which itself is funded by tax contributions.

Paternity benefits are paid to all workers in the public and private sectors and to self-employed workers. Fathers are paid their normal wage by the Social Security System.

Medical benefits:

- Every woman is entitled to medical care during her pregnancy and for 6 months following the birth of the child.

The child shall also be entitled to state protection and health check-ups until the age of 6 years.

Medical care includes medical curative care, examinations and diagnostic and surgical procedures, hospitalization, obstetrical care, treatment, including medication and other care that is necessary at confinement. Beneficiaries may freely choose their health-care professional or the health-care establishment where these services are provided.

- Paid by the National Health Fund. Without prejudice of further regulations, the regime will be financed, besides, with tariffs paid by beneficiaries of the services.

The State, through the National Health Fund, covers 100% of medical healthcare for indigents and people earning less than a national monthly minimum salary; 75% for people earning the equivalent of 1,46 national monthly minimum salary; and 50% for people earning more than 1,46 national monthly minimum salary.

Health protection:

- **Night work and overtime:** Prohibited for pregnant women.
- **Dangerous or unhealthy work:** Pregnant workers cannot be obliged to perform any dangerous work, and must be transferred to another type of work.
- **Transfer:** A woman worker who is typically involved in work that the authority considers harmful to her health during pregnancy, shall be transferred, without decrease in remuneration, to another post that is not prejudicial to her health.

Non-discrimination/Job protection:

- **General:** Discrimination, exclusion or preference based on sex, among other things, is contrary to the principles laid down in labour legislation.

The employer must comply with the principle of equal remuneration for men and women who do the same job.

- **Specific:** It is forbidden to employers conditioning the hiring of female workers, her retention, her renewal of contract, her promotion or mobility in employment to the absence or existence of pregnancy, or to demand for such purposes any certificate or examination to verify whether it is or not stage of pregnancy.

- **Dismissal:** An employer may not terminate a worker's contract during her pregnancy and for a period of 1 year after the expiry of her maternity leave without the prior authorization of the competent court. This provision also applies to fathers who use the maternity leave of mothers who have died during their confinement.

If the work contract is ended in ignorance of a worker's pregnancy this shall be without effect, and the worker will return her post, for which she need only present the appropriate medical or midwife's certificate, without prejudice to her entitlement to remuneration for the period during which she remained wrongfully unemployed, if during this time she was not entitled to benefits. The worker concerned shall exercise this right within a period of 60 working days from the date of her dismissal.

These provisions do not apply to domestic workers.

- **Job guarantee:** No mention.

Breastfeeding:

- **Breastfeeding breaks:** A woman shall be entitled to a 1-hour break daily to nurse her child under 2 years of age. This right is compulsory.

In agreement with the employer, the nursing breaks may be taken: a) at any time of the working day; b) in two breaks; c) by starting sooner or ending later the working day within a maximum of 1 hour, excepting the transport time.

Nursing breaks count as working time and shall be remunerated as normal working hours.

- **Breastfeeding facilities:** Establishments with 20 or more women workers shall have an adjoining and independent room (at the workplace) where woman workers may go to breastfeed children younger than 2 years and leave these children while they are at work. The cost of these nursing facilities will be borne by the employer.

CHILE HAS RATIFIED C103 (14.10.1994)

COLOMBIA

COLOMBIAS HAS RATIFIED C3 (20.06.1933)

Name of Acts:

- Resolution No. 02400, establishing Health and Safety in Workplaces, 1979
- Act No. 100, establishing the Integral Social Security System and Other Provisions, 1993
- Labour Code, Decree No. 2663, 1950
- Law No. 1468, 2011
- Law No. 823, 2003
- Law No. 1438, 2011
- Agreement No. 10, Enacted by the Commission of Health Regulation, 2010
- Law No. 1295, 2009
- Agreement No. 03, on the Regimen of Mandatory Health Plan (P.O.S), 2009
- Agreement No. 414, modifying Certain Conditions on Payment of Contributions to Receive Maternity Cash Benefits, 2009
- Law No. 755, on Paternity Leave (Ley Maria), 2002.

Scope:

- Maternity protection under the *Labour Code* covers all dependent workers in the private sector.
- Public Servants are excluded from the scope of application of the *Labour Code* but have their own special norms that cover maternity protection.

Maternity leave:

- **Conditions:** The employee must inform the enterprise of her pregnancy, the presumed date of confinement and the date of commencement of the period of leave and present a medical certificate to the employer upon confinement.
- **Length:** 14 weeks (2 weeks before and 12 after confinement).
- **Compulsory leave:** 1 week before confinement.
- **Extension:** In case of *multiple or premature births*, the maternity leave is extended up to 2 more weeks. If the female worker cannot return to her work at the end of the maternity leave due to *sickness*, rules for leave in case of illness will apply. In the case of *miscarriage or premature stillbirth*, female workers are entitled to paid leave for 2 to 4 weeks.

Paternity leave:

- Concerns male workers for a period of 8 days.

Adoption leave:

- **Scope:** Applicable to adoptive mothers in private and public sectors. All the provisions and guarantees established for biological mothers can be extended to cover adoptive mothers of a child under seven years old. The leave can be extended to the adoptive father without spouse or permanent partner. This provision is also applicable to workers in the public sector.
- **Conditions:** Adoptive mothers of a child under 7 years of age.
- **Length:** 14 weeks.

Cash benefits:

- **Maternity leave benefits: Amount:** Cash benefits represent 100% of the worker's wage.
Duration: for the duration of maternity leave (14 weeks).
Paid by the Social Security System. The system covers all persons with an employment contract, public employees and self-employed workers.
- **Paternity leave benefits: Scope:** The general Social Security System covers in its membership all persons with an employment contract, public employees and self-employed workers.
Conditions: Birth certificate; 100 weeks of contributions before the recognition of this payment.
Amount/Duration: 100% of wages for 8 days paid by the general Social Security System.

Medical benefits:

- The Compulsory Health Plan for pregnant women covers health services in antenatal check-ups, birth, post-partum check-ups and care for complaints directly related to nursing without considering the number of contributions made to the system.
- Moreover, pregnant women belonging to the lowest levels of stratification 1,2,3 are covered by the Social Insurance for unprivileged inhabitants (SISBEN).
- Medical benefits are covered by the Social Security System.

Health protection:

- **Night work:** It is prohibited to employ women for night work in any industrial company, with the exception of a company employing members of the same family. It is forbidden for pregnant workers to work during night shift for more than 5 hours.
- **Dangerous or unhealthy work:** A risk assessment is not expressly provided for pregnant workers, but it is a general duty of employers to guarantee safety at the workplace and to adopt all the necessary measures to fulfill this duty.

Non-discrimination/Job protection:

- **General:** A woman may not be subject to discrimination of any type, and during confinement shall receive special assistance and protection from the State.
- **Pregnancy tests:** It is prohibited to demand pregnancy tests in order to hire a woman or during employment. Are authorized to demand pregnancy tests only those employers with high risk activities that can harm the health of a pregnant workers or the foetus.
- **Dismissal:** It is prohibited to dismiss any employee because she is pregnant or a nursing mother. It is presumed that dismissal has been motivated because of pregnancy or breastfeeding when it happens during pregnancy or the 3 consecutive months to confinement and without the previous authorization of the Labour Inspector.
- **Job guarantee:** It is not expressly provided that female workers are entitled to return to the same job they were performing before leave. Nevertheless, it is established in the *Labour Code* that employers shall not vary unilaterally the terms of contract of employment. The employer is required to keep the job of the worker who is on paid maternity leave, or sick leave based on pregnancy or childbirth.

Breastfeeding breaks:

- **Breastfeeding breaks:** Two breastfeeding breaks of 30 minutes each in the working day, without any reduction in wage, until the child has reached the age of 6 months. Moreover, the employer is bound to grant rest periods more often than those referred to if the female employee produces a medical certificate setting forth the reasons why she requires more frequent breaks.
- **Breastfeeding facilities:** Every employer must establish, in premises adjacent to those where the mother works, a room for nursing or a suitable place for the care of the child.

COLOMBIAS HAS RATIFIED C3 (20.06.1933)

COSTA RICA

Name of Acts:

- Act No. 2, promulgating the Labour Code, 1943
- Constitutive Act No. 17 of the Costa Rican Social Security Fund, 1996
- Act No. 7142, Promotion of Women's Equality, 1990
- Health Insurance Regulation, 1996
- Decree No. 35434-S-MTSS, implementing Telework for Pregnant Workers, 2009
- Decree No. 36244-MTSS, issuing the Creation of the Technical Tripartite Commission on Gender Equality, 2010
- Law No.8805, Against Sexual Harassment in Employment, 2010
- Political Constitution of the Republic of Costa Rica, 1949
- Act No.775, issuing the Benefits for the Caregivers of Patients Who Are in the Final Stage of Life, 1998
- Act No.7735, on Protection of the Adolescent Mother, 1997
- Regulation No.33507-MTSS, on Occupational Health in the Management and Use of Agrochemicals, 2006
- Act No.7739, issuing the Code of Childhood and Adolescence, 1998.

Scope:

- Maternity protection is conferred by the *Labour Code* and covers all working women in the public and private sectors.

Maternity leave:

- **Conditions:** The pregnant worker is entitled to paid maternity leave if she presents a medical certificate to her employer indicating that the expected date of delivery is within the next 5 weeks from the issuing of such document.
- **Length:** The worker is entitled to enjoy 4 months (16 weeks) in total of maternity leave.
- **Compulsory leave:** The worker has to enjoy maternity leave scheduled as 1 month before and 3 months following confinement.
- **Extension:** The period of maternity leave can be extended up to 3 months by medical prescription. The worker is entitled to an extension of up to 3 months more (12 weeks) for *medical reasons*.

Adoption leave:

- **Scope:** is conferred by the *Labour Code* and covers all workers in the public and private sectors.
- **Conditions:** The worker shall be entitled to enjoy paid adoption leave, if a certificate is presented to the employer, issued by the National Child Committee or the Family Court, indicating the administrative formalities taken for the adoption.
- **Length:** same entitlements for an adoptive mother and a biological mother: 3 months of leave (12 weeks) from the day the child is in her custody.

Other work arrangements:

- Every worker in charge of a patient in the final stages of life (including a new born child) will be entitled to a leave paid at minimum 60% of the average of the last 3 months, renewable each month and up to 6 months.
- All pregnant workers, working in any public institution or public company or in any private establishment in Costa Rica, are entitled to request working from home or other appropriately equipped area, as far as technically practicable.

Cash benefits:

- **Maternity leave benefits: Conditions:** The Social Security System is universal and it covers all the residents of Costa Rica. Therefore maternity benefits are to be enjoyed by all working women in all sectors. In order to be entitled to enjoy maternity benefits the worker shall have worked at least 3 months preceding the date of confinement. Maternity benefits are to be paid only if the worker effectively enjoys the leave before and after delivery. Otherwise the payments may be suspended if proved that the worker is engaged in remunerative work.

Amount: 100% of salary. In the case of *miscarriage or premature non-viable birth*, the worker shall enjoy paid leave but reduced by half.

Duration: Maternity benefits are given for the whole leave (4 months).

Paid by Social Security (50%) and the employer (50%) (mixed system). This distribution changes if the employee has not paid Social Security contributions for more than 9 months. In this case, the SSS pays 1/3 of the benefits and the employer 2/3 of the benefits.

The amount paid by Social security depends on the duration of contributions to the Social Security Fund: 3-6 months: 50% of salary; 6-9 months: 75% of salary; more than 9 months: 100% of salary.

Medical benefits:

- The Clinics covered by the Social Security Fund and Health Care Centres provide free pre-natal and post-natal care to adolescent mothers. In addition, adolescent mothers are entitled to receive information regarding maternity, free medical examinations for her and for the newborn, medical assistance during confinement, and if necessary, food to complete her diet and her child's diet during the breastfeeding period.

Health protection:

- **Night work:** is prohibited for women.
- **Dangerous or unhealthy work:** It is not permitted to employ women in general to carry out work that is unhealthy, heavy or dangerous.
- **Work involving exposure to biological, chemical or physical agents:** it is absolutely forbidden for all pregnant workers and nursing mothers to work in any job involving the use and management of agrochemicals.

Non-discrimination/Job protection:

- **General:** The State promotes and guarantees equal rights between women and men in the political, economic, social and cultural spheres. State powers and institutions must guarantee that women do not suffer discrimination on the grounds of sex and that they enjoy the same rights as men. The Constitution states that Laws in Costa Rica shall provide special protection for women at work.
- **Specific:** It is forbidden to dismiss or to discriminate in any way the adolescent pregnant worker or nursing mother.
- **Dismissal:** A woman worker who is pregnant or nursing, or who has made a complaint of sexual harassment, cannot be dismissed except for justified causes based on serious neglect of the duties arising out of her contract. In that case, the employer must request authorization from the labour authorities.
The employer may dismiss the pregnant worker or nursing mother after proven the negligence of the worker before the National Direction and General Labour Inspection.
If a pregnant worker or nursing mother is dismissed without due cause, she may claim from the Labour Court her immediate reinstatement to her post with full enjoyment of all of her rights.
- **Job guarantee:** A woman worker is entitled to return to her post or to another post of equivalent remuneration that relates to her skills, abilities and competencies after maternity leave.

Breastfeeding:

- **Breastfeeding breaks:** A breastfeeding worker is entitled to 15 minutes every 3 hours or, if preferred, 30 minutes twice during the working day, unless a medical certificate states that a shorter period of time is required.
The employer shall also endeavour to ensure that the worker has the opportunity to take a rest period according to the possibilities relating to her employment.
Nursing breaks and rest periods will be calculated as hours worked (and therefore paid).
- **Breastfeeding facilities:** Enterprises that employ more than 30 women are obliged to provide an appropriately equipped area in which women may safely nurse their children.
Every employer of public and private institutions shall provide *adolescent mothers* with adequate conditions to nurse their children.

CUBA

CUBA HAS RATIFIED ILO C3 (6.08.1928)

CUBA HAS RATIFIED ILO C183 (1.06.2004)

Name of Acts:

- Law No. 49 promulgating the Labour Code, 1984
- Law No. 105 on Social Security, 2009
- Decree 234 on Female Worker's Maternity, 2003.

Scope:

- Maternity protection is conferred by the *Labour Code* and applies to all women workers in Cuba independently of the type of work or activity.

Maternity leave:

- **Extended scope:** If the mother dies after child birth, the father, if he works and fulfils the same qualifying conditions as the deceased mother, is entitled to a paid leave equivalent to the remaining period of maternity leave. In addition, the father may claim all other benefits to which the mother would have been entitled. If for duly justified reasons the father cannot assume this responsibility, he may delegate it to the grandparents, brother or sister or any familiar obliged to provide food and care until the child reaches the age of 1 year.
- **Conditions:** Maternity leave shall be conferred to all women workers although the qualifying conditions for maternity benefits are not fulfilled.
- **Length:** The female worker shall enjoy a maternity leave period before and after confinement with a total duration of 18 weeks, during which the labour relation is suspended but the worker maintains her vacancy and salary. Moreover, during the child's first year, a woman worker is entitled to 1 day of paid leave every month to attend a pediatric clinic.
- **Compulsory leave:** A pregnant woman shall stop working at 34 weeks of pregnancy or 32 weeks in case of multiple pregnancies.
- **Extensions:** In the case of *multiple pregnancies*, the paid leave prior to confinement shall be extended to 8 weeks.
If the birth takes place *after the due date*, pre-natal leave shall be extended until confinement and shall be paid for up to 2 extra weeks. If the birth takes place *before the due date*, pre-natal leave shall end and post-natal leave shall begin.
A female worker may claim paid *sick leave* during the time of the sickness.
In case of the *death of the newborn* due to complications or a *congenital illness* during the first 4 weeks after confinement, post-natal leave has a total duration of 6 weeks. If the death arises after 4 weeks afterbirth, post-natal leave has a total duration of 12 weeks.

Parental leave:

- **Scope:** Following the post-natal maternity leave, a parent, mother or father, may request paid leave to care for their children under 1 year of age.
- **Conditions:** workers male or female, have to have worked for not less than 75 days in the 12 months immediately preceding the start of maternity leave.
- **Duration:** Parental leave is granted for a period starting from the last day of the maternity leave until the child reaches the age of 1 year. Under special circumstances, when the child reaches the age of 1 year, and if the father or the mother continue to be unable to work because they have to take care of their children, he or she may claim an unpaid leave that in no case may exceed 3 extra months.
- **Unpaid leave:** When the mother or the father is unable to work because s/he has to care of his/her children, they are entitled to an unpaid leave for: 1) up to 9 months until the child is 1 year, for those workers who do not fulfill the qualifying conditions for parental leave. Or 2) up to 6 months for workers who have children under 16 years. *Qualifying conditions* for this last category of workers: Workers shall have effectively worked two thirds of the working days prior to the date of application of the leave.

Adoption leave:

- The legislation provides the same protection for adoptive parents as for natural parents. Therefore the maternity leave provisions apply for adoption.

Cash benefits:

- **Maternity leave benefits: Scope:** All female workers in the public sector, cooperatives or the private sector are covered by the protection of the Social Security and are entitled to receive cash benefits.

Conditions: In order to be entitled to enjoy maternity benefits, the worker shall have worked at least 75 days in the last 12 months preceding the date of commencement of such benefits, independently of the number of working places where the worker has been employed.

Unpaid leave: if conditions have not been fulfilled, the worker may enjoy an unpaid pre-natal and post-natal leave and shall be entitled to enjoy other extraordinary benefits or and in case of economic need, immediate protection from the Social Security.

Amount: The amount for maternity leave is 100% of the average weekly income received in the 12 months immediately preceding leave. It cannot be less than \$20.00 per week.

Duration: The female worker shall enjoy maternity leave benefits for a total duration of 18 weeks.

Benefits are paid by Social Security, which is financed through the contributions of the State, labour entities and workers, in the terms and conditions provided by the Tax legislation.

- **Parental leave benefits:** The amount for parental leave is 60% of the average weekly income received for maternity benefits and is paid by Social Security.

Medical benefits:

- During her pregnancy - up to 34 weeks before her confinement, and 32 weeks in case of multiple pregnancies - a woman worker is entitled to receive medical and stomatology treatment, covered by Social Security.

Health protection:

- **Overtime:** Any female worker who is pregnant or has children of up to 1 year, shall be exempted from working extra hours or double shifts.
- **Dangerous or unhealthy work:** Pregnant women or women of child-bearing age shall not be employed in activities or posts affecting the reproductive system, the reproductive function or the normal course of pregnancy.
The lists of posts and activities not recommended are approved by the competent authority.
- **Transfer:** A woman worker who is prevented by pregnancy from carrying out her duties shall be temporarily transferred to another post suited to her physical condition. The conditions and amount of pay in cases in which the worker is transferred to another post in prevention of her health, shall be fixed by law.

Non-discrimination/Job protection:

- **General:** Female workers enjoy the same protection as male workers, taking into account the constitutional principle of equality in rights, duties, guarantees, and the same access to opportunities and work possibilities.
Every citizen who is able to work, without distinction on grounds of sex, among others, shall have the opportunity to obtain employment by which he/she may contribute to the aims of society and to the satisfaction of his/her needs.
- **Dismissal:** The only reasons for which a woman worker, with a contract of indefinite duration, who is on paid or unpaid maternity leave, may be notified of a decision to terminate her contract of employment are the violation of work discipline, punishment by deprivation of liberty, which exceeds 6 months, as the result of a definitive sentence and failure to resume work on the expiry of the unpaid leave granted to look after her children.
- **Job guarantee:** A woman worker is guaranteed reinstatement in her employment on the expiry of her maternity leave and is entitled to hold the post she occupied prior to her leave. As far as the unpaid parental leave is concerned, the parent, mother or father, who benefited from the leave is guaranteed right to return to work and to hold the post occupied prior to the leave.

Breastfeeding:

- **Breastfeeding breaks:** Female employees are entitled to one daily hour break to breastfeed their child until s/he reaches the age of 1 year.
The hour for breastfeeding should be taken, preferably, at the beginning or end of the working day, as agreed between the worker and the administration.
Nursing breaks shall be considered as working time for the purposes of remuneration.

CUBA HAS RATIFIED ILO C3 (6.08.1928)
CUBA HAS RATIFIED ILO C183 (1.06.2004)

DOMINICA

Name of Acts:

- Labour Standards Act, Chapter 89:05, Act No. 2, 1977
- Labour Contracts Act, Chapter 89:04, Act No. 12, 1983.

Scope:

- Every female employee who is pregnant and has worked for 12 months with an employer.

Maternity leave:

- **Conditions:** to be pregnant and to have completed 12 months of continuous employment with an employer. Moreover, she shall: 1) apply in writing for such leave to her employer specifying the estimated date of her confinement; and the date on which her maternity leave will commence, which may not be less than 3 weeks before the estimated date of her confinement; and 2) furnish a certificate of a duly qualified medical practitioner certifying that she is pregnant and specifying the estimated date of her confinement.
- **Length:** 12 weeks.
- **Compulsory leave:** 3 weeks before the estimated date of confinement and 6 weeks post-natal.
- **Extension:** If the leave to be taken has been extended by any period elapsing between the presumed and the actual date of confinement, the period of leave to be taken after confinement shall in no case be reduced on that account to a period of less than 6 weeks.

Cash benefits:

- **Maternity leave benefits:** Two types: Maternity grant and maternity allowance.
- **Maternity grant:** A lump sum of EC\$500.- shall be paid as maternity grant on confinement of the wife of an insured self-employed man or an insured self-employed woman provided that the claimant has paid contributions for at least 3/4 in the 4 consecutive quarters immediately preceding the quarter in which the date of confinement occurs. Where there are multiple births, a grant shall be payable in respect of each child.
- **Maternity allowance: Conditions:** No exclusions are made as for categories of workers. The pregnant worker has to be insured: at least 30 weeks of contributions, including at least 20 weeks in the 30-week period before maternity leave began.
Amount: 60% of average weekly earnings in the last 30 weeks.
Duration: A period starting from a date not earlier than 6 weeks before the expected date of confinement and continuing until the expiration of 12 weeks or 6 weeks from the date on which confinement occurs; whichever is the later. Benefits are usually paid 6 weeks before and 6 weeks after the expected date of childbirth but in certain cases, the benefit may be paid from 3 weeks before and up to 9 weeks after the date of birth.
- **Benefits are paid** by the Social Security, which is financed as follows: 4% of covered earnings of the insured person and 6.75% of covered payroll of the employer; 10% of declared net earnings of self-employed persons.

Medical benefits:

- The Social Security administers and provides, among others, the medical benefits which are financed by the same contributions as listed above concerning maternity benefits.

Health protection:

- No mention.

Non-discrimination/Job protection:

- No mention.

Breastfeeding:

- **Breastfeeding breaks:** No mention.

DOMINICAN REPUBLIC

Name of Acts:

- Act establishing a Social Insurance System, Act No. 87-01, 2007
- Decree regulating the Application of the Labour Code, Decree No. 25893, 1993
- Labour Code, Law No. 1692, 1992
- Act on Social Insurance, Act No. 1896, 1948.

Scope:

- Maternity protection provided for in the *Labour Code* covers all women working in the private sector.
- Civil servants are governed by their own statutes.

Maternity leave:

- **Length:** Every female worker is entitled to enjoy 12 weeks of maternity leave (6 weeks each before and after confinement).
- **Compulsory leave:** 6 weeks before, 6 weeks after birth.
- **Extension:** In the event of inability to return to work owing to *illness* caused by the pregnancy or confinement, the woman worker shall be entitled to a period of unpaid leave for as long as is necessary for her recuperation.

Paternity leave:

- The employer is obliged to grant the employee 2 days of leave with pay to enjoy the delivery of his wife or partner.

Cash benefits:

- **Maternity leave benefits: Scope:** The Social Security Scheme covers workers between the ages of 14 and 60, including domestic workers, temporary workers, casual workers, home workers, apprentices, and persons who are paid in kind; exceptions are civil servants, workers whose income exceeds a certain amount and family workers. Self-employed workers and those who are not insured can be covered on a voluntary basis.
Amount: Benefits represent 100% of the worker's salary.
Duration: Cash benefits cover 12 weeks of maternity leave (the sum is equivalent to the salary for 3 months).
Benefits are paid through a mixed system: 50% by the employer and 50% by the Dominican Social Security Institute. If the worker is not covered by social insurance legislation, the employer shall pay 100% of the benefits.
- **Paternity leave benefits:** 2 days leave paid by the employer.

Medical benefits:

- Insured women workers are entitled during pregnancy, childbirth and the post-natal period, to medical and hospital care and pharmaceutical supplies.
- Medical costs are covered by the Social Security Institute.

Health protection:

- **Dangerous or unhealthy work:** During her pregnancy, no woman worker shall be required to carry out work which requires physical exertion incompatible with her condition.
- **Transfer:** Where, as a result of pregnancy or childbirth, the work performed by a woman is harmful to her health or that of her child, and a medical practitioner certifies this fact, the employer must provide a change of work.
- **Unpaid leave:** Where a change of work is impossible, the woman shall be entitled to unpaid leave, without prejudice to her maternity leave.

Non-discrimination/Job protection:

- **General:** Women have the same rights and obligations as men regarding labour legislation.
- **Dismissal:** No woman may be dismissed from her employment on account of pregnancy. Any dismissal for pregnancy shall be null and void. Any dismissal of a pregnant woman or within 6 months of childbirth must first be submitted for approval to the competent authority in order to determine whether it is the result of pregnancy or childbirth. An employer who dismisses a woman worker without observing the above-described procedure must pay that worker, in addition to the benefits due to her, compensation equivalent to 5 months' ordinary salary.

- **Job guarantee:**No mention.

Breastfeeding:

- **Breastfeeding breaks:**During the period of breastfeeding the woman worker is entitled to three remunerated rest periods a day at the workplace, for the purpose of breastfeeding her child.

Each period is of not less than 20 minutes each.

These breastfeeding breaks shall not exceed 12 months.

ECUADOR

ECUADOR HAS RATIFIED C103 (5.02.1962)

Name of Acts:

- Act on Maternity and Infant Care, 1994
- Social Security Act, 2001
- Labour Code, 1978
- Codified Statutes of the Ecuadorian Social Security Institute (IESS), 1990
- Organic Law of Public Service, General Regulation of the Act on Civil Service and Administrative Careers, 1992
- Decree No. 3640, regulating Radioactive Security, 1979
- Organic Law amending the Civil Service Law and Administrative Career and Unification and Standardization of Public Sector Pay and the Labor Code, 2009
- Law amending the Social Security Act, 2010.

Scope:

- Maternity protection provided in the *Labour Code* covers women workers in the private and public sectors.
- Civil servants and public servants are governed by their own statutes that entitles them to maternity leave.

Maternity leave:

- **Conditions:** To have presented a medical certificate with the probable or effective date of confinement.
- **Length:** 12 weeks.
- **Compulsory leave:** 2 weeks before and 10 weeks after confinement.
- **Extensions:** Up to 10 more days in case of *multiple births* for workers covered by the *Labour Code* and by civil/public servants legislation.

Women workers are entitled to 1 year's leave without pay owing to *illness* which is due to her pregnancy or confinement and which renders her incapable of work. Women workers may not make use of this leave if they are under temporary, occasional, seasonal, apprenticeship or probationary contracts. Nor may women in domestic service.

Paternity leave:

- **Scope/length:** The father has a paid paternity leave of 10 days.
Extensions: This can increase to 5 more days (15 days) in case of *multiple births* or *cesarean section*.
In the case of a *premature birth* or of *special care needs*, 8 more days can be added (18 days).
In case the child was born with a degenerative, terminal *sickness* or severe *disability*, the father will have a paid paternity leave of 25 days.

Parental leave:

- **Scope/Length:** Paid parental leave to take care of *hospitalized children or ill* with a degenerative sickness: 25 days (6 weeks) can be taken together or alternately by both parents.

Adoption leave:

- **Scope:** the *Labour Code* covers workers in the private and public sectors. Civil servants are governed by their own statutes that entitled them with this leave. Public servants are covered by the *Civil Service Law*.
- **Conditions:** There are no qualifying conditions to be entitled to this right.
- **Length:** In case of adoption, adoptive parents will have paid adoption leave for 15 days (2 weeks) from when the child is legally delivered to them.

Cash benefits:

- **Maternity leave benefits: Conditions:** To be entitled to the benefits, the woman must prove she has made 12 continuous monthly contributions during the year prior to the due date of confinement.

Scope: Coverage extends to all women workers in the public and private sectors, civil servants, domestic workers, independent workers, agricultural workers affiliated to Social

Insurance for agricultural workers in a contributory basis. Those excluded: Members of Parliament and family members working in family enterprises and those who are entitled to an invalidity pension for work accidents.

Amount: Benefits represent 100% of income.

Duration: Cash benefits cover 12 weeks.

Benefits are paid through a mixed system, by the Social Security Institute (75% of the maternity benefits), and the employer (remaining 25%).

- **Paternity leave benefits:** Coverage is same as for maternity benefits, Paid by Social Security and employer, though the proportion of each is not mentioned. There are no qualifying conditions in order to be entitled with this right.
- **Adoption leave:** In case of adoption, adoptive parents will have paid adoption leave for 15 days from when the child is legally delivered to them. Same scope as for maternity leave. There are no qualifying conditions to be entitled with this right.

Medical benefits:

- All Ecuadorian women are entitled to free, quality health care during pregnancy, childbirth and the post-natal period. Insured women workers are entitled to the necessary obstetric assistance, including care during pregnancy, childbirth and the post-natal period. Insured women who have paid contributions for only 2 months during the year prior to confinement shall be entitled to pre-natal assistance. Medical benefits are covered by Social Security.

Health protection:

- **Night work** is prohibited only for minors under 18 years old.
- **Dangerous or unhealthy work:** No woman shall be employed in any industry or occupation that is deemed to be dangerous or unhealthy (these are listed in special regulations). *A maximum loadis* established for women and children.

Non-discrimination/Job protection:

- **General:** The Constitution establishes equality before the law. All persons are considered equal and enjoy the same rights, freedoms and opportunities without discrimination on grounds of birth, age, sex, ethnicity, colour, social origin, language, religion, political affiliation, economic status, sexual orientation, health status, disability, or difference of any kind.
- **Dismissal:** A worker's contract of employment shall not be terminated on account of her pregnancy, and the employer shall not appoint a permanent replacement for her during the maternity leave period. No pregnant woman may be dismissed from the date of commencement of her pregnancy, except in justified cases that are not due to her condition, in which case the dismissal must be authorized by the competent authorities. In the event of an unjustified dismissal, the employer shall pay compensation equal to her remuneration for 1 year, without prejudice to any other entitlements that she may have.
- **Job guarantee:** A woman worker cannot be replaced definitely by her employer during her maternity leave.

Breastfeeding:

- **Breastfeeding breaks:** A mother affiliated with a public institution is entitled to 2 paid hours of nursing per day for 12 months from the date she returns from her maternity leave. A mother working for a private company is entitled to 2 paid hours of breastfeeding her child until it is 9 months old.
- **Breastfeeding facilities:** In enterprises or work centres where there is no nursery, a nursing mother's hours of work for the first 9 months after her confinement shall amount to 6 hours a day, which shall be fixed or distributed in the manner prescribed by collective agreement, the work rules or by agreement between the parties.

In enterprises of 50 employees or more, the employer shall set up, in or near the enterprise or work centre, a nursery where the employees' children may be left.

ECUADOR HAS RATIFIED C103 (5.02.1962)

EL SALVADOR

Name of Acts:

- Law-Decree No. 1263, promulgating the Social Insurance Act, 1953
- Executive Decree No. 37, issuing Regulations for Applying the Social Security System, 1954
- Decree No. 15, promulgating the Labour Code, 1972
- Legislative Decree No. 38, containing the Political Constitution of El Salvador, 1983.

Scope:

- The enjoyment of paid maternity leave before and after confinement is a constitutional right and therefore shall apply to all female workers in El Salvador.
- The maternity protection provided by the *Labour Code* applies to all female workers in the private sector, and to all female workers working for the State, the Municipalities, the Autonomous and Semi-Autonomous Official Communities.
- However, the provisions of the *Labour Code* do not apply when the labour relations are between the State, the Municipalities, the Autonomous and Semi-Autonomous Official Communities and their female workers have a public character that is based on an administrative act.

Maternity leave:

- **Conditions:** The worker must provide her employer with a medical certificate stating that she is pregnant and giving the probable date of confinement.
- **Length:** 12 weeks, 6 of which must be taken after confinement.
- **Compulsory leave:** 6 weeks after confinement.
- **Extension:** If confinement takes place *after the date expected*, the leave shall be extended to the actual date of confinement, and the amount of benefits for compulsory post-natal leave shall not be reduced.

In the case of *illness* which, according to a medical certificate, has occurred as a result of pregnancy, the worker shall be entitled to supplementary pre-natal leave, the length of which shall be determined by regulations.

If, after the period of maternity leave has expired, the worker provides a medical certificate stating that she is *ill* and unable to return to work, then she shall be granted the leave necessary for her recovery, during which the employer shall maintain her job.

Paternity leave:

- Though there is no express reference to paternity leave, the *Labour Code* states that the employer shall provide an emergency family leave to all workers to fulfill “the obligations which objectively require their presence”. It seems that paternity is a justifiable reason for claiming this paid leave.
The length of paternity leave depends on the time needed to address the emergency. It appears that it can be repeated several times during a given year.

Cash benefits:

- **Maternity leave benefits: Scope:** The Social Security Scheme covers all the workers dependent upon an employer, in the public and private sector, whatever the labour relationship and the kind of remuneration.

Therefore, all female employees are entitled to enjoy the Social Security benefits, with the sole exception of those workers who earn over a fixed sum established by specific regulations.

Conditions: To be eligible for maternity cash benefits, a woman must have worked 6 months with the same employer before the expected date of birth. She must also have contributed during 12 weeks to the Social Security Scheme over the 12 months before the expected date of birth.

Amount: 100% of the basic wage for the normal duration of maternity leave (12 weeks).

Benefits are paid through a mixed system: 75% by the employer and 25% by the Social Security.

- **Paternity leave benefits:** The amount due to paternity shall be the equivalent of 2 days ordinary salary per month for a period of 12 months.
They are paid by the employer.

Medical benefits:

- Insured workers are entitled to enjoy, in the form and duration provided by the regulations, the following medical benefits: medical, surgical, pharmaceutical, dental, hospital and laboratory services, as long as they are necessary.
- Insured workers are entitled to enjoy the necessary pre-natal, childbirth and post-natal cares.
- Paid by the Salvadorian Social Security Institute.

Health protection:

- **Dangerous or unhealthy work:** Pregnant women cannot undertake work requiring considerable physical exertion incompatible with their condition. Any work requiring considerable physical exertion is incompatible with their condition after the 4th month of pregnancy.

Non-discrimination/Job protection:

- **General:** There are no express references to discrimination measures based on pregnancy or any related cause. However, the legislation provides that any discrimination motivated by reasons of gender shall be prohibited.
- **Pregnancy test:** The employer cannot request that a female worker undergo a pregnancy test, or present a medical certificate of this nature, as a requirement for obtaining a job.
- **Dismissal:** From the start of a worker's pregnancy until the end of her postnatal leave, dismissal cannot lead to the termination of her contract, except when the cause of dismissal predates the pregnancy; however, even in such cases, the dismissal shall not take effect immediately after the end of maternity leave.
- **Job guarantee:** The preservation of the employment during maternity is a constitutional right.

Breastfeeding:

- **Breastfeeding breaks:** The *Labour Code* provides that all female workers shall be entitled to enjoy up to 1 hour per day to breastfeed their children; this period can be split into two periods of half an hour each, at the request of the worker. Nursing breaks shall be calculated as time worked and remunerated as such.
- **Breastfeeding facilities:** The Constitution provides that employers must install and maintain rooms, cots and areas for the children of workers.

GRENADA

Name of Acts:

- Employment Act, Act No.14, 1999
- The National Insurance (Benefits) Regulations, Chapter. 205, 1983
- People's Law No. 14, 1983.

Scope:

- The *Employment Act* guarantees that every pregnant employee is entitled to take paid maternity leave and to return to work in that employment thereafter if she so desires.
- This Act does not apply to members of the police force, armed forces or to prison guards or officers except those employed in a civilian capacity, although, as far as is practicable, their conditions of service should not be less favourable than those of workers covered.

Maternity leave:

- **Conditions:** In order to be entitled to maternity leave the employee shall at the date of the expected confinement have been continuously employed by that employer (or a successor to that employer) for a period of at least 18 months.
- **Length:** Every employee shall be entitled to maternity leave for a period of 3 months (12 weeks).
- **Extension:** Maternity leave is granted in addition to any *vacation leave* to which an employee may be entitled.

If incapacity of work arises from *complications* of confinement immediately following the cessation of rights to maternity benefits, the employee is entitled to sickness benefits, including the leave and the right to return to work when the incapacity finishes.

Cash benefits:

- **Maternity leave benefits:** Two types of benefits: a maternity grant (one-time payment on the first day of maternity leave) together with maternity allowance (weekly benefits).
- **Maternity grant: Conditions:** In order to be entitled to a maternity grant the worker or her husband, if she does not qualify for the benefit, must have made 50 contributions at any time after being registered with the NIS.
Amount: \$522.00 in one lump sum. Payable on the first day of maternity leave or immediately after confinement.

- **Maternity allowance: Conditions:** Maternity benefits shall be granted in the case of pregnancy and confinement of a woman who is an insured person. No exclusions are made as for categories of workers.

In order to be entitled to the maternity allowance, the claimant must have been registered with the National Insurance Scheme for at least 30 weeks, have paid contributions for at least 20 weeks in the 30-week period immediately preceding the week of confinement and be aged between 16 and 60.

An insured person entitled to payment of maternity benefit shall be disqualified from receiving such benefits for such period as the Director may decide if during the period for which the benefits are payable a) she engages in remunerative work; b) she fails without good cause to take due care of her health, or to answer any reasonable inquiries by an officer of the Board directed to ascertain whether she is doing so; or c) she fails without good cause to comply with a notice in writing by the Director requiring her to attend and submit herself to medical or other examination.

Amount/Duration: 100% of salary for 8 weeks (paid by Social Security + employer) and 60% of salary for remaining 4 weeks (paid only by Social Security).

These benefits are distributed in the following way: 1) In the case of *monthly paid employees*, 2 months' salary less any amount to which such employees are entitled. 2) In the case of *weekly or fortnightly paid employees*, wages for 4 fortnights less any amount to which such employees are entitled. 3) In the case of *daily paid workers*, one-fifth of wages earned in the 12 months immediately prior to the commencement of the leave being taken less any amount to which such employees are entitled.

Benefits are paid 3 months by Social Security (National Insurance Scheme) (60%) and 2 months by the employer (40%).

Medical benefits:

- No mention.

Health protection:

- No mention of health protection.

Non-discrimination/Job protection:

- **General:**No person shall discriminate against any employee on any ground including maternity or a reason connected with her pregnancy in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment relationship.

In order to avoid discriminatory measures, a prosecution may be instituted on the complaint of the Labour Commissioner or an employee.

- **Dismissal:**A female employee's pregnancy, or a reason connected with her pregnancy, do not constitute valid reasons for dismissal or the imposition of disciplinary action.
- **Burden of proof:**An employer who terminates the employment of an employee because she is pregnant commits an offence and the burden of proving that the employment was not terminated because of pregnancy shall be on the employer.
- **Job guarantee:**An employee is entitled to return to work in the employment she held prior to maternity leave if she so desires.

An employee shall exercise her right to return to work by notifying her employer at least 2 weeks before the day on which she proposes to return, of her intention to return on that day.

Breastfeeding:

- **Breastfeeding breaks:**No mention.

GUATEMALA

GUATEMALA HAS RATIFIED C103 (13.06.1989)

Name of Acts:

- Decree No. 1441, promulgating the Labour Code, 1961
- Decree No. 295, establishing the Organic Law on Social Security, 1946
- Regulation on the Breastfeeding Period, 1973
- Constitution of the Republic of Guatemala, 1985
- Government Decision No. 1149, Guatemalan Social Security Institute (Sickness), 1967
- Decree for a Healthy Maternity, No. 32-2010, 2010
- Agreement No.1235, Guatemalan Institute of Social Security (Social Security Programme for Domestic Workers), 2009
- Agreement No. 410 of the Guatemalan Institute of Social Security of Guatemala, establishing a Regulation on Sickness and Maternity.

Scope:

- The *Labour Code* covers all women working in the private sector. It also applies to legal persons/enterprises of public nature.
- Public servants are covered by the *Statute of Public Service* and its *Regulations*.

Maternity leave:

- **Conditions:** Presentation by the employee to the employer of a medical certificate that indicates confinement will take place within the 5 weeks following the date of the certificate.
- **Length:** 84 days (12 weeks). It can be taken 30 days before and 54 days after confinement.
- **Compulsory leave:** There is no express compulsory leave, however, the mother may accumulate the days not enjoyed of pre-natal leave to the post-natal leave period.
- **Extension:** No extension in case of *multiple births*. *Illness:* A woman worker may remain absent from her job for a longer period as a result of illness which is confirmed by a medical certificate to have been caused by pregnancy or confinement, provided that this period does not exceed 3 months, counting from the point when leave is taken.

Paternity leave:

- **Scope:** Same as for maternity leave.
- **Length:** 2 days paid leave.

Adoption leave:

- **Scope/Length:** The female employee who adopts a child under 1 year of age, is entitled to "post-partum" leave - 54 days (8 weeks).
- **Conditions:** In order to qualify, the female employee has to give the employer all the documents or rulings certifying that adoption has taken place.

Cash benefits:

- **Maternity leave benefits:** Maternity cash benefits are provided to both biological and adoptive mothers.
Conditions: In order to be eligible for benefits a woman must have paid contributions for 3 months out of the 6 preceding pre-natal leave, and cannot carry out any other paid work during the period of leave.
Domestic workers must have paid contributions during at least the 6 months immediately before the date she needs to make use of the Social Security services.
Amount: When the worker is entitled to Social Security benefits she receives an amount in proportion to her contributions.
When she is not entitled to Social Security she receives 100% of her income for the whole period of leave from her employer.
Duration: Cash benefits cover 84 days (12 weeks).
Benefits are paid: Mixed system: 2/3 of the basic salary by the Guatemalan Social Security Institute and the remaining 1/3 by the employer.

Social Security covers several categories of employees, including domestic workers who are entitled to healthcare benefits and maternity cash benefits. Social Security is funded on triple contributions made by employees, employers and the State.

However, some categories of workers are not covered (for ex., self-employed women). If they are not covered by the Institute of Social Security, they receive maternity cash benefits from their employer who pays the full amount.

- **Paternity leave benefits:** 100% for 2 days, paid by the employer.

Medical benefits:

- Medical assistance comprises medical, surgical, therapeutic and hospital care during pregnancy, childbirth and the post-natal period.
- The Ministry of Public Health and Social Assistance (MSPAS), the Institute of Social Security of Guatemala, and NGOs whose social goals include offering healthcare services provide healthcare services during pregnancy, confinement and the post-natal period without any discrimination.
- Medical benefits are covered by Guatemalan Social Security Institute.

Health protection:

- **Night work:** not prohibited.
- **Overtime:** not prohibited.
- **Dangerous or unhealthy work:** There are no legal provisions for pregnant or breastfeeding workers, but the *Labour Code* has established general obligations of employers regarding the protection of safety and health of all workers. Also, the work assigned to female workers and minors has to be adequate to their age, physical and intellectual conditions, as well as their moral development.
- If the female worker needs to stop working as the consequence of *illness* arising from her pregnancy or confinement, following the presentation of a medical certificate to her employer, she is entitled to all her maternity cash benefits during the whole time needed to recover up to 3 months from the date she stops working.

Non-discrimination/Job protection:

- **General:** It is unlawful to advertise a job in any form specifying gender, among other things, as a prerequisite to fill the post, except where the particular nature of the job requires a person with specific characteristics. Similarly, no distinction shall be made for purposes of employment between single women and those who are married and/or have family responsibilities.
- **Dismissal:** It is forbidden to dismiss a female worker during pregnancy or the breastfeeding period, except if she commits a serious fault related to her job. In this case the employer shall obtain the authorization from a Labour judge. If the employer lacks to fulfill this obligation and dismisses his employee, the latter is entitled to claim reinstatement to her post from the Labour judge.
- **Burden of proof:** The employer has the burden of proof in case of dismissal based on a serious breach of duties by the pregnant or breastfeeding employee. The employer shall obtain previous authorization from the Labour judge to prove that he is justified to dismiss his employee.
- **Job guarantee:** Female workers are not expressly entitled to the right to return to the job they were performing before their maternity leave. However, as seen above, the employer may not dismiss a woman worker during pregnancy or nursing, as she is immune from dismissal except for just causes stemming from a serious violation of the obligations laid down in her contract.

Breastfeeding:

- **Breastfeeding breaks:** 2 x 30 minutes per day to breastfeed her baby. This period shall not exceed 10 months unless more favorable provisions are negotiated in a collective agreement or exist according to custom. Nursing breaks shall be remunerated and calculated as time worked.
- **Breastfeeding facilities:** every working mother should have a place available at work in order to feed her child.

Moreover, every employer employing more than 30 women must provide an adequate area (without any dangers) for mothers to feed their children under 3 years of age, and in which to leave them while working, under the supervision of an appropriate, designated, person paid for this task.

GUATEMALA HAS RATIFIED C103 (13.06.1989)

GUYANA

Name of Acts:

- National Insurance and Social Security Act, Chapter 36:01, Benefit Regulations
- National Insurance and Social Security Act, Chapter 36:01, Collection of Contributions Regulations
- National Insurance and Social Security Act, Chapter 36:01, Contribution Regulations
- National Insurance and Social Security Act, Chapter 36:01, Sickness Benefits, Medical Care Regulations
- Equal Rights Act, Act No.19, 1990
- Prevention of Discrimination Act, Chapter 99:09, 1997
- Termination of Employment and Severance Pay Act, Act No. 19, 1997.

Scope:

- Every employed female worker.

Maternity leave:

- **Conditions:** There are no legal or administrative provisions regarding maternity leave. However the legislation states that the employment of every worker continuously employed shall not be treated as interrupted if the employee is absent from work due to maternity leave.
- **Length:** 13 weeks.
- **Compulsory leave:** These weeks are divided as following: 6 weeks before birth, 6 weeks after birth, 1 week for birth.
- **Extension:** An extension for an additional 13 weeks is possible when the General Manager determines it, taking into consideration the particular circumstances of the case.

Cash benefits:

- **Maternity leave benefits:** In the case of pregnancy and confinement an insured woman or the spouse of an insured man is entitled to maternity benefits, that consist either of a maternity grant (one-time payment), a maternity allowance (weekly benefits) or both. No exclusions are made as for categories of workers.
- **Maternity grant:** is payable to any insured woman who has satisfied the conditions of items a) and b) below, or any woman whether insured or not, who was confined and who has not satisfied the conditions of items a) and b) below, but whose spouse is an insured person and has satisfied the contribution conditions.
Amount: The amount of the maternity grant is \$2,000.-.
- **Maternity allowance: Conditions:** is payable if the insured woman: a) has paid not less than 15 contributions since her entry into insurance; and b) has been engaged in and paid contributions for insurable employment during at least 7 contribution weeks in the period of 26 contribution weeks preceding the week in which the benefits are claimed.
Disqualification: An insured person entitled to payment of maternity benefits, shall be disqualified from receiving such benefits for a period determined by the General Manager, if during the period for which benefits are payable: a) she engages in remunerative work; b) she fails without good cause to take due care of her health, or to answer any reasonable inquiries by an Officer of the Board, directed to ascertain whether she is doing so; or c) she fails without good cause to comply with a notice in writing by the General Manager, before her confinement, requiring her to attend or to submit herself to any medical examination.
Amount: The weekly rate of maternity allowance is 70% of the average weekly insurable earnings.
Duration: is normally paid for a period of 13 weeks, including the week of childbirth plus 6 weeks before and 6 weeks after. If an extension of leave is granted, it is also paid.
Paid by Social insurance. The National Insurance Scheme (NIS) extends protection and social insurance coverage to all persons between the ages of 16 and 60 years who are engaged in insurable employment.

Medical benefits:

- Medical care shall be provided with a view to maintaining, restoring or improving the health and ability to work of an insured person who is temporarily incapable of work. There seems to be no specific mention of maternity care.

- This health care is covered by Social Insurance.

Health protection:

- Not mentioned in the law.

Non-discrimination/Job protection:

- **General:** Women and men have equal rights and the same legal status in all spheres of political, economic and social life. All forms of discrimination against women on the basis of their sex are illegal, including pregnancy and related reasons of discrimination.
Any person who contravenes this statement shall, without prejudice to any civil liability, be liable on summary conviction to a fine of \$5,000.- and imprisonment for 6 months and in the case of a continuing offence to a further fine of \$500.- per day, after the first day, during which the offence continues.
- **Dismissal:** A female employee's pregnancy or a reason connected with her pregnancy do not constitute good or sufficient cause for dismissal or for imposition of disciplinary action.
- **Burden of proof:** Where a person alleges any practice of discrimination in employment, the claimant shall bear the burden of proof.
- **Job guarantee:** Not specifically mentioned, however the legislation states that the employment of every worker continuously employed shall not be treated as interrupted if the employee is absent from work due to maternity leave.

Breastfeeding:

- **Breastfeeding breaks:** No mention.

HAITI

Name of Acts:

- Labour Code, 1961, amended 1984 and 2003
- Decree issuing the Status of the Public Service
- Decree revising the Status of the Public Service.

Scope:

- Every pregnant woman is entitled to maternity leave under certain conditions.

Maternity leave:

- **Conditions:** every pregnant woman should submit to her employer a medical certificate indicating: a) the certificate of her pregnancy; b) the probable date of delivery; c) the starting date of the leave which shall be at least 4 weeks before the expected date of confinement.
- **Length:** 12 weeks.
- **Compulsory leave:** at least 4 weeks to be taken before confinement and 6 weeks after as long as the circumstances of the pregnancy permit it.
- **Extensions:** When the birth occurs *after the expected date*, the leave already taken will be extended until the effective date of birth, assuring that the worker will enjoy 6 weeks after confinement and therefore the total duration of the leave shall not be reduced.

In case of *abortion or premature birth* of a child the worker is entitled to an extension of paid leave of 2 to 4 weeks on the basis of the pay she was receiving at the date of commencement of such leave.

The legislation observes the possibility of a sickness or illness leave in case of temporary incapacity of work due to *complications* arising from the pregnancy, and so the worker shall remain in her post.

Cash benefits:

- **Maternity leave benefits: Conditions:** Maternity benefits shall be granted to a female worker who is insured by the OFATMA. No exclusions are made as for categories of workers. In addition to being an insured person of the OFATMA, she must provide the employer with a medical certificate for such leave.
Amount: 100% of salary. The amount of maternity leave benefits correspond to the amount that the worker would earn if she continued working.
Duration: 12 weeks (entire leave).
Benefits are paid: by the Office of Workers' Compensation Insurance, Maternity and Sickness (OFATMA) as long as the worker is an insured person.

Medical benefits:

- No mention.

Health protection:

- **Rest periods:** Every pregnant worker is entitled to 2 break periods of at least 30 minutes each in addition to normal lunch breaks during her pregnancy.
- **Dangerous work/Transfer:** If, as a result of pregnancy or childbirth the work performed by a female employee is dangerous or unhealthy and if this is attested by a medical certificate, the employer must give the worker the possibility of changing posts within the same company. Should this be impossible or impracticable, the woman is entitled to a leave without pay not exceeding 90 days, without prejudice to provisions relating to maternity leave.

Non-discrimination/Job protection:

- **General:** All workers are equal before the law and enjoy equal protection and the same guarantees. Women have the same rights and same obligations as men (*Labour Law*).
- **Dismissal:** It is abusive to interrupt any labour contract for reasons, based on sex. Although not expressly mentioned, discrimination based on pregnancy is implicitly included.
- **Job guarantee:** The employer shall keep the post of the female worker during her maternity leave or sick leave due to disability or illness arising from pregnancy.

Breastfeeding:

- **Breastfeeding breaks:** No mention. Not clear if the 2X30 minute daily breaks during pregnancy is prolonged for breastfeeding mothers after maternity leave.

HONDURAS

Name of Acts:

- Decree No. 189 promulgating the Labour Code, 1959
- Decree No. 169 promulgating the Social Security Act, 1957
- General Regulation of the Social Security Act, 2005
- Women's Equality of Opportunities Act, 2000
- Regulation of Application of the Social Security Act
- Regulation of the Women's Equality of Opportunities Act, 2008
- Regulation for the Application of the Social Security Act, 1971
- Regulation for the Special Status of Domestic Workers and Progressive Affiliation to the Social Security System, 2008
- Regulation for the Extension of the Certificate for Temporary Incapacity, 2005.

Scope:

- The provisions of maternity protection provided by the *Labour Code* apply to all the establishments as well as to all natural persons in Honduras, with the sole exceptions of livestock farming establishments with less than 10 employees, civil servants and the persons or establishments expressly excluded.

Maternity leave:

- **Conditions:** The female worker shall present to the employer a medical certificate stating her pregnancy, the expected day of delivery, the indication of the day of commencing the leave, taking into account that the leave shall start at least 4 weeks before confinement.
- **Length:** 84 days (12 weeks).
- **Compulsory leave:** Pregnant workers are compelled to take 10 weeks of paid maternity leave (4 weeks before and 6 weeks after confinement).
- **Extensions:** In case that a pregnant worker continues to be incapacitated to perform work after 3 months after the delivery and arising from an *illness* due to the pregnancy or confinement, she shall be entitled to enjoy unpaid leave as long as necessary for her recovery. A woman worker is entitled to take up to 3 months paid leave for illness resulting from pregnancy or birth. She has to present a medical certificate.

Cash benefits:

- **Maternity leave benefits: Scope:** The compulsory Social Security System applies to all women workers in the public and private sectors, including apprentices. It also applies to the wives of the insured workers and to de facto partners.
It does not apply to home workers, domestic workers, occasional workers, workers undertaking agricultural activities. However these workers may benefit from the Social Security System on a voluntary basis.
Conditions: In order to be entitled to maternity benefits, women workers must show that they have paid contributions for at least 10 months preceding the start of maternity leave or 12 months in the 18 months preceding the start of maternity leave.
Moreover, they cannot perform any kind of remunerative work during their leave.
Amount: Workers shall enjoy the 100% of the reference monthly salary.
Duration: Maternity leave benefits shall be paid during the 42 days before and 42 after delivery.
The pre-natal benefit period is reduced if confinement takes place before the date given on the medical certificate, and if confinement takes place later than expected the benefit period will be extended accordingly.
If the worker is unable to return to work after the benefit period has expired, she shall be entitled to sickness benefit instead.
In the case of *miscarriage or premature non-viable birth*, the worker is entitled to 2-4 weeks of paid leave.
Paid by a mixed system, both Social Security and employer: 2/3 by the Honduran Social Security Institute and the remaining 1/3 by the employer. Where the Honduran Social Security Institute is not required to grant a maternity allowance, the entire sum is paid by the employer.

Medical benefits:

- During her pregnancy (up to 7 months before her confinement), a woman worker who has paid her contribution for a set period, is entitled to receive pre-natal care. She is also entitled to confinement and post-natal care for 45 days following confinement. In addition, the IHSS may provide cash and in-kind allowances for the nursing period, if it is certified that the mother cannot breastfeed her child. These benefits are provided for the newborn's first 6 months and consist of therapeutic milk and food.
- Paid by: Mixed system: Social Security (or the employer, if the worker is not covered by Social Insurance). The employer pays the difference between Social Security/mandatory individual account payments and wages.

Health protection:

- **Night work:** It is unlawful to employ an expectant woman on night work for longer than 5 hours.
- **Dangerous or unhealthy work:** It is unlawful to employ an expectant woman on work requiring considerable exertion.

Non-discrimination/Job protection:

- **General:** Any act of discrimination based on sex is null and void. Women will enjoy the benefits of the Social Security, labour and health conditions to the same extent as men.
- **Specifically:** women will be entitled to enjoy special pre-natal and post-natal services including during the nursing period, as well as special remunerative leaves in the event of pregnancy, confinement, nursing and in the event of illness of their children, without suffering any kind of discrimination.
- **Dismissal:** No woman worker may be dismissed because she is expecting or nursing a child. There shall be a presumption that a woman worker has been dismissed on the ground that she is expecting or nursing a child if the dismissal takes place during her pregnancy or the 3 months following her confinement without prior authorization. A woman worker who is dismissed without authorization shall be entitled to the payment of compensation equal to 60 days pay, in addition to any compensation and benefits due under the contract of employment. In order to dismiss a woman worker during pregnancy or the 3 months following confinement, the employer requires authorization from the Labour inspector, and can only obtain authorization on one of the grounds entitling an employer to terminate a contract of employment, as indicated in the *Labour Code*. The fact that the output of a woman worker has decreased by reason of her pregnancy shall not be valid ground for dismissal.
- **Job guarantee:** No express references to the guaranteed right to return to work after maternity leave. However, the legislation states the right to equal treatment between men and women, and the entitlement of all women to enjoy special remunerative leaves in the event of pregnancy, confinement, nursing and in the event of illness of their children, without suffering any kind of discrimination. Also a woman cannot be dismissed during maternity leave and 3 months following her return to work. Therefore the right to return to work is implicit in the principle of non-discrimination.

Breastfeeding:

- **Breastfeeding breaks:** A woman worker is entitled to two paid breaks of 30 minutes each during the day to feed her child, to be taken one in the morning and one in the afternoon until the child is 6 months old. Nursing breaks do not imply a reduction in the worker's salary.
- **Breastfeeding facilities:** Employers employing more than 20 women shall provide suitable premises where mothers can safely feed their children (under 3 years old) and where they can leave them during working hours.

JAMAICA

Name of Acts:

- The Maternity Leave Act, Act No. 44, 1979
- The Employment (Equal Pay for Men and Women) Act, 1975.

Scope:

- All female employees are entitled to maternity leave. This applies to every individual of the female sex who has entered into, or works under, a contract with an employer, whether the contract is express or implied, and (if it is express) whether it is oral or in writing and whether it is a contract of service or of apprenticeship, and includes any such individual employed in the service of the Government (including service in the Jamaica Defense Force and the Jamaica Constabulary Force).

Maternity leave:

- **Conditions:** Every employee is entitled to maternity leave as long as she: informs her employer that she is, or wishes to be, absent from work wholly or partly because of her pregnancy or confinement and that she intends to return to work with the employer; has been continuously employed by the employer for a period of not less than 52 weeks at the date on which her absence begins; produces if the employer so requests, a certificate from a registered medical practitioner stating that it is necessary for the worker to be absent from work wholly or partly because of her pregnancy or confinement.
- **Length:** maternity leave shall not exceed 12 weeks for each pregnancy or confinement.
- **Compulsory leave:** no compulsory leave mentioned.
- **Extension:** In case of *illness* arising from pregnancy or confinement, or as a result of the state of *health of the child* to whom she has given birth, the employee is entitled, after the 12 weeks of maternity leave and with a certificate from a registered medical practitioner, to be absent from work for an additional period not exceeding 14 weeks.

Part-time work:

- Every worker is entitled to work part-time if incapable of working full time in consequence of sickness or injury.

Cash benefits:

- **Maternity leave benefits: Conditions:** To be entitled to leave benefits, the employee shall: be entitled to maternity leave; be at least 18 years old and not have been granted maternity leave by the same employer for three previous pregnancies. In this case, she is entitled to leave without pay.
- **Amount:** The weekly maternity pay is payable at a rate equal to the normal wages earned in respect of the last normal working week (100%). Domestic workers are paid the national minimum weekly wage (at present J\$4,500.-) for 8 weeks.
- **Duration:** 8 weeks.
- **Paid by:** the employer of a qualified worker who has been granted maternity leave shall pay to that worker sums corresponding to 8 weeks of her maternity leave beginning on, or falling after, the relevant day.
For domestic workers, Social Security pays the benefits, if the person is contributing to the scheme.

Medical benefits:

- No mention.

Health protection:

- No mention.

Non-discrimination/Job protection:

- **General:** No employer shall discriminate between male and female employees employed in the same establishment (equal pay for equal work).
- **Specific:** Any employer who contravenes the right of the employee to enjoy paid maternity leave shall be guilty of an offence and shall be liable on summary conviction before a Residence Magistrate to a fine not exceeding \$500.- and in default of payment to

imprisonment for a term not exceeding 4 months. In addition, the employer shall be required to pay the employee the amount owed her.

- **Dismissal:** Any employer who without reasonable cause terminates the employment of a worker wholly or partly because of her pregnancy or confinement shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding J\$1000.- and in default of payment, to imprisonment for a term not exceeding 6 months.
- **Job guarantee:** Every worker to whom maternity leave is granted shall be entitled to return to work in the capacity and place in which she was employed under the original contract of employment and without the loss of any benefit or seniority.

Breastfeeding:

- **Breastfeeding breaks:** No mention.

MEXICO

Name of Acts:

- Federal Regulation on Safety, Hygiene and Environment at Work, 1997
- Official Mexican Standard No. NOM-047-SSA1-1993 establishing the Maximum Permissible Biological Exposure Limits for Organic Solvents in Occupationally Exposed Personnel, 1993
- Federal Labour Act, 1969
- Official Mexican Standard No. NOM-012-STPS-1999 on Safety and Hygiene Conditions in Enterprises which Produce, Use, Manipulate, Store or Transport Products Generating Ionizing Radiations, 1999
- Political Constitution of the United States of Mexico, 1917
- Social Security Act, 1995.

Scope:

- Maternity protection applies to all women workers, employees, domestic workers, craft workers and to all women covered by employment contracts in the public and private sectors.

Maternity leave:

- **Length:** 12 weeks.
- **Compulsory leave:** 6 weeks before and 6 weeks after confinement.
- **Extension:** Maternity leave period will be extended the time necessary if it is impossible for the woman to return to work on account of her *pregnancy or confinement*.
No express reference to *illness* as a reason of extension the maternity leave period with the exception of the statement above.

Paternity leave:

- No references to paternity leave in the *Federal Labour Act*. However, it is provided in some cases through collective agreements.

Cash benefits:

- **Maternity leave benefits: Conditions:** The following is compulsory to be entitled to benefits: be linked to an employer by an employment relation, or be a member of a cooperative society; also, the insured woman must have contributed to Social Security for at least 30 weeks during the 12 months preceding the date when payment of benefits is due to begin.

A voluntary subscription to Social Security is possible for workers in family industries, independent workers, professionals, craft workers and other non-salaried workers, domestic workers, small business owners, employers, and persons who work in the public administration service, federal bodies or local authorities who are excluded from or not covered by other laws.

Amount: 100% of salary for the normal duration of maternity leave (12 weeks) and during extended leave due to birth occurring later than expected, 50% of salary for a period not exceeding 60 days paid by the employer.

Duration: Maternity leave benefits are enjoyed during the 42 days before and after the confinement (12 weeks in total).

Benefits are paid by the Social Security (normal leave, 100%) and by employer (extended leave, maximum 60 days, 50%).

Social Security is financed by different sources: contributions of employers, the insured workers and the State.

Medical benefits:

- Medical benefits are covered by the Social Security but it is not clear which medical benefits are precisely included.

Health protection:

- **Night work:** During the periods of pregnancy and nursing, working mothers shall not perform night work in industrial, commercial or service establishments after 10.00 pm.
- **Overtime:** During the periods of pregnancy and nursing, working mothers shall not perform overtime work.
- **Dangerous or unhealthy work:** When women's health is at risk, either during pregnancy or nursing, they shall not carry out dangerous or unhealthy work. Dangerous or unhealthy work

means that which, by its nature, by the physical, chemical or biological conditions of the environment in which it is performed or by the composition of the raw material used, is liable to affect the life and physical and mental well-being of a pregnant woman or of the foetus. During the period of pregnancy working mothers shall not perform work which requires considerable *physical effort* such as lifting, dragging or pushing heavy weights, produces vibration, involves remaining in a standing position for long periods of time or affects or alters their mental or nervous state or any other work dangerous for the health of the foetus. Pregnant women shall not perform work involving the handling, transport or storage of *teratogenic or mutagenic substances*, where xylene or benzene are used or where exposed to radiation.

Pregnant women shall not perform work involving abnormal *atmospheric pressure* or conditions in which environmental *temperature* is altered, work producing *vibrations*, or work involving standing for long periods of time.

Non-discrimination/Job protection:

- **General:** Workers may not be discriminated against on the grounds of sex. In addition, women are entitled to the same rights and duties as men.
- **Job guarantee:** After pregnancy female workers shall maintain their jobs and rights acquired under the employment relationship.
Women are entitled to be reinstated in the posts they previously occupied, on condition that they return to work within the year following their confinement.

Breastfeeding:

- **Breastfeeding breaks:** During the nursing period, the woman shall be entitled to two extra breaks each day of one half-hour duration each to breastfeed her child, in suitable hygienic premises designated by the enterprise.
No mention if these breaks are paid or not.
- **Breastfeeding facilities:** The Mexican Social Security Institute (IMSS) provides nursing services to the children (from the age of 43 days until the child reaches 4 years), of female employees widowed or divorced who retain the custody of children as far as they do not re-marry or cohabit with a new partner.
In establishments where women are employed, the employer shall provide a sufficient number of seats or chairs for working mothers.
Breastfeeding breaks must be taken in suitable hygienic premises designated by the enterprise.

NICARAGUA

NICARAGUA HAS RATIFIED C3 (12.04.1934)

Name of Acts:

- Act No. 185, promulgating the Labour Code, 1996
- Decree No. 974, promulgating the Social Security Act, 1982
- Law No. 648, 2008
- Decree No. 292, 1987
- Decree No.29, 2010
- Law No. 423, 2002
- Presidential Decree No. 25, 2005
- Law No.618 of 19 April, 2007.

Scope:

- The maternity protection provided by the *Labour Code* covers women workers in employment in both the public and private sectors.

Maternity leave:

- **Conditions:** No qualifying conditions to be entitled to maternity leave. Nevertheless, in order to determine the starting date of the leave, the female worker shall present her employer with a medical certificate with the probable date of confinement. The Ministry of Health will enact this certificate free of charge.
- **Length:** 12 weeks.
- **Compulsory leave:** 4 weeks before and 8 weeks after confinement.
- **Extension:**In the case of *multiple births*, post-natal leave shall be extended to 10 weeks. If confinement takes place *before the due date*, any unused pre-natal leave shall be added to postnatal leave, without reducing the 8-week post-natal leave period. In the case of *miscarriage, stillbirth* or other abnormal confinement, the woman worker shall be entitled to paid leave in accordance with the requirements of the medical certificate.

Paternity leave:

- Not provided. There is a leave up to 3 paid days in case of death of close relatives, but this leave does not apply in case of the birth of a child.

Part-time work:

- If the employee is in charge of a seriously disabled person, this employee is entitled to apply for a reduction of his/her working hours with the consequent reduction of wages, through an agreement with the employer and for the whole time needed.

Cash benefits:

- **Maternity leave benefits: Conditions:** An insured woman worker is entitled to maternity leave benefits if she has paid contributions for 16 of the 39 weeks preceding the due date for confinement.
For the following workers, it is mandatory to be affiliated to the Social Security System: employees (temporary, permanent) in the public, private or mixed sectors, the partners of any company or society that perform a remunerated activity within the organization, contributing family workers.
Voluntary affiliates include: independent workers.
Amount: 100% of the insured person's average earnings in the 4 weeks before birth.
Duration: 12 weeks of maternity leave.
Paid by a mixed system: 60% by the Social Security System and 40% by the employer.
In cases where the woman does not fulfill the prerequisites to receive Social Security benefits, the employer shall pay 100% of the maternity benefits.

Medical benefits:

- Every pregnant woman is entitled to pre-natal, confinement and post-natal care.
- Medical costs are covered by the Public health system.

Health protection:

- **Night work:** Pregnant women of more than 6 months pregnancy shall not undertake night work.
- **Overtime:** No prohibition.
- **Dangerous or unhealthy work:** There are no special legal measures on this subject in the *Labour Code* to protect the safety and health of pregnant workers and/or breastfeeding mothers. However, pregnant women are prohibited from undertaking work which may be detrimental to their condition.
The employer shall provide the pregnant woman with work which has no effect on the natural healthy progression of the pregnancy.
- **Transfer:** If a pregnant employee has been transferred to another job for safety and health reasons, once the danger for her health finishes she is entitled to return to the job she was performing before the transfer.

Non-discrimination/Job protection:

- **General:** Female workers shall enjoy all the rights guaranteed in the *Labour Code* and other norms on the equality of conditions and opportunities and they will not be subject to discrimination because of their sex.
Women and men shall receive equal wages when performing equal functions.
Employers will adopt special measures in order to provide jobs to men and women diversely able.
Job offers shall be drafted on the qualifications needed for the job without considerations to the sex of the applicant.
Training courses shall offer equal opportunities of access to both men and women.
The national registry of employment shall be dis-aggregated by sex.
The requirements and selection criteria of human resources shall take into account the equality of opportunities between men and women without discrimination.
- **Dismissal:** Women workers who are pregnant or on pre- or post-natal leave may not be dismissed, except for valid reasons previously laid down by the Ministry of Labour.
- **Pregnancy tests:** Pregnancy tests are forbidden in order to apply for a job.
- **Job guarantee:** No explicit job guarantee but it is implicit because the employer cannot dismiss a woman during her maternity leave.

Breastfeeding:

- **Breastfeeding breaks:** 15 minutes every 3 hours.
Time spent nursing shall be counted as time worked.
- **Breastfeeding facilities:** The employer shall provide areas for nursing mothers equipped with adequate seating.
At workplaces where more than 30 women are employed, the employer shall convert or build an appropriate area for women workers to nurse their babies.

NICARAGUA HAS RATIFIED C3 (12.04.1934)

PANAMA

PANAMA HAS RATIFIED C3 (3.06.1958)

Name of Acts:

- Political Constitution of the Republic of Panama, 1972
- Ministerial Decree No. 252, promulgating the Labour Code, 1971
- Act No. 51, on Social Security Fund, 2005
- Resolution No.41,039-2009-J.D of the Board of the Fund of Social Security, establishing the Regulation to Prevent Professional Risks (OSH), 2009
- Act 61, establishing the General Law of Adoptions of the Republic of Panama, 2008
- Executive Decree No. 53, 2002, regulating Law No.4,1999, providing Equality of Opportunities for Women, 2002.

Scope:

- The maternity protection established by the *Labour Code* applies to all workers who work for enterprises in the national territory, with the exception of public employers and people working in agricultural or part-agricultural, part-industrial cooperatives, who shall be subject to special regulations made expressly to cover them.

Maternity leave:

- **Conditions:** The *Labour Code* establishes that in order to determine the starting date of the maternity leave, the female employee shall present to the employer a medical certificate with the probable date of confinement.
- **Length:** 14 weeks.
- **Compulsory leave:** 6 weeks before and 8 weeks after confinement.
- **Extension:** If the actual confinement occurs at a *later date* than the presumed one, the expectant mother shall be entitled to 8 weeks of post-natal paid maternity leave to run from the latter date. The aggregate period shall in no case be less than 14 weeks. Moreover, the maternity leave duration may be extended by Decree for *working activities* whose nature requires it.

If an *illness* arises as the consequence of pregnancy or confinement, the female employee is entitled to such extended maternity leave as may be stipulated in a medical certificate.

In the case of a *miscarriage, still-birth* or other pathological or abnormal confinement, the paid maternity leave shall be fixed as necessitated by the employee's state of health, on the basis of the medical certificate.

Adoption leave:

- **Scope:** Adopting mothers are entitled to adoption leave. Adopting fathers may take 2 weeks off that will be discounted from their annual leave as accorded with the employer. Nevertheless, collective agreements may establish wider rights. It is presumed that this relates to adopting mothers and fathers working in the private and public sector.
- **Conditions:** There are no qualifying conditions for adoptive parents in order to be entitled to adoption leave.
- **Length:** The adopting mother is entitled to 4 weeks of adoption leave since the date of the resolution that gives her the pre-adoptive foster-care. The adopting father may opt to take 2 weeks out of his annual leave.

Part-time work:

- Although there are no provisions entitling to apply for part-time working hours for pregnant or breastfeeding workers, the contract may be modified by mutual agreement between employer and employee.

Cash benefits:

- **Maternity leave benefits: Conditions:** To be granted maternity benefits, women workers may not perform any paid activity during their maternity leave. Moreover, they have to have paid 9 monthly contributions within the previous 12 months immediately preceding the 7th month of pregnancy. All women working in the public or private sectors are entitled to benefits following this condition. Self-employed may contribute on a voluntary basis.

Foreign workers, domestic workers, casual workers and seasonal workers shall be covered by special regulations.

Amount: 100% of the insured average weekly earnings in the last 9 months.

Duration: whole leave, 14 weeks, and extension for medical reasons.

Paid by a mixed system: Social Security and the employer: The difference between what the Social Security Fund pays and the worker is entitled to receive during this period is paid by the employer. In cases where there is no liability on the part of the Social Security Fund to pay a maternity allowance, the obligation shall be incumbent entirely on the employer.

- **Adoption leave benefits: Scope:** All women working in the public or private sectors. Self-employed may be covered on a voluntary basis. Foreign workers in the Republic of Panama, domestic workers, casual workers and seasonal workers shall be covered by special regulations. The norm that has established the paid leave for adopting mothers states that “the adopting mother will be entitled to paid adoption leave for 4 weeks”. There are no exclusions.

Conditions: Nine monthly paid contributions within the 12 months immediately preceding the 7th month of pregnancy.

Amount: The benefit is equal to 100% of the insured average weekly earnings in the last 9 months.

Duration: 4 weeks.

Financing of benefits: Social Security Fund. It is constituted by the employers', employees' and self-employed' (voluntarily affiliated) paid contributions; the State also contributes to the financing of sickness and maternity branches.

Medical benefits:

- **Scope:** Are entitled to payment of medical costs by Social Security for pre-natal and obstetric assistance during pregnancy, confinement and the post-natal period, independent of any benefits to which they may be entitled due to sickness: women workers, the wife or cohabiting partner of an insured male; the pregnant children under 18 years of age of an insured male may benefit from additional social and psychological assistance.
- **Paid by:** Medical costs are covered by the Social Security Fund which is funded by the sickness and maternity branches (employer, employees and self-employed, voluntarily affiliated) and the State allocations (10% of the revenues from concession of optical fibers).

Health protection:

- **Night work:** If an expectant mother works on a rotation schedule, necessary arrangements must ensure that she does not perform night work or hours overlapping between day and night.
- **Overtime:** It is unlawful for an expectant mother to do overtime work.
- **Dangerous or unhealthy work:** minors and women cannot perform unhealthy work. The law regulates the jobs prohibited for pregnant women. The employer is responsible for making the necessary arrangements that ensure that an expectant mother does not perform unsuitable tasks which might adversely affect her condition.
- **Transfer:** The *Labour Code* and the *Regulation to prevent professional risks and safety and health at work* do not oblige transferring the worker to a more suitable post; however, in *Executive Decree No. 2(2008)* regulating safety, health and hygiene in the building industry, art. 379 stipulates that pregnant workers are entitled to be transferred to another job that is safe from the use or exposition to materials or chemical substances dangerous to health of the foetus or the child during the breastfeeding period. This right will be subject to the availability of other jobs and the female worker will enjoy the right to return to her previous job when it no longer represents a danger.

Non-discrimination/Job protection:

- **General:** Work performed in identical conditions shall be remunerated in identical terms without taking into consideration sex, nationality, race, age, political ideas and/or religious beliefs.

- **Specific:** Any requirement by employers (private and public sectors)in relation to pregnancy tests, photographs, the establishment of limits regarding age, civil status and the application of racist or sexist criteria for wages, as well as sexual and moral harassment, are considered discriminatory practices against working women.
- **Dismissal:** The *Constitution* stipulates that female workers cannot be dismissed for a period of 1 year *after their return to work from maternity leave* (unless there is a justified reason and the employer receives authorization from a Labour judge).
According to the *Labour Code*, it is unlawful to dismiss an *expectant mother* from her employment except for justified reasons and with the prior authorization of the judicial authorities. If the employer wants to dismiss a pregnant worker based on a justified reason not related to her pregnancy, he shall ask for authorization from a Labour judge.
During maternity leave, the employer shall not communicate to a female employee any measure, sanction and/or action foreseen in the *Labour Code*. To these effects, during maternity leave the expiration and prescription terms stipulated in favour of the employer are suspended.
- **Burden of proof** on the employer. If the employer dismisses a pregnant worker without obtaining a previous authorization, the pregnant employee is entitled to reinstatement.
- **Job guarantee:**There is no express right for women on maternity leave to return to the same job they were performing before their leave. But, the *Constitution* stipulates that female workers cannot be dismissed for a period of 1 year *after their return to work from maternity leave* (unless there is a justified reason and the employer receives authorization from a Labour judge).
On the other hand, if a pregnant worker is dismissed without previous authorization by a Labour judge, she is entitled to return to her previous job by presenting her employer or the Labour inspector with a certificate of pregnancy; if the employer refuses to reinstate her, the pregnant worker is entitled to claim her reinstatement from a Labour judge.

Breastfeeding:

- **Breastfeeding breaks:**Every nursing mother shall be entitled to a nursing break of 15 minutes every 3 hours or a 30-minute nursing break twice during the working day. Such nursing breaks shall be counted as hours worked and remunerated.
- **Breastfeeding facilities:**The employer shall have adequate seating facilities available for nursing mothers to feed their babies.
Every employer of more than 20 female employees in the same workplace shall be obliged to provide a nursery where babies can be fed by their mothers without hazard.

PANAMA HAS RATIFIED C3 (3.06.1958)

PARAGUAY

Name of Acts:

- Labour Code - Act No. 213, establishing the Labour Code, 1993
- Law-Decree No.1860, issuing the Social Security Scheme and modifying the Law-Decree No. 18071, 1950
- Political Constitution of Paraguay, 1992
- Law No. 4199 issuing the Social Insurance for Self-employed Artists.

Scope:

- Under the *Labour Code*: Maternity protection applies to the following female workers: workers performing an intellectual work (professionals), manual workers and technicians, and their employers; teachers in private educational institutions and those engaged in professional sport; labour unions of workers and employers in the private sector; workers in State and Municipality undertakings which produce goods or render services.
- Other workers of the State whether from the central administration or from other decentralized entities, workers in the Armed Forces and in the Police are excluded from the application of the *Labour Code* as well as directors, managers and other business executives, that by the nature of the functions performed are considered independent workers. Maternity leave for all of these categories is regulated by special regulations.

Maternity leave:

- **Conditions:** To provide a medical certificate issued by the Social Provident Institution for the Ministry of Public Health and Social Welfare, stating that confinement will probably take place within the next 6 weeks.
- **Length:** 12 weeks.
- **Compulsory leave:** Female workers shall enjoy 6 weeks after confinement.
- **Extension:** Once the maternity leave period has ended, if the female worker is unable to return to work as a result of the *pregnancy or confinement*, she shall enjoy the time necessary for her recovery, retaining her job and the rights acquired through her contract of employment.

Paternity leave:

- **Scope:** Same categories of workers as for maternity protection.
- **Length:** At his request, the father shall enjoy 3 days of paid leave for the birth of a child.

Cash benefits:

- **Maternity leave benefits: Conditions:** In order to be entitled to enjoy maternity leave benefits the worker shall have contributed for at least 6 weeks during the 4 months preceding the maternity leave.

All female workers shall enjoy maternity benefits under the scope of the obligatory general assurance regime except the following categories: civil servants and employees of the Central Administration; employees of private banks and officials of the Republic; members of the Armed Forces and the Police; employees of the Rail “Carlos Antonio López”, affiliated to their own Social Security Fund.

However, self-employed workers including self-employed artists, and workers affected by special regimes may apply for the optional general insurance and therefore be entitled to enjoy maternity benefits.

Amount: Monthly benefits are 50% of the insured's average earnings over the 4 months immediately before the maternity leave begins.

Duration: Maternity leave benefits are paid for 3 weeks before and 6 weeks after confinement (total 9 weeks whereas length of leave is 12 weeks).

Benefits are paid by the Social Security which is financed by different sources; contributions from the insured, employers, State, fines and other incomes.

- **Paternity leave benefits: Scope:** Same scope as for right to paternity leave.
Amount: During the paternity leave the father enjoys his normal remuneration, paid by the employer.

Medical benefits:

- During the whole period of maternity leave the female worker is entitled to medical assistance provided by Social Security.

- The following services are provided by Social Security: surgical and dental care, free medicine and hospital care.

Health protection:

- **Night work:** If there is a risk to the health of the woman or the unborn child, and during the nursing period, a pregnant/breastfeeding woman shall not undertake night work in industrial, commercial or service establishments after 10:00 pm.
- **Overtime:** If there is a risk to the health of the woman or the unborn child, and during the nursing period, a pregnant/breastfeeding woman shall not undertake overtime work.
- **Dangerous or unhealthy work:** If there is a risk to the health of the woman or the unborn child, and during the nursing period, a pregnant/breastfeeding woman shall not undertake dangerous or unhealthy work.

Dangerous or unhealthy work is that which, by its nature, by the physical, chemical or biological conditions under which it is carried out, or by the composition of the raw materials involved, could affect the life or mental or physical health of the woman or her baby.

During the 3 months prior to confinement, women shall not undertake any work involving considerable physical effort.

- **Transfer:** From the date of notification of the pregnancy, female workers normally employed in dangerous or unhealthy work, are entitled to be transferred to other posts with adequate tasks according to their pregnancy, without reduction of their salary.

Non-discrimination/Job protection:

- **General:** Women enjoy the same labour rights and have the same obligations as men.
- **Dismissal:** From the moment the employer has been notified of the pregnancy of the female employee and while she enjoys maternity leave, the warning or notice of dismissal by the employer will be void.
- **Job guarantee:** No mention of possibility of returning to former job after leave. However it is stated that once the maternity leave period has ended, if the female worker is unable to return to work as a result of the pregnancy or confinement, she shall enjoy the time necessary for her recovery, retaining her job and the rights acquired through her contract of employment. This implies that the employee is entitled to return to work (if not her previous job) after maternity leave.

Breastfeeding:

- **Breastfeeding breaks:** Working mothers shall have two extra breaks per day, each of half an hour duration, to nurse their babies.
These breaks shall be counted as working time and are remunerated thereafter.
- **Breastfeeding facilities:** Industrial and commercial enterprises employing more than 50 women shall provide nurseries for children under 2 years of age, where they will be under supervision while their parents are working.

PERU

Name of Acts:

- Act. No. 27240, granting Permission for Women to Nurse their Babies, 1999
- Act No. 27,409, granting Leave from Work for Adoption, 2001
- Act No. 28 983, Equal Opportunities Act between Women and Men, 2007
- Supreme Decree No. 009-97-SA Regulation of the Act No. 26790, modernizing Social Security for Health
- Legislative Decree No. 728, establishing the Act to Encourage Employment, 1995
- Act No. 26-644, determining the Extent of the Right to Pre-natal and Post-natal Leave for Pregnant Workers, 1996
- Act No. 26-790, modernizing Social Security for Health, 1997
- Supreme Decree No. 009-2004-TR, 2004, regulating the Act No. 28048 Protecting Pregnant Workers who Perform Tasks that can Harm their Health, the Normal Development of the Embryo or the Foetus, 2004.

Scope:

- The extent of the right to pre-natal and post-natal leave for pregnant workers is not limited to any particular sector.

Maternity leave:

- **Length:** 90 days (13 weeks).
- **Compulsory leave:** 45 days before and 45 days after confinement, but prenatal leave can be totally or partially deferred and added to postnatal leave if the woman desires. In this case, a medical certificate must be provided stating that postponing prenatal leave will not affect the mother or the child.
- **Extension:** *Multiple births:* 30 additional days.
If confinement takes places on a *later date* than expected, the intervening days shall be considered as sick leave for temporary illness.

Adoption leave:

- A worker applying to adopt is entitled to leave of 30 calendar days (4 weeks), provided that the child is under 12 years old. If the workers applying to adopt are married, the leave shall be taken by the woman. No exclusions are made as for categories of workers.

Cash benefits:

- **Maternity leave benefits: Scope/Conditions:** In order to receive maternity benefits the applicant must have been affiliated at least 3 consecutive months or 4 non-consecutive months, during the 6 months before confinement. Workers included in the Social Security System are those in the public and private sectors; independent women workers may become insured voluntarily.
Amount: 100% of the average daily wage of the 12 months preceding the start of leave.
Duration: 90 days (45 before and 45 after confinement, or distributed as the woman chooses). The maternity leave benefits will be extended in 30 additional days in case of multiple births.
Benefits are paid by the Social Security, which is financed by different sources, contributions from the insured, interests, fines, adjustments, investments and other income.
- **Adoption leave benefits:** No information.

Medical benefits:

- Free care is provided for women during pregnancy and confinement, including the postnatal period, and for newborn babies.
- Medical benefits are covered by the Peruvian Social Security Institute.

Health protection:

- **Dangerous or unhealthy work:** Pregnant workers do not perform any work that can expose them or the foetus to any risk.
- **Transfer:** Temporarily they can perform different tasks or be transferred to another post.

Non-discrimination/Job protection:

- **General:** It is a basic right of the workers in Peru to not be discriminated on grounds of sex or marital status. National, regional and local government may adopt policies guaranteeing the right to equal conditions of work.
- **Dismissal:** Dismissal is null and void if motivated by the pregnancy or occurs at any time during gestation or within 90 days (13 weeks) after delivery.
- **Job guarantee:** No mention of guaranteeing that the worker may return to the post she occupied before her leave when she returns to work after her maternity leave.

Breastfeeding:

- **Breastfeeding breaks:** The worker is entitled to 1 hour each day to breastfeed her child, until the age of 1 year, which may be agreed with the employer.
In the case of multiple births, the mother is entitled to 1 additional hour per day.
Periods of time given over to nursing shall be counted as time worked and are paid.

SAINT KITTS & NEVIS

Name of Acts:

- Protection of Employment Act, 1986
- Social Security (Benefits) Regulations, 1981.

Scope:

- No specifications.

Maternity leave and other related leaves:

- **Conditions:** No employee shall be entitled to maternity leave unless she has worked for the employer from whom she claims such benefits at least 150 days (21 weeks) within the period of 1 year immediately preceding the date of her confinement.
Moreover, an employee shall, prior to her confinement, give notice to her employer that she expects to be confined within 6 weeks from the date of such notice.
An employee who has been confined shall, within 1 week of her confinement, give notice to her employer of the date on which she was confined. The employer shall, upon receipt of this notice, permit the employee to remain absent until the expiry of the remainder of the period of maternity leave for which she is eligible calculated from the day of her confinement.
- **Length:** 13 weeks.
- **Compulsory leave:** at least 2 weeks up to and including the date of her confinement and at least 6 weeks immediately from that date.
- **Extension:** In the case of *illness* medically certified arising out of the pregnancy or out of confinement, the worker is entitled to an additional period of leave not exceeding 3 months.

Cash benefits:

- **Maternity leave benefits:** two types of benefits: maternity grant and maternity allowance.
- **Maternity grant: Scope/Conditions:** The maternity grant is awarded to a woman who is the wife of an insured person. If a woman is at the same time a Social Security insured person and the wife of an insured person, she shall be awarded a maternity grant either as the insured person or as the wife of the insured person and not in both capacities.
The maternity grant shall be awarded only if at least 26 contributions have been paid by or on behalf of the insured person during the 39 contribution weeks immediately preceding the week in which occurs the day of confinement (39 weeks before confinement).
Amount: no mention.
- **Maternity allowance: Scope/Conditions:** The maternity allowance is awarded to a woman who is insured in respect of her pregnancy and confinement within Social Security. Maternity allowance is awarded only if the insured person has contributed at least 26 weeks during the 39 contribution weeks immediately preceding the 6 weeks before the expected day of confinement (45 weeks before) or before the day on which the allowance is claimed, whichever is the later.
Amount: 65 % of wage.
Duration: whole period of maternity leave (13 weeks).
- **Both grant and allowances are paid by Social Security.**

Medical benefits:

- No mention.

Health protection:

- No mention.

Non-discrimination/Job protection:

- No mention.

Breastfeeding:

- No mention

SAINT LUCIA

Name of Acts:

- National Insurance Regulations St. Lucia No. 22, 2003
- Equality of Opportunity and Treatment in Employment and Occupation Act, 2000
- Labour Code, 2006.

Scope:

- The *Labour Code*, which includes provisions related to maternity leave and maternity protection, applies to all employees including domestic workers, homeworkers and people employed at all workplaces.

Maternity leave:

- **Conditions:** to have worked at least 18 months for the same employer; if a daily paid, part-time or seasonal worker, to have worked more than 150 days over the past 18 months. If she does not fill these conditions she is allowed 6 weeks of leave without pay and the right to return to her post after this leave.
- **Length:** no less than 13 weeks if the worker fills the conditions. If she does not, she is entitled to 6 weeks of leave without pay.
- **Compulsory leave:** not less than 13 weeks to be distributed as follows: a) at least 6 weeks before confinement; and b) at least 6 weeks after confinement unless the employee chooses to return to work before that time.
- **Extension:** An employee may postpone her return to work for a total period of not more than 60 days (9 weeks) without pay if, before the notified day of return, she gives her employer a certificate from a *medical practitioner* stating that, by reason of disease or physical or mental disablement arising out of, or connected with her pregnancy or her newborn child, she will be unable to return to work on the notified day of return.

Paternity leave:

- Not provided for, although references are made in the *Labour Code* to the possibility of taking leave for serious family responsibility.

Cash benefits:

- **Maternity leave benefits: Conditions:** same as for maternity leave.

Amount: 65% of wages.

Duration: 3 months (12 weeks).

Leave without pay: An employee whose pregnancy commences before she has worked for her employer for a period of 18 months or in the case of a daily paid, part-time or seasonal worker, 150 days in a period of 18 months, shall be entitled to take maternity leave without pay for a period of 6 weeks, and that employee has the right to return to her job after such maternity leave and shall not be prejudiced in any way by the exercise of such a right to maternity leave, on condition that she gives to the employer a certificate from a medical practitioner confirming her pregnancy.

Benefits are paid by Social Security.

Medical benefits:

- No mention.

Health protection:

- **Dangerous or unhealthy work:** An employer shall, after being notified by a female employee that she is pregnant, adapt the working conditions of that employee, or ensure that she is not involved in the use of or exposure to chemicals or substances or conditions of work which are hazardous to her health and the health of the unborn child.
- **Transfer:** Where alternative work not involving the use or exposure is available, such work shall be assigned to the employee during pregnancy with the right of such employee to return to her previous work after the birth of her child.

Non-discrimination/Job protection:

- **Non-discrimination:** No mention of non-discrimination measures. With the exception that a worker who takes leave without pay cannot suffer prejudice because she has taken her right to maternity leave.

- **Job guarantee:** Not specifically mentioned, but as the *Labour Code* does stipulate that a worker who does not fill in the conditions for full maternity leave and benefits is nevertheless entitled to return to her job after a leave of 6 weeks without pay, it can be assumed that a worker who does fill in the conditions, is also guaranteed her job at the end of her maternity leave.

Breastfeeding:

- **Breastfeeding breaks:** No mention.

SAINT VINCENT & THE GRENADINES

Name of Acts:

- National Insurance (Benefits) Regulations, 1994
- Protection of Employment Act, 2003
- Statutory Rules and Orders Saint Vincent and the Grenadines No. 13, amended National Insurance (Benefits) Amendment Regulations, 2005.

Scope:

- No information.

Maternity leave:

- **Length:** 13 weeks

Cash benefits:

- **Maternity leave benefits: Amount:** 65% of wages.
- **Duration:** 13 weeks.
- **Benefits are paid by** the Social Security System.

Medical benefits:

- No mention.

Health protection:

- No mention.

Non-discrimination/Job protection:

- **General:** An employer shall not terminate the services of an employee on any of the following grounds: race, colour, sex, marital status, pregnancy, religion, political opinion, nationality or social origin, absence from work during maternity leave as certified by a medical practitioner.
- **Job guarantee:** No mention.

Breastfeeding:

- **Breastfeeding breaks:** No mention.

TRINIDAD & TOBAGO

Name of Acts:

- National Insurance Act, Act No. 35, 1971
- The Maternity Protection Act 1998, Act No. 4, 1998.

Scope:

- The act includes: Public officers and any other person who has entered into or works under a contract with an employer to carry out any trade, business, office, vocation, apprenticeship, or other work and whether the work is skilled, unskilled, manual, technical, clerical, or otherwise for hire or reward, whether the contract is expressed or implied, oral or in writing, whether the remuneration is calculated by time or by work done, and whether by the day, week, month, or with reference to any other period. Are also included: agricultural employees, domestic employees, household assistants.

Maternity leave:

- **Conditions:** Every employee who is intended to enjoy maternity leave shall: certify by a qualified person of the expected date of confinement that she has been continuously employed by that employer for a period of not less than 12 months; inform the employer, in writing, no later than 8 weeks before the expected date of confinement of her leave of absence due to pregnancy; submit to the employer a medical certificate from a qualified person stating the probable date of confinement; and inform the employer in writing of her intention to return to work at the expiry of her maternity leave.

- **Length:** 13 weeks.

- **Compulsory leave:** No compulsory leave. The employee may proceed on such leave 6 weeks prior to the probable date of confinement as stated in the medical certificate submitted, or at a subsequent date at the employee's discretion.

- **Extension:** An employee who extends her absence from work for *medical reasons* may do so for a period not exceeding 12 weeks after the required date of return and shall inform her employer in writing of her intended date of return.

An employee may postpone her return to work for *non-medical reasons* until a date not exceeding 4 weeks after the required date of return if, within 10 working days, before the required date, she gives the employer written notice, stating the reason why she is unable to return to work and stating an intended date of return. Where an employee is entitled to maternity leave, that leave shall be in addition to any vacation leave and sick leave to which that employee is eligible.

Cash benefits:

- **Maternity leave benefits:** Types: In the case of pregnancy or confinement, female workers in Trinidad & Tobago may enjoy different maternity benefits: maternity grant, maternity allowance and a special maternity grant, paid in a lump-sum. There is little information concerning these forms of benefits.

- **Maternity allowance: Conditions:** to be insured by the Social Security System which covers, among others, maternity benefits. *Other conditions:* The time limit for the submission of claims in the case of maternity benefits is 3 months from the date of delivery, and shall be supported by a relevant medical certificate from a registered midwife.

Scope: The SSS is compulsory and covers every employed person and every unpaid apprentice in Trinidad & Tobago. However, the following categories of workers are not entitled to be registered in the Social Security System: jobs whose remuneration is less than \$120.-/week; jobs of non-citizens of Trinidad & Tobago, as well as diplomatic, consular and personnel of international organisations.

Amount: Full pay for 1 month (Social Security) and 50% for 2 months (employer) and a sum depending on the earnings (Social Security).

Rates of benefits payable to an insured person are related to the rates of contribution paid by this person. The earnings class into which an insured person falls is determined by the average of the ten highest contributions paid during the 13 contribution weeks immediately preceding the 6th week before the expected week of delivery.

Duration: Every insured worker is entitled to receive pay during the period of maternity leave.

Benefits are paid: mixed system, by the Social Security System (100% during first month) and by employer (50% during following 2 months). The SSS is financed with contributions paid partly by the employed person and partly by the employer.

Medical benefits:

- An employee who is pregnant and who has, on the written advice of a qualified person, made an appointment for the purpose of receiving pre-natal medical care shall have the right not to be unreasonably refused time off during her working hours to enable her to keep the appointment.

According to post-natal medical care, the employee is entitled to absence from work for medical reasons and shall be paid at half rate for the first 6 weeks and no pay for the next 6 weeks.

- An employee who is permitted to take time off during her working hours shall be entitled to receive normal pay from her employer for the period of absence.
- No mention of coverage of costs during confinement, etc.

Health protection:

- No mention.

Non-discrimination/Job protection:

- **General:**The Minister may authorise an officer to require an employer or any other person authorised by an employer to: provide information with respect to the remuneration paid to, and the terms and conditions enjoyed by, any employee in its establishment; permit him to inspect any records or pay sheets relating to that employee.

When there is a difference of opinion as to the reasonableness or otherwise of any action taken or not taken by an employer or employee, the employee, trade union or the employer may report the matter to the Minister.

- **Dismissal:** When an employee's employment is terminated on the ground of pregnancy or on any ground relating to pregnancy, the employee or the trade union may report the matter to the Minister.
- **Job guarantee:**All pregnant employees enjoy a paid period of time of absence and are entitled to resume work on terms no less favourable than were enjoyed immediately prior to their leave.

An employee on maternity leave shall not be deprived of an opportunity to be considered for promotion for which she is eligible and which may arise during her period of leave.

Breastfeeding:

- **Breastfeeding breaks:** No mention.

UNITED STATES OF AMERICA

Name of Acts:

- Pregnancy Discrimination Act
- Family and Medical Leave Act (FMLA), 1993
- Civil Rights Act, Title VII, 1964
- Newborns' and Mothers' Health Protection Act, 1996
- The Patient Protection and Affordable Care Act, 2010
- The Fair Labour Standards Act, 1938
- The Social Security Act
- The Occupational Safety and Health Act, 1970.

Scope:

- Under Federal Legislation: employees working for private employers who employ 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year.
Employees working for Public agencies, public elementary and secondary schools are covered regardless of the number of employees.
- Under State legislation: many differences:
Alaska: State employees of State employers that qualify to take leave of absence. Provides with 18 workweeks of leave within a 12-month period for pregnancy and childbirth.
Arizona: State employers. Defines "parental leave" as any combination of annual leave, sick leave, compensatory leave, or leave without pay taken by an employee due to pregnancy, childbirth, miscarriage, abortion, or adoption of children.
Arkansas: State employers.
California: All employers with more than five employees.
Colorado: All employers.
Connecticut: All private employers with three or more employees.
Hawaii: All employers with at least one employee.
Illinois: State employers.
Iowa: All employers who regularly employ more than four individuals.
Louisiana: All employers with more than 25 employees.
Maryland: All employers.
Massachusetts: All employers with six or more employees.
Missouri: The State, its political subdivisions, and any person employing six or more persons.
Montana: All employers with one or more employees.
New Hampshire: All employers with six or more employees.
New Jersey: All employers subject to N.J. unemployment compensation law, including the State of New Jersey.
New York: All employers with four or more employees.
Oregon: Employers who employ 25 or more persons in the state for each working day during each of 20 or more calendar workweeks in the year in which the leave is to be taken or in the year immediately preceding the year in which the leave is to be taken.
Pennsylvania: The Commonwealth and its political subdivisions and any person employing four or more persons.
Puerto Rico: All employers.
Rhode Island: Business entities with 50 or more employees, the executive, legislative, and judicial branches of the state, including any state department or agency with any employees, any city or town or municipal agency with 30 or more employees.
Tennessee: Public employers and private employers with eight or more employees within the state.
Vermont: Employers with ten or more employees.
Virginia: State employers.
Washington: Public and private sector employers with eight or more employees.
Wisconsin: State employers.

Maternity leave:

- Federal level:**The Federal Family Medical Leave Act (FMLA) provides for 12 weeks of unpaid leave during a 12-month period for employees who need to: care of a newborn, adopted, or foster child; care for a family member (parent, under 18 child, dependent adult child, or spouse) with a serious health condition; or attend to the employee's own serious health condition. Nevertheless, in some States, legislation is enacted with further benefits.

Conditions: Under the *Federal Legislation*, to be entitled to a maternity leave under the *Family and Medical Leave Act (FMLA)*, a female employee must: a) work for an employer who employs 50 or more employees at the site or within 75 miles of the site; b) have worked for at least 12 months (consecutive or not) with the same employer; c) have worked at least 1,250 hours over the previous 12 months.

In addition, when the need is foreseeable and such notice is practicable, the employee is required to provide a 30-day notice before the date the leave is to begin except when the date of birth requires leave in less than 30 days.

Length: 12 weeks to be taken during a 12-month period after birth. This is job-protected unpaid leave.

26 weeks for Members of the Armed Forces.

With the employer's permission, the maternity/paternity leave may be taken in blocks of time or by reducing the normal weekly or daily work schedule.
- State level:** no detailed information.

Paternity/Parental leave:

- Federal level:**The FMLA provides for 12 weeks of unpaid leave during any 12-month period for one or more of the following: a) in order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition; b) because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces; c) employees working for private employers who employ 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year; d) employees working for public agencies, public elementary and secondary schools are covered regardless of the number of employees.
- State level:** no detailed information.

Adoption leave:

- Federal level:**There is no separate section on Adoption leave under the FMLA but the same relevant provisions on parental leave apply to adoption leave.
- State level:** no detailed information.

Cash benefits:

- Maternity leave benefits:**
- Federal level: Amount:**There is no national programme. Under the FMLA, as a general rule, leave is unpaid. However, subject to certain conditions, an employee may choose or an employer may require the employee to use accrued paid leave (such as vacation leave, personal leave, medical or sick leave or paid medical leave) to cover some or all of the leave she/he is entitled under the Act.

The FMLA provides for 12 weeks of unpaid job-protected leave during a 12-month period with continued group health insurance coverage.
- State level:**A few States provide for paid family medical leaves under State legislation. Some States have included maternity in their disability insurance schemes.

California, Hawaii, New Jersey, New York, Washington entitle workers to paid maternity or parental leave under various conditions Amounts not mentioned.

California: paid leave is funded by a payroll tax on employees. Since 2004, female and male employees are entitled to receive up to 55% of their salary for 6 weeks to take care in particular of a newborn or adopted child. It is financed by a .08% increase in state disability insurance contributions from employee paychecks.

Hawaii: either the employer or the employee may elect to substitute paid leave. However, sick leave may not be substituted unless sick leave is normally granted for family leave purposes, or if both the employer and employee agree to the substitution.

New Jersey: extended its existing temporary disability Insurance system to administer paid leave, and also funds the programme through an employee payroll tax.

New York: includes also maternity in its disability insurance.

Washington: the legislature has allocated start-up funds but the funding mechanism has not yet been determined.

- **Paternity leave benefits:** Not provided.
- **Parental leave benefits:** Not provided.

Medical benefits:

- **Hospital stay:** The *Newborns' Act* and its regulations provide that health plans and insurance issuers that offer maternity coverage may not restrict a mother's or newborn's benefits for a hospital length of stay that is connected to childbirth to less than 48 hours following delivery or 96 hours in the case of cesarean section and requires to pay for at least the 48- to 96-hour hospital stay.

In addition a mother cannot be encouraged to accept less than these minimum protective time limits.

Coverage of comprehensive tobacco cessation services for pregnant women in Medicaid.

- **During maternity leave:** A covered employer is required to maintain group health insurance coverage for an employee on leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. Any health insurance provided by an employer must cover expenses for pregnancy-related conditions on the same basis as costs for other medical conditions. In addition, pregnancy-related expenses should be reimbursed exactly as those incurred for other medical conditions.

Health protection:

- **General:** The legislation on maternity protection and/or non-discrimination in case of pregnancy does not regulate specifically arrangement of working time during pregnancy. A pregnant worker shall enjoy the same rights and benefits as regular employees. Therefore, in case a legal provision allows any worker to arrange his/her working time for personal reasons, these rights are applicable to pregnant workers.
- **Night work/overtime:** No prohibition identified regarding female or pregnant workers performing night work or overtime.
- **Dangerous or unhealthy work:** *General provision* under the *Occupational Safety and Health Act, 1970:* each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees; shall comply with occupational safety and health standards promulgated under this Act.
- **Particular risks:** There is a complex and wide legislation on occupational health. In certain activities, regulations established for risk assessment are for both men and women. This is the case for example, for *toxic and hazardous substances*, with very detailed procedures to screen, evaluate and survey medically Butadiene or inorganic lead for example among workers seeking to procreate a healthy child: regular blood tests, medical examinations, biological testing, etc. over a period of several years.

Details include action to be taken in case of hazardous chemicals and substances transported out of industries on workers' clothing and persons that can threaten the health and safety of workers. As they have the potential to pose an additional threat to the health and welfare of workers and their families, additional information is needed concerning issues related to employee-transported contaminant releases, and additional regulations may be needed to prevent future releases of this type. It is therefore necessary to increase understanding and awareness concerning the extent and possible health impacts of these potential problems; prevent or mitigate future incidents of home contamination, clarify regulatory authority for preventing and responding to such incidents, assist workers in redressing and responding to such incidents when they occur and evaluate employee-transported contaminant releases.

- **Transfer:** If an employee is temporarily unable to perform her job due to pregnancy, the employer must treat her as any other temporarily disabled employee. For example, if the employer allows temporarily disabled employees to modify tasks, perform alternative assignments or take disability leave or leave without pay, the employer must also allow an employee who is temporarily disabled due to pregnancy to do the same.

Non-discrimination/Job protection:

- **General:** An employer cannot discriminate against an employee for opposing any practice made unlawful by the Family and Medical Leave Act.
Prohibition of Sex discrimination: Under the *Civil Rights Act* and its amendment, the *Pregnancy Discrimination Act*, an employer with 15 or more employees cannot refuse to hire a pregnant employee because of her pregnancy or pregnancy-related condition. Some States have laws that cover employers with less than 15 employees.
- **Pregnancy tests:** There is no express legal prohibition on pregnancy tests. However, Titles I and V of the *Americans with Disabilities Act*, as amended, prohibits employers before making an offer of employment, to ask job applicants about the existence, nature, or severity of a disability.
- **Dismissal:** Under the *Family and Medical Leave Act*, an employer cannot dismiss or otherwise penalize an employee or threaten to do so because of maternity or adoption leave or intent to take leave. In addition he must permit her to work as long as she is able to do so.
- **Job guarantee:** Upon the conclusion of maternity or parental leave, the employer shall reinstate the employee to the position the employee most recently held with the employer or an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment.
In addition, the employee is entitled to all the employment benefits s/he earned before using the leave.
However, under specified and limited circumstances where reinstating an employee will cause substantial economic injury to company operations, an employer may refuse to reinstate certain “key” employees (amongst the 10% highest paid employees working for the company within 75 miles of the facility).

Breastfeeding:

- **Breastfeeding breaks:** An employer shall provide a reasonable break time for an employee to express breastmilk for her nursing child for 1 year after the child’s birth each time such employee has need to express the milk.
Nursing breaks are unpaid.
- **Breastfeeding facilities:** An employer shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, which may be used by an employee to express breastmilk.
An employer that employs less than 50 employees is not subject to these requirements if they would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer’s business.
Some State laws provide greater protection to employees than this.

URUGUAY

URUGUAY HAS RATIFIED C103 (18.03.1954)

Name of Acts:

- Act No. 16104, modifying the Regulatory Standards Governing Leave for Civil Servants, 1990
- Legislative Decree No. 15084 on Allowances to be Paid to Beneficiaries by the Directorate of Family Benefits, 1980
- Act No. 16045, prohibiting All Discrimination which Violates the Principle of Equality of Treatment and Opportunities for Both Sexes in Any Sector, 1989
- Decree No. 162/1993, establishing the Right for Persons in Any Geographical Area who Undertake Domestic Work to Receive Family and Maternity Benefits, 1993
- Act No. 17215, establishing Standards Covering All Women Workers in the Public and Private Sectors who Are Pregnant or Nursing
- Act No. 17292 on Public Administration, Promoting and Improving Employment, 2001
- Decree 1, Maternity Protection Norms, 1954
- Act No. 15800 regarding Institutionalizing the Social Provision Bank and Abolishing the Directorate General of Social Security, 1986
- Act No. 17386, 2001
- Act No. 11577 on Unhealthy Industries, 1950
- Act No. 18345 on Workers in the Private Sector, 2008.

Scope:

- The various provisions affording maternity protection apply to women working in the private sector and the public sector, domestic women workers and unemployed women.

Maternity leave:

- **Conditions:** Pregnant civil servants, which have to present a medical certificate proving the pregnancy,
- **Length:** 12 weeks. Civil servants: 13 weeks.
- **Compulsory leave:** 6 weeks before and 6 after confinement. Civil servants: 1 week before, 12 after confinement (may choose to begin before).
- **Extension:** If confinement takes place *after the due date*, leave shall be extended, both for private sector workers and for civil servants, until the actual date of confinement and the amount of compulsory post-natal leave shall not be reduced.
If *illness* occurs as a result of pregnancy or delivery, supplementary pre-natal leave may be granted, but not exceeding 6 months for private sector workers.

Paternity leave:

- **Scope:** All civil servants and workers in the private sector. Civil servants are entitled to 10 days of paternity leave, whilst workers in the private sector to 3 days.
- **Conditions:** To be entitled to paternity leave, civil servants have to present a medical certificate. In the private sector employees have to present to their employers official documentation of the paternity in the period of 20 days following the birth.
- **Length:** Civil servants: 10 days; private sector workers: 3 days.

Adoption leave:

- **Scope:** All workers in the private sector and civil servants who adopt a minor shall be entitled to special paid leave of 6 weeks continuous duration.
- **Conditions:** All workers in the private sector and civil servants affiliated to the Social Provision Bank are entitled to a paid leave in case of adoption.
- **Length:** Workers who adopt a child are entitled to 6 continuous weeks of leave.

Cash benefits:

- **Maternity leave benefits: Amount:** 100% of salary during normal leave, 70% during extended period.
Duration: 12 weeks plus extension as a result of confinement taking place after the due date and up to 6 months in the case of leave extended because of illness. During extraordinary

leave, a woman worker shall receive 70% of her salary (equivalent to the amount received for illness).

Benefits are paid by the Social Security Agency (Social Provision Bank); they are calculated on the average wage of the last 6 months.

- **Paternity leave benefits:** Paternity benefits are enjoyable during the time of leave (normal salary). Financing of these benefits is not expressly mentioned in the legislation. However it seems that it is the employer who pays the worker.
- **Adoption leave benefits:** no explanation noted.

Medical benefits:

- From the beginning of the pregnancy, medical costs are covered by the Health Insurance or by the BPS (Social Provision Bank).
- Every woman is entitled during pregnancy to be absent from work for as long as needed according to medical prescription.
- Every pregnant woman can be accompanied during the birth (natural delivery, cesarean section) by a person of her entourage or someone specially trained to give emotional support. It is not clear if this person is paid and who covers the costs if there are any.

Health protection:

- **Transfer in case of dangerous or unhealthy work:** Any woman worker in the public or private sector who is pregnant or nursing shall be entitled to be transferred temporarily from her usual activities if, by their nature or the conditions under which they are performed, they could affect her health or that of her child.
A well-founded refusal allowing the worker to change duties shall entitle her to special leave, during which she shall receive 50% of her normal salary.
Once the period of leave is over, the worker shall be reinstated in her previous post. Women workers who have exercised their right to a transfer shall not, on the grounds of this alone, be suspended, dismissed, have their labour rights affected or be held back in their careers.
- **Specific jobs forbidden:** Certain tasks are forbidden for pregnant workers such as carrying loads over 25 kg or the manipulation of benzol or benzene.

Non-discrimination/Job protection:

- **General:** All discrimination violating the principle of equality of treatment and of opportunities for both sexes in all sectors or branches of labour is prohibited. This specifically includes, among other things, suspension or dismissal in the event of a change in civil status, pregnancy or nursing.
- **Dismissal:** No woman can be dismissed due to the change of functions during pregnancy. However, if the worker is dismissed, the employer will have to pay an amount equivalent to 6 months of salary, plus the relevant legal compensation.
- **Job guarantee:** Women workers who have exercised their right to a transfer shall not, on the grounds of this alone, be suspended, dismissed, have their labour rights affected or be held back in their careers.
Once the period of leave is over, the worker shall be reinstated in her previous post.

Breastfeeding:

- **Breastfeeding breaks:** If the worker is nursing her child, she is entitled to interrupt her work for this purpose, for two half-hour periods per day.
These breaks will be counted as effective work.

URUGUAY HAS RATIFIED C103 (18.03.1954)

VENEZUELA

URUGUAY HAS RATIFIED C3 (20.11.1944)

Name of Acts:

- Organic Labour Act, 1990
- Organic Act on Social Security System, 2002
- Law on Equal Opportunities for Women
- Decree No. 1290 Regulating Health and Safety at Work, 1968
- Organic Act on the Social Security System, 2002
- Law on the Equality of Opportunities for Women, Official Registry No. 5.398, 1999
- Law for the Protection of Families, Maternity and Paternity, Official Registry No.38773,2007
- Special Law to Dignify the Work of Concierges, Official Registry No. 39668, 2011
- Law to Protect and to Promote Breastfeeding, Official Registry No.38763, 2007
- Organic Law to Protect Children and Adolescents, Official Registry 5859, 2007
- Constitution of Venezuela
- Organic Act of Prevention, Environment and Working Conditions, Official Registry No. 38236, 2005
- Partial Reform Law of Decree No. 6266 reforming the Social Security Act, Official Registry No.5976, 2010
- Decree No. 6266 reforming the Social Security Act, Official Registry No.5.891, 2008
- Decree No. 5370 establishing an Exceptional and Temporary Programme in Favour of Women Aged 65 Years or Older, 2007
- Law of Employment Benefits Regime, Official Registry No.38281, 2005
- Decree No. 2814, Partial Amendment of the Regulation of the Social Security Law, 1993
- General Regulation of the Law of Social Insurance, in force since 1993.

Scope:

- The *Organic Labour Act* applies to all workers in the private and public sector (who enjoy the benefits of this Act for situations not covered by their own regulations). Domestic workers are also covered as well as concierges.
- The Armed Forces are not covered by the *Labour Act*.

Maternity leave and other related leaves:

- **Conditions:** No specific conditions.
- **Length:** 18 weeks.
- **Compulsory leave:** 6weeks before and 12 weeks after confinement, but the total duration can be enjoyed after confinement.
- **Extension:**If a woman worker does *not use all her pre-natal leave*, with medical authorization or because confinement takes place before the due date, the remaining time shall be added to the post-natal period.
If confinement occurs *after the due date*, the period of pre-natal leave shall be extended until confinement takes place and the amount of post-natal leave shall not be reduced.
In the case of *illness* resulting from pregnancy or confinement, the woman shall be entitled to leave for a further unspecified period.

Paternity leave:

- **Scope:** Fathers, including adoptive fathers.
- **Conditions:**Medical certificate regarding the date of born of the child as well as a certificate regarding the condition of father of the child.
- **Length:** Fathers will enjoy a paternity leave of 14 continuous days, since the date of birth of his child.
- **Extension:**The paternity leave benefit may be extended for up to 14 more days in case of serious illness of the child or the mother.
The male worker shall present a medical certificate to his employer stating the date of birth of the child as well as certifying that he is the father.

Adoption leave:

- **Scope:** Are entitled, women workers in the public and private sectors, except the Armed Forces (covered by separate regulations).
- **Conditions:** There are no established conditions for adoption leave for mothers.
- **Length:** A woman worker who adopts a child under 3 years of age shall be entitled to maternity leave for up to 10 weeks. A man who adopts a child under 3 years of age shall be entitled to paternity leave for 14 continuous days.

Cash benefits:

- **Maternity leave benefits: Social Security System: Conditions:** The *Organic Act on Social Security* does not establish any qualifying conditions to receive these benefits. Nevertheless, a regulation may stipulate these conditions.

Scope: Since 2008 and 2010 a law governs the legal relationships between the Social Security System and its affiliates in cases of maternity, old age, survivors, sickness, accidents, disability, death, retirement, severance or unemployment. In the case of maternity, the Social Security System (Venezuelan Institute Social Insurance) covers cash and medical benefits under certain conditions.

Are included in the system for whom it is compulsory: permanent workers under the jurisdiction of an employer in both urban and rural regions; people who serve the nation, states, territories, capital district, municipalities, autonomous institutions; members of producer cooperatives as well as employees of trade unions (however, special conditions and requirements for implementation of Social Security in cooperatives).

Can be included: home-workers and domestic workers, both casual or temporary.

On optional basis: non-dependent workers, non-working women workers in the case of maternity.

The National Armed Forces are not included and are governed by special laws.

Amount: 100% of salary: it cannot be lower than the wage the worker was receiving before confinement.

Duration: whole period of maternity leave, 18 weeks.

Benefits are paid by Social Security. The system is financed through contributions paid by affiliates, fines, penalties, interest, rent, royalties and other products of assets and investments.

- **Paternity leave benefits:** 14 days, paid 100% of wages.
It is not clear whether this is covered by the employer in the form of salary or by the Social Security.
- **Adoption leave benefits: Conditions:** The adoptive child shall be under 3 years of age.
Amount: The amount cannot be lower than the wage that the worker was receiving before adoption.
Duration: During the 10 weeks of Adoption leave for adoptive mothers.
During 14 days for fathers up to 14 more days in case of serious illness of the child or serious health condition of the mother.
Financing of benefits by the Social Security System.

Medical benefits:

- Protecting maternity is a State duty. According to the General Regulation of the Social Insurance, maternity healthcare benefits are provided to affiliates and retired persons, as well as their wives or partners.
Regarding maternity, every woman is entitled, during pregnancy, confinement and the post-natal period, to free health care services and programmes of the highest quality.
- Medical costs are covered by the Social Security: affiliates to the Social Security System are entitled to medical healthcare as required by their state of maternity and to daily cash benefits during maternity and adoption leaves.
Moreover, the National Executive will ensure subsidiary payment of an amount of money, when confinement occurs in municipalities that are not covered by Social Security and where the State does not provide medical assistance free of charge.

Health protection:

- **Night work/Overtime:** not prohibited either for pregnant or breastfeeding workers.

- **Dangerous or unhealthy work:**The employer has the general obligation to guarantee the health and safety and of all workers at the work place and to adopt the necessary measures to guarantee these conditions. Workers cannot be exposed to physical agents, ergonomics, psychosocial risks, chemical, biological or other risks, without being warned about the nature thereof and the damages that they may cause to health and being trained in risk prevention. Pregnant workers shall not undertake work that may induce abortion or prevent the normal development of the foetus because of the physical effort required - or other circumstances. Such a situation does not entail any modification in her work conditions.
- **Transfer:**Pregnant workers shall not be transferred from their work, unless this transfer is required for the needs of the service and it does not harm her health and/or pregnancy. Any such transfer can result in a reduction/deterioration of her wages/working conditions.

Non-discrimination/Job protection:

- **General:**It is forbidden to advertise job offers and vocational or professional training courses by using discriminatory terms between men and women. Job offers in public and private institutions shall not discriminate a person because of their sex or age.
- **Pregnancy tests:**In no case may employers insist that women applying for jobs be subject to medical or laboratory examinations in order to detect pregnancy, or request that they produce medical certificates for the same purpose. Women workers may, however, request such examinations in order to enjoy the protection accorded by the provisions of the Act.
- **Dismissal:** A pregnant woman worker cannot be dismissed during pregnancy and for 1 year after confinement, provided that no serious fault is committed, in which case the prior authorization of the Labour Inspectorate shall be required. This protection also applies to a woman worker who has adopted a child. Fathers also enjoy protection in their job for up to a year after the child's birth, and their dismissal, transfer or deterioration of working conditions is forbidden unless there is a justified reason previously endorsed by the Labour Inspector.
- **Transfer:** A pregnant woman may not be transferred from her place of work unless it is required for service reasons and the transfer does not affect her condition. Her salary must not be reduced and her employment conditions must not be affected.
- **Job guarantee:** Not specifically mentioned.

Breastfeeding:

- **Breastfeeding breaks:**The worker is entitled to two paid breaks per day of 30 minutes each. If there is no nursery at the workplace, each break shall be an hour long. The salaries of a female worker/breastfeeding worker and another worker that performs the same work cannot be different.
- **Breastfeeding facilities:**An employer who employs more than 20 women must provide a nursery where women can leave their children up to the age of 5. To be entitled to these nursing facilities, women workers may not earn more than five times the minimum wage per month.

URUGUAY HAS RATIFIED C3 (20.11.1944)