

# Legislation on maternity protection in countries belonging to the Asian region

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## AFGHANISTAN

### Name of Act:

- Labour Code 2007.

### Scope: "

- The *Labour Code* is expressed as coordinating the general work relations of all government employees, workers and contractors, including local and foreign with their respective organisations. These employees include the following: Ministries and governmental organization workers and employees, independent commissions and national and international NGOs; administrative employees of elected organisations (the National Assembly, the Provincial, District and Village Councils) and the military organisations, police and national security. It also covers foreign workers and persons working in diplomatic missions of Afghanistan abroad.
- The maternity leave entitlement is expressed as applying to all female employees. (Employee is defined to mean "government employees, workers and the contractors").

### Maternity leave:

- **Conditions:** No qualifying conditions identified.
- **Length:** The *Labour Code* 2007 establishes an entitlement to maternity leave.
- **Compulsory leave:** 90 days leave (12 weeks); 30 days before and 60 after delivery.
- **Extension:** A female employee will be granted an additional 15 days' paid leave if she is going to have an *abnormal type of delivery* or gives birth to *twins or more*.

### Cash benefits:

- **Maternity leave benefits: Scope:** The scope of the cash benefits entitlement mirrors the scope of the maternity leave entitlement.  
**Conditions:** No qualifying conditions for payment of maternity benefits, except if extension of her leave. In this case she needs valid certificates issued by the relevant hospitals. Further, the employee will not be entitled to salary and other supplementary allowances for the extension period if she fails to report to duty within 5 days of the completion of her principle period of maternity leave.  
**Amount:** Paid 100% (salary and other supplementary allowances).  
**Duration:** The employee is entitled to payment for the duration of the maternity leave period (90 days).  
**Benefits paid by the employer.**

### Medical benefits:

- The entitlement to social protection, including medical benefits, is established under the *Labour Code* 2007.
- Employees and in some cases their family members can benefit from a number of social protections, including medical services and aid for child birth.
- Financial assistance for medical services and child birth aid is paid from the institution budget. This is funded through the financial participation of the organisation and employees.

### Health protection:

- **Night work:** Management cannot assign women on night duties. Exceptions: upon their consent, for pregnant and breastfeeding mothers working in hospitals, health clinics and for duties that require physical hard work under a proper schedule.

- **Overtime:** Limitations are imposed on the weekly hours of pregnant women (35 hours) and prohibitions are imposed on overtime and work on public holidays of pregnant women and mothers of young infants. Overtime is not permitted for pregnant women or women with children of less than 2 years of age.
- **Dangerous work:** It is not permissible for women to be engaged in types of work that are physically arduous, or harmful to health or carried out in underground sites. A list of physically arduous or harmful jobs is to be prepared and approved by MoPH, MoLSAMD and the respective organisations.
- **Transfer:** Furthermore, during the period of pregnancy and on the basis of a doctor's certificate, women will be assigned to lighter work, while receiving the wage applicable to their usual job.

#### Non-discrimination/Job protection:

- **Specific discrimination:** It is forbidden to refuse to employ women or to reduce their wages because of pregnancy or nursing their children.
- **Dismissal:** No express statutory prohibition on discriminatory dismissal identified. However, the *Labour Code* indirectly protects pregnant women or new mothers from discriminatory dismissal by limiting the employer's right to terminate the employment contract to 11 "essential instances". Further, it imposes on organisations an overarching responsibility to ensure labour security.
- **Job guarantee:** No express guarantee to return to one's work after leave.

#### Breastfeeding:

- **Breastfeeding breaks:** In addition to their rest and food breaks, nursing mothers should be provided with not less than 30 minutes break every 3 hours in order to breastfeed their babies in the children's room at the worksite.  
These breaks are included in the working time and shall be drawn up and decided by internal rules and procedures.
- **Breastfeeding facilities:** The organisation is duty bound to establish and equip kindergardens and nurseries for the children on the worksite.

## AUSTRALIA

### Name of Acts:

- Maternity Leave Act 1973, amended, Act No. 54, 2009
- Fair Work Act, Act No. 28, 2009, amended Act No. 51, 2010
- New Tax System (Family Assistance) (Administration) Act 1999, amended Act No. 105, 2010
- Australian Human Rights Commission Act 1986, amended Act No. 148, 2010
- Sex Discrimination Act 1984, amended Act No. 70, 2009
- Social Security Act 1991, amended Act No. 81, 2009
- Paid Parental Leave Act, No. 104, 2010.

### Scope:

- Most of the *Fair Work Act 2009* applies to: a constitutional corporation; any employing entity in Victoria, the Northern Territory or the Australian Capital Territory; any employing entity in New South Wales, Queensland, South Australia or Tasmania, other than the relevant State government or prescribed employer; the Commonwealth or a Commonwealth authority; or an entity which usually employs a waterside employee, maritime employee or flight crew officer in connection with interstate or overseas trade or commerce. There are however, some provisions of broader application.

### Maternity leave:

- There are three categories of maternity leave to which new or expectant mothers may be entitled. The first is the primary entitlement to *unpaid parental leave*, which applies to employees with responsibility for the care of a child. The second is an entitlement to *unpaid special maternity leave* in the event an employee becomes unfit to work due to a pregnancy-related illness, still birth or miscarriage. The third is a right to *paid no safe job leave*, to which a pregnant employee is entitled if her employer is unable to provide her with safe employment during her pregnancy.
- **Unpaid parental leave: Scope:** The parental leave provisions of the *Fair Work Act* apply to all employees whose employment falls within its geographic application.

**Conditions:** In order to qualify for parental leave, an employee must: a) have worked for the employer for a continuous period of 12 months as at the date of commencement of the parental leave; b) if a casual employee, have worked on a regular and systematic basis over the course of that 12 month period and have a reasonable expectation of ongoing employment; c) have, or be going to have during the period of parental leave, a responsibility for the care of the child; d) provide at least 10 weeks' written notice and, if required by the employer, evidence of the actual or expected date of birth of the child.

**Length:** 52 weeks. Employees who qualify for unpaid parental leave are entitled to 12 months' leave, less any period of special maternity leave taken by the mother during the pregnancy. Where the employee is a member of an employee couple, the length of the employee's entitlement will also be reduced by any extension period taken by the employee's partner under the *Fair Work Act*.

A birth mother's period of parental leave is to commence up to 6 weeks before the expected date of birth and no later than the actual date of birth of the child.

Parental leave is to be taken as a single continuous period of leave. The only exception to this rule is where a couple exercises the right to take up to 3 weeks of concurrent parental leave at the time of the birth. In such cases, one employee may take part of his or her unpaid parental leave entitlement within 3 weeks' of the child's birth and recommence his or her leave when his or her partner returns to work.

**Compulsory leave:** Female employees may be required to take unpaid leave within 6 weeks prior to the expected birth of a child if she is certified as unfit for work or fails to provide a medical certificate when asked to do so by her employer.

**Extension:** Where an employee initially arranges to take less than the full 12 months of available parental leave entitlement following the birth of her child, she is entitled to extend her initial

period of leave up to the end of the available 12 month period on 4 weeks' written notice to her employer. The employee may only extend her unpaid parental leave in this way on one occasion without the consent of her employer.

An employee who takes all her available parental leave entitlements may request a further period of up to 12 months immediately following the end of the available parental leave period and within 24 months of the birth of the child. Special rules apply to employees whose partner also exercises a right to take unpaid parental leave. Such a request may be refused by an employer on reasonable business grounds.

- **Special unpaid maternity leave:** Special unpaid maternity leave can be taken by a female employee for a pregnancy-related illness, or to recover from a still-birth or miscarriage that occurs up to 28 weeks before the expected date of birth.

**Conditions:** The employee must give her employer notice of the need to take special unpaid maternity leave as soon as practicable and must provide evidence of the illness, still birth or miscarriage if required.

**Length:** The entitlement to special unpaid maternity leave exists for as long as the employee is not fit for work.

- **Paid no-safe-job leave:** A pregnant employee is entitled to be transferred to a safe job or, if no safe job is available, to take paid no safe job leave where she provides evidence that she is fit for work, but that it is inadvisable for her to continue in her present position during a stated period (the risk period) because of illness, or risks, arising out of her pregnancy or hazards connected with that position.

The entitlement to paid no safe job leave ends when the pregnancy ends or in the event that the employee, within 6 weeks of the expected date of birth, fails to provide a medical certificate on request or is certified as unfit for work.

The pregnant employee must be entitled to and have fulfilled the notice and evidentiary requirements of unpaid parental leave to have access to these protections.

#### Parental leave:

Paternity and adoption leave entitlements are included in the parental leave entitlement under the *Fair Work Act 2009*.

- **Scope/Length:** The parental leave provisions of the *Fair Work Act* apply to all employees whose employment falls within the geographic application of the Act. A male employee will be entitled to take up to 12 months' unpaid parental leave upon the birth of his own child, or a child of his spouse or de facto partner, if he has or will have a responsibility for the care of the child. This entitlement is reduced by any period of extended leave taken by his spouse or de facto partner. Parental leave is to be taken as a single continuous period of leave. The only exception to this rule is where a couple exercises the right to take up to 3 weeks of concurrent parental leave at the time of the birth. In such cases, one employee may take part of his or her unpaid parental leave entitlement within 3 weeks' of the child's birth and recommence his or her leave when his or her partner returns to work.
- **Conditions:** See unpaid parental leave conditions, maternity leave above.
- **Extension:** The employee will also have the right to request an extended period of leave of up to 12 months, less any period of parental or special maternity leave taken by his spouse or de facto partner.

The only substantive difference between the leave entitlements of male and female employees is the date on which the leave must commence. Specifically, a male employee's period of leave must start on the date of birth of the child or immediately after the end of any leave taken by his spouse or de facto partner.

Male employees are entitled to the same entitlements to extend a period of unpaid parental leave as female employees.

#### Adoption leave:

- There are two categories of statutory leave entitlements that arise in relation to the adoption of a child. The first is the primary entitlement to *unpaid parental leave*. This is to be taken in association with the placement of a child for adoption and mirrors the entitlement to unpaid parental leave set out under maternity leave and paternity leave above. The second is *unpaid pre-adoption leave*, taken for the purposes of attending interviews or examinations required in order to obtain approval for the employee's adoption of a child.
- **Unpaid parental leave: Scope:** The parental leave provisions of the *Fair Work Act* apply to all employees whose employment falls within the geographic application of the Act.  
**Conditions:** See unpaid parental leave under maternity leave conditions, above.  
Further, with respect to both unpaid parental leave and unpaid pre-adoption leave, the child that is, or is to be, placed with the employee for adoption must: a) be under 16 as at the day of placement, or the expected day of placement, of the child; and b) have not lived continuously with the employee for a period of 6 months or more as at the day of placement, or the expected day of placement, of the child; and c) not be (otherwise than because of the adoption) a child of the employee or the employee's spouse or de facto partner.  
**Length:** The entitlement to unpaid parental leave for adoptive parents is equivalent to the entitlement for birth parents. That is, parents of adopted children are entitled to up to 12 months' unpaid parental leave, with a right to request a further period unpaid leave of up to 12 months, subject to various timing requirements.
- **Unpaid pre-adoption leave: Conditions:** To qualify for unpaid pre-adoption leave, an employee must: a) provide notice as soon as practicable to the employer and, if required by the employer, provide evidence that the leave is required to attend an interview or examination relating to the adoption of a child; b) not have an entitlement to, and be directed to take, some other form of leave.  
Same conditions as for adoption leave conditions immediately above.  
**Length:** The entitlement to unpaid pre-adoption leave is for a period of up to 2 days. It can be taken as a single continuous period or in separate periods as agreed by the employee and employer.

#### Part-time work:

- **Scope:** Parents with care responsibilities have the right to request flexible working arrangements.
- **Conditions:** There is no express statutory entitlement to convert to part-time work following the birth or adoption of a child. However, an employee who is a parent, or has responsibility for the care of a child may request a change in working arrangements to care for the child if the child is under school age or is under 18 and has a disability. Changes to an employee's hours or pattern of work are expressly noted as examples of changes in working arrangements.
- A request may only be refused by an employer on reasonable business grounds.

#### Cash benefits:

- **Maternity leave benefits:** Entitlements to cash benefits during maternity leave arise under the *Parental Leave Act 2010*. Additional entitlements apply to federal government employees under the *Maternity Leave Act*. Additional cash benefit entitlements for private sector employees are to be set at an industry, enterprise or individual level.  
In addition to the statutory entitlements provided by the *Paid Parental Leave Act 2010*, most female employees of the federal government and prescribed government agencies have a further statutory entitlement to 12 weeks of fully paid maternity leave. (This entitlement is limited to Commonwealth government/government authority employees)
- **Parental leave benefits:** Minimum parental leave cash benefits are provided for in the *Paid Parental Leave Act 2010*.  
**Scope:** The *Paid Parental Leave Act* applies broadly to Australian residents who take a leave of absence from regular paid work to assume primary responsibility for the care of a child.

**Conditions:** The entitlement to parental leave pay arises upon determination by the Secretary of the administering government department. For a determination to be made in respect of a person, he or she must be eligible and have made an effective claim for parental leave pay.

To be eligible for parental leave pay under the *Paid Parental Leave Act*, a person must, at the time that they become the child's primary carer: a) have performed at least 330 hours of paid work during at least 10 of the preceding 13 months, whether as an employee, contractor or self-employed person; b) have earned less than \$150,000 in the year preceding the birth; c) be an Australian resident; d) be the primary carer of the child (or, in the event that the child is still-born or has died, have intended to be the primary carer of the child); e) not be performing paid work during the period for which parental leave pay is claimed; and f) not be entitled to the baby bonus.

**Amount:** The parental leave pay entitlement is up to 18 weeks' pay at the federal minimum wage, as set in accordance with the *Fair Work Act 2009*. The amount payable is to be calculated at a rate of 7.6 hours for each day to which the employee is entitled parental leave pay.

An entitlement arising under the *Paid Parental Leave Act 2010* does not affect a person's entitlement to other parental leave-related cash benefits under statute, an industrial instrument or contract.

**Duration:** The parental leave pay is available to new parents within 12 months of the birth of a child or, in the case of adoption, the placement of the child with the parents. A claim must be made in the period from 97 days (14 weeks) before the expected date of birth to the day before the child's first birthday.

**Benefits are paid:** Although parental leave payments may be made by the employer, the cash benefit entitlements arising under the *Paid Parental Leave Act 2010* are ultimately financed by the federal government, administered by the Family Assistance Office.

#### Medical benefits:

Various State-funded Social Security benefits are available to parents under the *New Tax System Act 2000*. These are generally income-tested and include:

*Family tax benefit A*, which is paid by way of fortnightly instalments or an annual lump sum to parents who care for dependent children at least 35% of the time (at least 128 nights a year). The children must be under the age of 16 or under the age of 24 and studying full-time.

*Family tax benefit B*, which is designed to provide further assistance to sole parents or single income families.

*Baby bonus*, paid in 13 fortnightly instalments over the first 26 weeks of a child's life to the primary carer of the child. A person cannot claim both the baby bonus (under the *New Tax System Act*) and parental leave pay (under the *Paid Parental Leave Act 2010*) and is entitled to choose between the two.

*Child care benefit for parents, foster parents or grandparents* with care of a child who is attending child care services approved by, or registered with, the Government;

*Child care rebate* which covers 50% out-of-pocket child care expenses for approved child care up to the annual cap.

*Maternity immunisation allowance*, paid in 2 instalments upon immunisation of a child between the ages of 18-24 months and 4-5 years.

A person may also be entitled to care or parenting payments under the *Social Security Act 1991*. All benefits are paid by the Social Assistance System financed by the State.

#### Health protection:

- **Transfer:** A pregnant employee is entitled to be transferred to a safe job or, if no safe job is available, to take "paid no safe job leave" where she provides evidence that she is fit for work, but that it is inadvisable for her to continue in her present position during a stated period (the risk period) because of illness, or risks, arising out of her pregnancy or hazards connected with that position.

#### Non-discrimination/Job protection:



- **General:** Discrimination on the grounds of sex, pregnancy, or potential pregnancy, family responsibilities is generally prohibited by the *Sex Discrimination Act 1984*. The process for making a complaint of sex-based discrimination is set out in the *Australian Human Rights Commission Act 1986*. The protections under these Acts apply to all workers, i.e. including part-time and temporary employees and contractors.

The *Fair Work Act* also prohibits certain employers from taking specified adverse action against a person who is an employee, or prospective employee, of the employer on a discriminatory ground, including the person's sex, marital status, family or carer's responsibilities or pregnancy.

- **Dismissal:** Protection from discriminatory dismissal is covered by the broader prohibition on discriminatory treatment under the *Sex Discrimination Act 1984* and on adverse action under the *Fair Work Act 2009*.
- **Job guarantee:** On ending unpaid parental leave, an employee is entitled to return to: a) the employee's pre-parental leave position; or b) if that position no longer exists, an available position for which the employee is qualified and suited nearest in status and pay to the pre-parental leave position.

#### **Breastfeeding:**

- No mention.

## BANGLADESH

### Name of Act:

- The Labour Act, 2006.

### Scope:

- All pregnant workers.
- Article 1(4) of the *Labour Act 2006* excludes 16 categories of workers from the applications of the Act. These include: government offices; establishments for the treatment or care of the sick, aged, infirm, etc.; educational, training and research institutions; agricultural farms with less than 10 workers; and domestic servants.

### Maternity leave:

- **Conditions:** oral or written notice of her expected confinement within the 8 weeks preceding the expected date of birth, or notice of birth within 7 days of the actual date of birth.
- **Length:** 8 weeks compulsory after birth but entitlement of up to 8 weeks before birth = 16 weeks in all (the *Labour Act 2006* entitles pregnant women to absent themselves from work during the 8 weeks leading up to the expected date of delivery and prohibits women from working for a period of 8 weeks following the day of delivery). Until 2004 leave was 12 weeks.
- **Compulsory leave:** 8 weeks after birth.
- **Extension:** No extension possible, even in case of *illness* or *complications* arising during the pregnancy.

### Cash benefits:

- **Maternity leave benefits: Scope/Conditions/Duration:** Women whose work is covered by the *Labour Act* are entitled to up to 16 weeks' maternity leave pay at their average daily, weekly or monthly wage (100%). Payment made for the period of leave she takes. This applies to "every woman employed in an establishment" for her first two children. If she has two or more surviving children, she is entitled to unpaid maternity leave only. Workers must have worked under the employer for a period of not less than 6 months immediately preceding the day of her delivery. The employer pays the maternity benefit only once the worker has produced a certificate signed by a registered medical practitioner as to her expected confinement or another form of proof that she has given birth to a child (birth certificate, medical certificate or other proof as may be accepted by the employer).  
**Amount:** 100% of salary.  
**Duration:** whole length of maternity leave, 16 weeks..  
**Paid by** employer.

### Medical benefits:

- No medical benefit entitlements identified.

### Health protection:

- **Night work:** No night work (10 pm – 6 am) for all women without their consent.
- **Dangerous work:** Employers are prohibited from employing any woman for arduous work or which involves long hours of standing or which is likely to adversely affect her health if he has reason to believe or if she has informed him that she is likely to be delivered of a child within 10 weeks; or if she has been delivered of a child within the preceding 10 weeks.
- An exception applies to tea plantation workers, who may perform light duties if certified fit to do so by the tea estate's medical practitioner. The performance of such work will not affect the worker's maternity benefits entitlement.

### Non-discrimination/Job protection:

- **Dismissal:** If dismissed during a period up to 6 months before delivery to 8 weeks after delivery, the woman is entitled to maternity benefits if the dismissal is without sufficient cause.
- **Job guarantee:** No mention of job security.

### Breastfeeding breaks:

- **Breastfeeding breaks:** No provisions.



- **Breastfeeding facilities:** Employers at establishments with 40 or more workers must provide and maintain a suitable room or rooms for children under the age of 6 and their mothers. The room is to be furnished with at least one chair or equivalent seating accommodation for the use of each mother while she is feeding or attending to her child.

## BRUNEI DARUSSALAM

### Name of Act:

- Employment Order of Brunei Darussalam, 2009.

### Scope:

- It appears that the provisions of the *Employment Order* apply to all workers. However, regarding domestic workers, the Minister may make modifications or exceptions to the provisions of this Order for this category of workers and provide specific working conditions.
- Regarding immigrants, no person shall employ them unless they have obtained a license from the Commissioner to do so in such form and subject to such conditions as determined. Therefore the provisions of this Order are only applicable to them if expressly provided.
- Every female employee shall be entitled to absent herself from work before and after confinement.

### Maternity leave:

- **Conditions:** The female employee shall give notice to her employer at least one week before absenting herself from work specifying the date on which she intends to commence her leave.
- **Length:** The total duration of maternity is 9 weeks, which shall be taken 4 weeks immediately preceding her confinement and 5 weeks immediately after confinement.  
In 2010, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam announced an increase of maternity leave from 56 days (8 weeks) to 105 days (15 weeks) for mothers working both in the government and private sectors, bringing it above the minimum standard set in Convention No. 103. However this increase is not yet implemented in the current legislation.
- **Compulsory leave:** The length of the period before and after confinement may be agreed between the employer and the employee, but such leave shall commence not earlier than 28 days (4 weeks) immediately preceding the day of her confinement and not later than the day of her confinement.

### Cash benefits:

- **Maternity leave benefits: Conditions:** In order to be entitled to receive maternity benefits the worker shall have worked at least 180 days immediately preceding the day of her confinement with the same employer.

No employee may claim any payment to more than one employer in respect of the same confinement.

**Amount/Duration:** 8 weeks of benefits at 100% of salary. Where a female employee has worked in her employment for any day during the benefit period before her confinement, she shall be entitled to receive in addition to her gross rate of pay for that day an amount that is equivalent to a day's pay at the gross rate of pay or to absent herself from work on another day at the end of the benefit period.

**Benefits are paid** by the employer.

### Medical benefits:

- No relevant provisions on medical benefits.

### Health protection:

- No relevant provisions on health protection.

### Non-discrimination/Job protection:

- **Dismissal:** No notice of dismissal given without sufficient cause by an employer to a female employee within a period of 3 months before her confinement shall have the effect of depriving her of any payment to which she would have been entitled.

If a female worker has been dismissed without sufficient cause, the Minister may compel the employer to reinstall the employee in her employment and to pay her an amount equal to the salary that she would have earned if she had not been dismissed, or compel the employer to pay such amount of salary as compensation as the Minister may consider just and equitable having regard to all the circumstances of the case.

An employer who dismisses a female employee without sufficient cause is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, and/or imprisonment for a term not exceeding 1 year.

- **Burden of proof:** The onus of providing proof of infringement of any of the provisions of the *Employment Act* shall be on the person who alleges it.
- **Job protection:** No mention.

**Breastfeeding:**

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

## CAMBODIA

### Name of Act:

- The Labour Law, 1997, amended 2007.

### Scope:

- The following women are entitled to maternity protection: all women employed in every enterprise or establishment of industry, mining, commerce, crafts, agriculture, services, land or water transportation, whether public, semi-public or private, non-religious or religious, as well as women working in handicraft establishments and associations of any kind and self-employed women.
- The *Labour Law* does not apply to: a) judges of the Judiciary; b) persons appointed to a permanent post in the public service; c) personnel of the Police, Army, Military Police, who are governed by a separate statute; d) personnel serving in the air and maritime transportation, who are governed by a special legislation (although these workers are entitled to apply the provisions on freedom of union under the *Labour Law*); e) domestics or household servants, unless otherwise expressly specified under this law.
- Permanent civil servants and domestic or household workers are not covered.

### Maternity leave:

- **Conditions:** No qualifying conditions identified.
- **Length:** 90 days of maternity leave (13 weeks).
- **Compulsory leave:** No compulsory leave identified.
- **Extension:** No provisions providing extension of maternity leave identified (including illness or complications due to pregnancy or birth).

### Paternity leave:

- No specific paternity leave entitlement identified, however, all workers covered by the law are entitled to a maximum of 10 days special leave for family events directly related to the workers' immediate family.

### Cash benefits:

- **Maternity leave benefits: Scope:** All women entitled to maternity leave are entitled to cash benefits for the duration of the leave.  
**Conditions:** The cash benefits for maternity leave are only payable to women with 1 year of continuous, uninterrupted service in the enterprise.  
**Amount:** Paid 50% of wages including bonuses (privileges connected with their position), and reserve their rights to other benefits in kind, if any. In 1994 benefits amounted to 100% of wages!  
**Paid by** the employer.

### Medical benefits:

- No provisions.

### Health protection:

- Women workers must be assigned to lighter work for a period of 2 months after they return to work after maternity leave. (Light work is not defined and is typically a reference to the arduousness rather than the length of work performed. However, typically, it also involves a curtailment of the hours of work performed by the worker in question.)
- No health/safety/risk provisions for pregnant or breastfeeding workers.

### Non-discrimination/Job protection:

- **General:** Employers are prohibited from discriminating on the basis of sex when making decisions about hiring, defining or assigning work, training, advancement, promotion, remuneration, granting of social benefits, discipline or termination of employment.
- **Specific:** However, there are no express prohibitions on discriminating on the grounds of pregnancy or maternity.
- **Dismissal:** Employers are prohibited from laying off women in labour, during their maternity leave or at a date when the end of the notice period would fall during the maternity leave.

- **Job guarantee:** The contract of employment of a woman is suspended during the period she is on maternity leave, however, she still receives half of her wages.

#### Breastfeeding:

- **Breastfeeding breaks:** For 1 year after child's birth, a woman is entitled to a 1-hour nursing break or two 30-minute nursing breaks a day (one in the morning and one in the afternoon), in agreement with her employer.  
Breaks for breastfeeding are separate from and cannot be deducted from normal breaks.  
The *Labour Law* does not make express provision for the remuneration of nursing breaks.
- **Breastfeeding facilities:** Managers of enterprises employing a minimum of 100 women or girls shall set up, within their establishments or nearby, a nursing room and a day-care centre.  
If the company cannot set up a day-care centre on its premises for children over 18 months of age, female workers can place their children in any day-care centre and the charges shall be paid by the employer.  
A ministerial order of the Ministry in charge of Labour shall determine the conditions for setting up a hygienic environment and supervising these nursing rooms and day-care centres.

## CHINA

### Name of Acts:

- Regulations on Labour Protection in Workplaces where Toxic Substances are Used, 2002
- Labour Law, 1994, promulgated by Order No. 28, 1995
- Labour Insurance Regulations, by the 73rd Government Administrative Meeting of the Government Administration Council 1951, promulgated 1951, effective 1953
- Law of the People's Republic of China on the Protection of Rights and Interests of Women, 1992, amended 2005
- Regulations on Labour Protection for Female Workers and Employees, 1988
- Law on Maternal, Infant Health Care, 1994
- Measures for Implementation of the Law of People's Republic of China on Maternal and Infant Care, Decree No. 308, 2001.

### Scope:

- All female workers who have formed a labour relationship with an employing unit are entitled to paid maternity leave under the *Labour Law*.
- The maternity leave entitlements provided by the *Regulations on Labour Protection for Female Workers and Employees* apply to all female workers and employees of all State organs, people's organizations, enterprises and institutions within the territory of the People's Republic of China.
- The maternity leave entitlements provided by the *Labour Insurance Regulations* apply to State-operated, joint state-private, private and cooperative factories, mines and their subsidiary units and business management organizations, each of which employs more than 100 workers and staff members, and each railway, shipping or postal and telecommunications enterprise and its subsidiary units.

### Maternity leave:

- **Conditions:** No qualifying conditions have been identified in relation to the entitlement to maternity leave under the *Labour Law*.  
However, to be entitled to maternity leave under the *Regulations on Labour Protection for Female Workers and Employees*, women must have complied with State stipulations concerning family planning.
- **Length:** Female workers have entitlements to 90 days (13 weeks) under the *Labour Law* and the *Regulations on Labour Protection for Female Workers and Employees* (it is not clear if 2 of these weeks can be taken before confinement, or if 2 extra weeks can be taken before confinement as the 90 days appear to have to be taken after giving birth).  
Workers covered by the *Labour Insurance Regulations* are entitled to 56 days (8 weeks) maternity leave.
- **Extensions:** In the case of birth complications, or of more than one child from the same birth, the mother is entitled to an additional 15 days of leave (per child). Also appropriate leave in the case of miscarriage.  
Further, the *Law of the People's Republic of China on the Population and Family Planning* authorises local governments to extend parental leave periods for parents who adhere to family planning measures.

### Paternity leave:

- Although there is no provision for paternity leave in the *Labour Law*, the *Family Planning Law* refers to leave for fathers. As a consequence, some local governments have granted leave to fathers where they marry after the age of 25 or commit to having only one child. For example, in Guangdong Province, fathers who meet the relevant criteria have an entitlement to 10 days' paternity leave.

### Cash benefits:



- Maternity leave benefits:** Maternity leave is to paid under the *Labour Law 1994* and the *Labour Insurance Regulations*. On the other hand, the *Regulations on Labour Protection for Female Workers and Employees* do not provide for payment during maternity leave.

**Scope:** The entitlement to payment under the *Labour Law* applies to all female workers who have formed a labour relationship with an employing unit and covers the total period of leave entitlement.

The right to payment under the *Labour Insurance Regulations* applies to all State-operated, joint state-private, private and cooperative factories, mines and their subsidiary units and business management organizations, each of which employs more than 100 workers and staff members and each railway, shipping or postal and telecommunications enterprise and its subsidiary units. Covers for total period of leave entitlement.

**Amount:** 100% of salary.

**Duration:** The entitlement to wages mirrors the entitlement to maternity leave, i.e. no less than 90 days for maternity leave taken under the *Labour Law* and 56 days for maternity leave taken under the *Labour Insurance Regulations*.

**Paid by:** Wages are paid to female workers on maternity leave through an employer-funded insurance scheme. This appears to have changed in 2009.
- Parental leave benefits:** When a female worker or staff member or the spouse of a male worker or staff member gives birth to a child, childbearing subsidies shall be paid under the Labour Insurance Funds, the sum to be the local retail price of 5 chi (1/3 metre) red cloth.

**Scope:** The right to payment under the *Labour Insurance Regulations* applies to all State-operated, joint state-private, private and cooperative factories, mines and their subsidiary units and business management organizations, each of which employs more than 100 workers and staff members and each railway, shipping or postal and telecommunications enterprise and its subsidiary units.

**Qualifying conditions:** No relevant provisions identified.

**Duration:** Not stipulated.

**Amount:** The amount payable as childbearing subsidies is to be equivalent to the local retail price of 5 chi (1/3 metre) red cloth.

**Benefits are paid:** The amount payable as childbearing subsidies is to be paid from an employer-funded insurance scheme.

#### Medical benefits:

- A National Maternity Insurance Fund exists and may be used for maternity allowances and related medical fees. A Basic Medical Insurance Fund has also been established, but covers only urban workers.
- The *Law on Maternal, Infant Health Care* stipulates that the State provides essential conditions and material assistance so that mothers and infants have access to medical and health care services. It further states that medical and health care organs should provide health care services to childbearing, pregnant and lying-in women during their gestation and lying-in periods.
- The National Maternity Insurance Fund is financed by employer and employee contributions. The contribution levels are set by local governments, but will not exceed 1% of the total payroll. The Basic Medical Insurance Fund is funded by employer and employee contributions. The employer's contribution is split between the general fund (70% of contribution per employee) and the relevant employee's personal account (30%). Small claims are paid from an employee's personal account and large claims (exceeding 10% of the employee's annual wage) are paid from the general fund.

#### Health protection:

- Night work/Overtime:** Female workers 7 or more months' pregnant, or who are breastfeeding their baby under 1 year, shall not be requested to extend their working time or to work night shifts.

- **Dangerous work:** Employing units are prohibited from engaging female workers in a range of dangerous, unhealthy and physically labour-intensive types of work. The categories of prohibited work increase when the worker is pregnant or breastfeeding.

As a general norm, it is prohibited to make female workers work in Grade IV physical labour-intensive jobs as stipulated by the State, or other work that female workers should avoid. During their menstrual period, female workers shall not be engaged in with Grade III physical labour-intensive jobs. Also, it is prohibited to engage female workers in mine pits. During their menstrual period, female shall not work high above the ground, under low temperatures, or in cold water.

During pregnancy and while nursing a child (up to 1 year) female workers shall not work in Grade III physical labour-intensive posts as stipulated by the State or other work that they should avoid in pregnancy. Moreover, these workers cannot work in positions where toxic substances are used.

#### Non-discrimination/Job protection:

- **General:** Labourers shall not be discriminated against in employment, regardless of their sex. Females shall enjoy equal rights as males in employment and it shall not be allowed, in the recruitment of staff and workers, to use sex as a pretext for excluding females from employment or to raise recruitment standards for females, except for the types of work or posts that are not suitable for females as stipulated by the State.
- **Specific:** No employing unit shall reduce the salary of female employees by reason of marriage, pregnancy, maternity leave or nursing unless the female employees request the termination.
- **Dismissal:** The employing unit shall not revoke its labour contract with a female labourer during pregnancy, child-birth or breastfeeding periods.  
No employing unit shall dismiss female employees, or unilaterally terminate labour contracts or service agreements with them by reason of marriage, pregnancy, maternity leave or nursing unless the female employees request the termination.
- **Job guarantee:** There is no express right to return to work per se. However, employing units are prohibited from reducing the basic wage or terminating the labour contracts of female workers during the period when female workers and employees are pregnant or on maternity leave or nursing babies (up to 1 year).

#### Breastfeeding:

- **Breastfeeding breaks:** Provision is to be made for breastfeeding breaks and facilities. A female worker or employee whose infant is under 1 year is entitled to two nursing periods (including for bottle feeding), of 30 minutes each break per child, within the working hours of every shift. The two nursing periods may be merged into one.  
The nursing time plus the time for travelling to and fro inside the unit shall be counted as working time.
- **Breastfeeding facilities:** A unit with “quite many” female workers and employees should, in accordance with relevant State stipulations, establish step by step such self-run or jointly-run facilities as clinics for females, rest-rooms for pregnant females, nursing rooms, nurseries and kindergartens etc. It should also appropriately solve their problems with respect to physiological hygiene, nursing and infant care.

## FIJI

### Name of Acts:

- Employment Relations Promulgation 2007, Promulgation No. 36, 2007
- Health and Safety at Work Act, 1996
- Health and Safety at Work (General Workplace Conditions) Regulations, 2003.

### Scope:

- The *Employment Relation Promulgation* applies to all employers and workers in workplaces in Fiji, including the Government, other Government entities, local authorities, statutory authorities and the Sugar Industry, but does not apply to the following members of the Republic of Fiji: Military Forces, Fiji Police Force and Fiji Prisons and Correction Services. The maternity leave entitlement provided by the *Employment Relations Promulgation 2007* applies to all employers and female workers in workplaces in Fiji. **Maternity leave:**
- **Conditions:** to provide the employer with a certificate from a registered medical practitioner or registered nurse specifying the possible date of birth. Other requirements however to receive maternity benefits.
- **Length:** 84 consecutive days (12 weeks) of maternity leave.
- **Compulsory leave:** Leave may be taken at any time before or after confinement. However, where the woman chooses to work during the pre-confinement period, she must produce a medical certificate certifying that she is fit to work during that period.
- **Extension:** No extension of leave though a woman may be away from work for longer than 84 days, providing that there is no entitlement to wages for any such period. No specific entitlement to leave in the case of *illness or complications* related to pregnancy or birth. However, a woman may have an entitlement to up to 10 days' paid sick leave. She must in this case: a) have completed more than 3 months continuous service with the same employer; b) be incapable of work; c) as soon as reasonably practicable notify the employer of her absence and the reason for it; and d) produce, if requested by the employer, a written certificate signed by a registered medical practitioner, certifying the worker's incapacity for work.

### Cash benefits:

- **Maternity leave benefits: Conditions:** In order to be entitled to paid maternity leave under the *Employment Relations Promulgation*, the woman must have been employed for a period of, or periods amounting in aggregate to not less than 150 days (21 weeks), during the 9 months before the birth of her child.  
**Amount:** The woman will be entitled to full remuneration (100%) for the period of maternity leave for her first three births. For her fourth and subsequent, only 50%.  
**Duration:** Entitlement to cash benefits for whole period of leave (84 days) for the same employees as for maternity leave, but subject to certain conditions.  
**Paid by** the employer. If there is more than one employer from whom the woman would be entitled to claim wages, the Permanent Secretary, Labour officer or Labour inspector must determine the amount of wages to be paid by each employer.

### Medical benefits:

- No entitlements to pre- or post-natal medical benefits identified in either the *Employment Relations Promulgation* or national Social Security laws (*Fiji National Provident Fund*).

### Health protection:

- No health protection measures specific to pregnant or breastfeeding workers. However, general health and safety obligations apply (*Health and Safety at Work (General Workplace Conditions) Regulations 2003*).

### Non-discrimination/Job security:

- **General:** The *Employment Relations Promulgation* prohibits direct or indirect discrimination on a grounds relating to personal characteristics, including gender, birth, age, marital status, employment status and family status. The right to equal treatment extends to the following

employment related matters: a) selection for employment; b) the terms of employment, conditions of work, or other fringe benefits, and opportunities for training, promotion, and transfer; c) termination of employment; and d) retirement.

- **Dismissal:** No woman must be terminated from employment on the ground of pregnancy. However, if, after 3 months from the expiration of her maternity leave, a woman remains absent from work as the result of illness (certified by a registered medical practitioner) arising out of her pregnancy or the birth of her child rendering her unfit for work, her employer may give her notice of termination.
- **Burden of proof:** Where a termination occurs while a woman is pregnant, the burden of proof rests with the employer.
- **Job guarantee:** A woman who returns to her employment after maternity leave: a) must be appointed to the same or equivalent position held prior to proceedings on maternity leave, without any loss of salary, wages, benefits and seniority; or b) may be appointed to a higher position.

#### **Breastfeeding:**

- **Breastfeeding breaks:** Not provided.

## INDIA

### Name of Acts:

- Maternity Benefits Act 1961, amended 2008
- Factories Act 1948, amended by the Factories (Amendment) Act, 1987
- Employees' State Insurance Act 1948, varied by Act 45, 1984
- The Unorganised Workers' Social Security Act, Act No 33, 2008
- National Maternity Benefits Scheme
- Janani Suraksha Yojana - a centrally sponsored scheme aimed at reducing maternal and infant mortality rates and increasing institutional deliveries in below-poverty line families and applicable to all pregnant women belonging to households below the poverty line, above 19 years of age and up to two live births
- Handloom Weavers Health Insurance Scheme 2010-2011, No. 1/2/2010-DCH/Project-I, 2010
- Handicraft Artisans Comprehensive Welfare Scheme.

### Scope:

- The *Maternity Benefits Act* applies to all factories, mines and plantations in India, except factories or other establishments to which the *Employees' State Insurance Act, 1948* applies. However, women who are employed in factories or other establishments to which the *Employees' State Insurance Act, 1948* applies, but are not entitled to the benefits provided by that Act, are entitled to maternity benefits under the *Maternity Benefits Act*.
- The State Government may extend the scope of the *Maternity Benefits Act* by decree, following the approval of the Central Government.
- The *Factories Act, 1948*, applies to factories employing 10 or more employees.

### Maternity leave:

- **Conditions:** to have worked in an establishment of the employer for a period of not less than 160 days (23 weeks) in the 12 months immediately preceding the date of her expected delivery. This qualifying period does not apply to a woman who has immigrated into the State of Assam and was pregnant at the time of the immigration.
- **Length:** The *Maternity Benefits Act, 1961* allows women to absent themselves from work for 12 weeks (commencing 6 weeks prior to the anticipated date of birth and finishing 6 weeks after the date of delivery).
- **Compulsory leave:** 6 weeks after delivery or miscarriage.
- **Extension:** No provision for extension of maternity leave except in the case of *illness* arising out of pregnancy, delivery, *premature birth or miscarriage*. In this case, and upon production of prescribed proof, the woman is entitled to a maximum period of 1 month, paid at the rate of the maternity benefits.  
In the case of a *miscarriage*, a woman shall, upon production of prescribed proof, be entitled to leave for 6 weeks immediately following her miscarriage, paid at the rate of the maternity benefits.

### Cash benefits:

- **Maternity leave benefits: Conditions:** Same conditions as for maternity leave.  
**Amount:** 100%: the average daily wage for up to 12 weeks of leave. The amount is calculated as the average of the payment she has received over the 3 months of employment before taking her leave, or one rupee/day, whichever is highest.  
**Duration:** Payment for leave before birth is for a maximum of 6 weeks.  
**Paid by** the employer. Until 2004 maternity benefits were paid through a mixed scheme, Social Security and employer.  
The *Employees' State Insurance Act, 1948* applies to the factories other than seasonal factories, provides an entitlement to maternity benefits to insured women subject to certain conditions.  
The *Unorganised Workers' Social Security Act, 2008* provides that the Central Government shall formulate and notify from time to time suitable welfare schemes for unorganised workers on

matters relating to health and maternity benefits. The applicable schemes include: a) Janani Suraksha Yojana, which is sponsored by the Central Government and aimed at reducing maternal and infant mortality rates and increasing institutional deliveries in below poverty line families; b) the *National Maternity Benefits Scheme*, which provides for the payment of Rs. 500 per pregnancy to women belonging to poor households for pre-natal and post-natal maternity care for the first two live births; and c) the *Handloom Weavers Health Insurance Scheme* which provides for cash maternity benefit of R2,500 per child (for up to 2 children); and d) the *Handicraft Artisans Comprehensive Welfare Scheme* which provides for cash maternity benefit of R2,500 per child (for up to two children). **Medical benefits:**

- Employers are obliged to provide pregnant workers with a medical bonus of 1,000 rupees or free pre- and post-natal medical care. Every 3 years, the central Government may increase the amount of medical bonus to a maximum of 20,000 rupees.
- The *Janani Suraksha Yojan* (a welfare scheme sponsored by the Central Government and aimed at reducing maternal and infant mortality rates and increasing institutional deliveries in below poverty-line families) and the *National Maternity Benefits Scheme* provide some pregnant women with funds for delivery and care: the latter pays Rs. 500 per pregnancy to women belonging to poor households for pre-natal and post-natal maternity care up to the first two live births.

#### **Health protection:**

- Health protection measures are established in the *Maternity Benefits Act, 1961* and are complemented by obligations under the *Factories Act, 1948*.
- **Night work/Overtime/Rest days:** No restrictions.
- **Dangerous work:** Upon her request, during the 10 weeks leading up to the expected date of birth a pregnant woman shall not be required to do any arduous work, or work involving long hours of standing or which is likely to interfere with pregnancy or the development of the foetus or to cause her miscarriage or otherwise adversely affect her health.

#### **Non-discrimination/Job protection:**

- **Non-discrimination:** It is unlawful for an employer to vary or disadvantage any conditions of a worker's service during or on account of her absence in accordance with the *Maternity Benefits Act, 1961*.
- **Dismissal:** However, it is unlawful to dismiss or prejudicially vary the terms of employment of a woman during or on account of an exercise of her rights (absence for example) under the *Maternity Benefits Act, 1961*.
- **Job guarantee:** No express guaranteed right to return to work.

#### **Breastfeeding:**

- **Breastfeeding breaks:** Every woman who returns to work after delivery is allowed two daily breaks of prescribed duration for nursing the child until it reaches 15 months. These breastfeeding breaks are additional to her rest breaks.  
No deduction of wages during breastfeeding breaks.
- **Breastfeeding facilities:** In every factory where more than 30 women workers are ordinarily employed a suitable room or rooms for the use of these women's children under 6 years of age shall be provided and maintained.  
Such rooms shall provide adequate accommodation, be adequately lighted and ventilated, be maintained in a clean and sanitary condition and be under the charge of women trained in the care of children and infants.  
The State Government may make rules requiring that facilities be set up in any factory for mothers to feed children under the age of 6 at the necessary intervals.



## INDONESIA

### Name of Acts:

- Act concerning Employees' Social Security, 1992
- Government Regulation No. 14 on the Implementation of the Programme of Workers' Social Security, 1993
- Law on Manpower Affairs, Act No. 13, 2003.

### Scope:

- The maternity leave entitlements under the *Law on Manpower Affairs* apply to all female workers/labourers, being any female who works for a wage or other form of remuneration.

### Maternity leave:

- **Conditions:** No qualifying conditions identified.
- **Length:** Female workers/labourers are entitled to maternity leave of 3 months (12 weeks), with the possibility of extension if required for medical reasons.  
Leave is taken 1.5 months (6 weeks) before the time at which they are estimated by an obstetrician or a midwife to give birth to a baby and another 1.5 months (6 weeks) thereafter.
- **Compulsory leave:** No compulsory leave identified.
- **Extension:** The length of the maternity leave period may be extended if required as attested by a written statement from the obstetrician or midwife either prior to or after the delivery.  
In the case of *miscarriage* the worker is entitled to a period of leave of 1.5 months (6 weeks), or a period of leave as stated in the medical statement issued by the obstetrician or midwife.

### Paternity leave:

- **Scope:** Entitlement to paternity leave under the *Law on Manpower Affairs*, 2003 for all workers whose wife gives birth or suffers a miscarriage.
- **Length:** Length of paternity leave not specified; entitlement to payment is 2 days.

### Other leaves:

- No statutory entitlement to take leave in case of sickness of the child identified. However, workers have a right to take 2 days' paid leave in the event that their child is being circumcised or dies.

### Cash benefits:

- **Maternity leave benefits: Conditions:** No qualifying conditions.  
**Amount:** Full wages (100%) during maternity leave for the full duration of the leave. However, if the leave is extended for medical reasons, it is not clear if the extended period is paid.  
**Paid by** employer.
- **Paternity leave benefits:** paid for 2 days by employer.

### Medical benefits:

- Workers are entitled to medical benefits under national Social Security laws.
- Employees, their spouses and up to three children shall have the right to receive health-care benefits, including maternity check-ups and childbirth assistance. A worker needing the service of pregnancy examination and or help at work shall obtain this service from an appointed maternity hospital.
- These benefits are paid by the employees' Social Security programme.  
Contributions for the branch of Health Maintenance Security shall be fully borne by the employer. But only employers employing 10 workers or more, or spending at least Rp. 1,000,000 a month on wages, are obliged to insure the workers in the employees' Social Security programme.

### Health protection:

- The health of pregnant or breastfeeding workers is primarily regulated by a general duty on employers to ensure the health and safety of all workers.

- **Night work:** Employers are prohibited from employing pregnant workers who, according to a doctor's certificate, are at risk of damaging their health or harming their own safety and the safety of the unborn baby if they work between 11 p.m. and 7 a.m.
- **Overtime work:** No express restriction on engaging pregnant or breastfeeding women to perform overtime work or work on rest days/holidays.
- **Dangerous work:** No provisions specific to the risks faced by pregnant or breastfeeding workers identified.

However, there is a general obligation on all employers to ensure the health and safety of all workers. Every worker has the right to receive protection as to occupational safety and health. In order to protect the safety of workers, to prevent occupational accidents and control hazards at the workplace and to realise optimal productivity, an occupational health and safety scheme shall be administrated. Further, an occupational health and safety management system is to be integrated into the management system of every enterprise.

#### Non-discrimination/Job protection:

- **General:** Any person who is able to work shall have the same opportunity to get a job without discrimination.  
Every person who is available for a job shall have the same right and opportunity to find a decent job and to earn a decent living without being discriminated against on grounds of (inter alia) sex, in accordance with the person's interest and capability.  
Every worker has the right to receive equal treatment without discrimination from their employer: entrepreneurs are obliged to give the worker equal rights and responsibilities without discrimination based on (inter alia) sex.
- **Dismissal:** The employer is prohibited from terminating the employment of a worker when she is absent from work because she is pregnant, giving birth, having a miscarriage, or breastfeeding her baby, or because of the worker's sex or marital status (among other things). Any termination of employment that takes place for these reasons shall be declared null and void by law, and the entrepreneur shall then be obliged to re-employ the affected worker/labourer.
- **Job guarantee:** No provisions regarding guarantee to return to job after maternity leave.

#### Breastfeeding:

- **Breastfeeding breaks:** Entrepreneurs are under an obligation to provide proper opportunities to female workers/labourers whose babies still need breastfeeding to breastfeed their babies if that must be performed during working hours.
- **Breastfeeding facilities:** Employers are obliged to provide welfare services. These are intended to include, for instance, babysitting facilities.

## IRAN – ISLAMIC REPUBLIC OF

### Name of Acts:

- Labour Code, 1990
- Encouraging Breastfeeding and Protection of Breastfeeding Mothers Law, 1995
- Civil Service Act
- Social Security Law, 1975, amended LS 1975-Iran 1, 1975.

### Scope:

Various laws are involved:

- *Labour Code*: All employers and their representatives, workers, trainees, apprentices, as well as workplaces and production, industrial, services and agriculture establishments are required to comply with the provisions of the *Labour Code*.  
The maternity leave entitlement under the *Labour Law* applies to all women workers, trainees and apprentices in industrial and agricultural establishments, mining enterprises, construction, transport enterprises, commercial establishments, production units and any other place open to the public.  
Certain activities in the agricultural sector may be exempted from the provisions of the *Labour Code*, and small-scale enterprises with fewer than ten workers may be temporarily excluded from some of its provisions.  
The *Labour Code* does not apply however to the any person subject to the *Civil Service Act* or to other special laws and regulations, and any worker in family workplaces where work is performed exclusively by the employer, his wife and his blood relatives in the first degree.
- *Civil Service Act*: However, any person subject to the *Civil Service Act* or to other special laws and regulations, and any worker in family workplaces where work is performed exclusively by the employer, his wife and his blood relatives in the first degree, are not subject to the provisions of the *Labour Code*.  
Further exclusions and exemptions may be authorized by the Supreme Labour Court and Council of Ministers.
- *Social Security Law*: covers all individuals who in any capacity work for wages and salary, including self-employed persons. However, employees of Ministries, Government organisations and companies and organisations affiliated with the Government are excluded to the extent that sector-specific laws provide for equivalent benefits.  
Also are excluded persons governed by the *Armed Forces Services Law* and artisans governed by the *Army Artisans' Cooperative and Retirement Insurance Law*.  
An "insured person" is any person who is individually covered by Social Security and, by paying certain sums as an insurance contribution, is entitled to enjoy the benefits set forth in the *Social Security Law*.
- *Encouraging Breastfeeding and Protection of Breastfeeding Mothers Law*: Additional maternity leave entitlements under this law applies to nursing (breastfeeding) mothers in either private or public sector employment.

**Maternity leave: General:** The entitlement to maternity leave is mainly found under the *Labour Code*, with additional entitlements for women who breastfeed their children under the *Encouraging Breastfeeding and Protecting Breastfeeding Mothers Law, 1995*.

- **Labour Code: Conditions:** No qualifying conditions.  
**Length:** The general maternity leave entitlement under the *Labour Code* is 90 days (13 weeks).  
**Compulsory leave:** No compulsory leave requirements identified. However, the *Labour Code* stipulates that 45 days of the 90 day maternity leave entitlement shall be taken, if possible, after delivery.  
**Extension:** Maternity leave entitlements are extended by 14 days for women giving birth to *twins*. No leave entitlement specific to maternity-related illness or complication. However, female workers suffering from such *illness or complications* may be entitled to take sick leave.

- **Encouraging Breastfeeding and Protecting Breastfeeding Mothers Law: Conditions:** In order to qualify for the additional maternity leave entitlement under this law, the worker must: 1) be nursing one of her first 3 children; 2) have certification from a pediatrician or physician from a public health and treatment centre; 3) have a copy of the child's birth certificate.  
**Length:** 4 months (16 weeks) for breastfeeding mothers up to three children.  
**Compulsory leave:** no mention.  
**Extension:** Maternity leave entitlements is extended to 5 months (20 weeks) in the event that the woman gives birth to *twins* and to 12 months in the case of *multiple births*.

#### Part-time work:

- **Laws involved:** Women workers in the public sector may request to change to part-time work in accordance with the *Women's Part-time Employment Act 1985*.  
The *Women's Part-Time Service Act*, the *Implementation of Women's Part-time Employment Act* and the *Addendum to the law of Part-Time Service for Women* provide that ministries, state-owned companies, and state organizations and institutions that are subject to the *National Employment Law* can grant women employees part-time status upon their request and their superior's approval.  
Part-time employment can be, under no circumstances, less than 50% of the regular working hour and part-time employees will receive 50% of their base salary.  
Guidelines for part-time employment are to be decided by the highest official in each government body.
- **Length:** The minimum length of part-time employment is 1 year.  
In the event that the part-time employee requests change of status before the expiry of her part-time employment, she can resume full-time status should the government body deem it necessary. Otherwise, part-time employment cannot be less than 1 year.

#### Cash benefits:

- **Maternity leave benefits:** Cash benefits are payable where insured workers, or the wives of insured workers, take maternity leave. Maternity leave benefits are to be paid in accordance with the *Social Security Law*.  
**Scope:** The scope of the cash benefit mirrors the scope of the maternity leave entitlements under the *Labour Code* and the *Encouraging Breastfeeding and Protecting Breastfeeding Mothers Law*. Under the *Social Security Law* the scope includes insured persons. An "insured person" is any person who is individually covered by Social Security and, by paying certain sums as an insurance contribution, is entitled to enjoy the benefits set forth in the *Social Security Law*. Employers covered by the *Labour Code* are obliged to insure their workers in accordance with the *Social Security Law*.  
**Conditions:** The *Social Security Law* provides that a female insured or the wife of a male insured, who has a record of paying the insurance contribution for 60 days within the 1 year prior to delivery, may enjoy the pregnancy and confinement benefits provided she is not working. Moreover, pregnant women are reportedly required to undergo medical examinations at 3 and 7 months of pregnancy and obtain examination certificates from a doctor or midwife. While not clear, this appears to be unrelated to the woman's employment relationship, but rather a requirement for obtaining benefits under the *Social Security Law*. The requirement is not stipulated in either the *Labour Code, 1990* or the *Social Security Law, 1975*.  
**Amount:** The pregnancy and confinement benefits shall be equal to two thirds (66.6%) of the last wage or salary of the insured, calculated in accordance with the *Social Security Law*.  
**Duration:** The maximum cash benefits that may be paid in relation to pregnancy and confinement shall not exceed a total period of 12 weeks covering the time both before and after delivery.  
**Benefits are paid** by the Social Security Organization of the Islamic Republic of Iran.

The sources of income of the organization are as follows: the insurance contributions at the rate of 30% of wages or salaries, 7% of which is to be paid by the insured, 20% by the employer and 3% by the Government; income obtained from the funds, reserves and properties of the organization; money obtained from penalties and cash fines specified in this law; grants and gifts.

#### Medical benefits:

- **Laws involved:** The *Social Security Law* entitles insured workers and their wives to medical benefits before, during and after delivery. It entitles a female insured or the wife of a male insured, who has a record of paying the insurance contribution for 60 days within the 1 year prior to delivery may enjoy the medical assistance and examinations and treatment before, during and after delivery.  
Employers covered by the *Labour Code* are obliged to insure their workers in accordance with the *Social Security Law*.
- **Benefits are paid** by the Social Security Organization of the Islamic Republic of Iran. The National Health Insurance Organisation may, on application by the insured, pay a cash amount in lieu of benefits. The said amount shall be determined in regulations to be prepared by the Board of Directors of the National Health Insurance Organisation and approved by the High Council of the Organisation.

#### Health protection:

- **Dangerous or unhealthy work:** is defined under the *Labour Code*: There is a general prohibition on employing women in dangerous work and a further entitlement for pregnant women to be transferred out of work that is deemed dangerous for pregnant workers.  
Women shall not be employed to perform dangerous, arduous or harmful work or to carry, manually and without mechanical means, loads heavier than the authorised maximum.  
Instructions regarding types of dangerous, arduous or harmful work prohibited for all women, and degrees of prohibition, shall be approved by the Minister of Labour and Social Affairs on recommendation by the Supreme Labour Council.  
Ebadi explains the general prohibition in the following terms: 1) The maximum load legally permitted for women to handle is set at approximately 20 kg. 2) By strenuous and harmful labour, the law intends to include work that lacks physical, chemical, mechanical, or biological safety standards. Under such conditions, the danger levels are much higher than the natural capacities of the worker (mental or physical) and may result in occupational illnesses and side effects. 3) The list of strenuous and harmful occupations is proposed by the High Council of Labour and approved by the Minister of Labour and Social Affairs.
- **Particular risks for pregnant, breastfeeding women:** *Carrying loads* for women during pregnancy and the first 10 weeks after childbirth is prohibited.  
*Arduous work:* Carrying loads for women during pregnancy and the first ten weeks after childbirth is prohibited.
- **Risk assessment:** *Labour Code*: There is no requirement on employers to conduct risk assessments in relation to a workplace or group(s) of workers. Rather, the *Labour Code* requires all workplaces, employers, workers, and trainees to observe such instructions as may be drawn up by the High Council for Occupational Safety (with regard to occupational safety) and by the Ministry of Health, Therapeutic Care and Medical Training (with regard to the prevention of occupational diseases and the maintenance of occupational health and workers' health and the work environment).
- **Transfer to another post:** If the physician of the Social Security Organization considers the work of a pregnant woman to be dangerous or arduous, she must be provided with a more suitable and easier job until confinement, without loss of income.

#### Non-discrimination/Job protection:

- **General:** Men and women are to receive equal protection under law and women are to return to work following a period of maternity leave.

All individuals, whether men or women, are entitled to the same protection of the law. Specific provision is made with respect to wages, stipulating that equal wages shall be paid to men and women performing work of equal value in a workplace under the same conditions. Any discrimination in wage determination on the basis of age, gender, race, ethnic origin and political and religious convictions shall be prohibited.

- **Dismissal:** There is no express protection from discriminatory dismissal.
- **Job guarantee:** On termination of maternity leave, a woman worker shall return to her former work, the duration of such leave being considered part of her effective service, subject to confirmation by the Social Security Organisation.

### Breastfeeding:

- **Breastfeeding breaks:** The *Labour Code* and the *Encouraging Breastfeeding and Protecting Breastfeeding Mothers Law* entitle women to breastfeeding breaks and access to nursing facilities.

The *Labour Code*: provides that nursing mothers are entitled to take a 30-minute break every 3 hours until the child reaches 2 years of age.

The *Encouraging Breastfeeding and Protecting Breastfeeding Mothers Law*: provides that nursing mothers who have resumed work are entitled to daily 1-hour leave periods until the child's 20<sup>th</sup> month. The entitlement may be taken as up to 3 separate breaks per day.

Nursing breaks are included in the working hours.

The job security of a nursing mother whose maternity leave period has expired must be guaranteed, and they may not be transferred to a different job during their nursing period.

- **Breastfeeding facilities:** are legal obligations.

The *Labour Code*: requires the employer to set up children's care centres (such as day nurseries, kindergartens, and the like) according to the number of children, with due regard to their age.

The *Encouraging Breastfeeding and Protecting Breastfeeding Mothers Law*: further provides that Ministries and government bodies are responsible for providing appropriate areas for mothers to breastfeed their children.



## JAPAN

### Name of Acts:

- Employment Insurance Act No. 116, 1974, amended Act No. 30, 2007
- Guidelines concerning Measures to be Taken by Employers in Order that Pregnant and Postpartum Women Workers Follow Guidance Based on Health Guidance or Medical Examinations, Ministry of Labour, Notice No. 105, 1997
- National Health Insurance Law, Law No. 60, 1938, amended to Law No. 90, 1951
- Labor Standards Act No. 49, 1947, amended to Act No. 147, 2004
- Act on the Welfare of Workers who Care for Children or Other Family Members Including Child Care and Family Care Leave, 1991, Act No. 76, 1991, amended to Act No. 160, 2004
- Act on Equal Opportunity and Treatment between Men and Women in Employment, Act No. 113, 1972, amended to Act No. 82, 2006
- Act on Employment Management for Part-Time Workers, Act No. 76, 1993
- Labor Contract Act, Act No. 128, 2007
- Ordinance for Enforcement of the Act on the Welfare of Workers who Take Care of Children and Other Family Members Including Child Care and Family Care Leave, 1991
- Ordinance for the Enforcement of the Labour Standards Act, 1947, revised in Ordinance No. 101, 2004
- Industrial Safety and Health Act, No. 57, 1972, amended to Act No. 25, 2006
- Ordinance for the Enforcement of the Act on Equal Opportunity and Treatment of Men and Women in Employment, Ordinance No. 2, 1986
- Child Welfare Act, 1947, Act No. 164, 1947, amended to Act No. 73, 2007.

### Scope:

- The maternity leave entitlements of the *Labour Standards Act* apply to all women workers who are employed in an enterprise or office and receive wages therefrom, regardless of the type of occupation in which the woman is employed.
- The *Employment Insurance Act* excludes the following categories of workers from its scope: a) persons who are employed on or after the day on which they reached 65 years of age (subject to some exceptions); b) part-time workers whose prescribed weekly working hours are shorter than the prescribed weekly working hours of ordinary workers employed in the same covered undertaking and fewer than the number of hours specified by the Minister of Health, Labour and Welfare; c) prescribed day-workers; d) persons who are employed in a seasonal undertaking scheduled for a period not exceeding 4 months; e) persons insured under Article 17 of the Mariners Insurance Act 1939; f) persons who are employed by the national, prefectural or municipal governments or in the undertakings of equivalent bodies and who would, in the case of separation from employment, be qualified to receive payment of benefits that are deemed to exceed the level of job applicant benefits and employment promotion benefits and who are specified by an ordinance of the Ministry of Health, Labour and Welfare.

### Maternity leave:

- **Conditions:** No qualifying conditions identified.
- **Length:** Normally, women may take up to 14 weeks' leave, commencing up to 6 weeks prior to the anticipated date of birth and finishing 8 weeks after childbirth.
- **Compulsory leave:** An employer cannot request a woman to work within 8 weeks after childbirth; if the worker asks to return after 6 weeks and provides medical certification showing the work will have no adverse effect on her, she is entitled to return.
- **Extension:** Women carrying *multiple fetuses* may commence the period of maternity leave up to 14 weeks prior to the anticipated date of birth. In such cases, the total maternity leave entitlement is a period of up to 22 weeks.

- No entitlement to leave in case of *illness or complications*, be they or not related to pregnancy or delivery.

#### Paternity leave:

- There is no such leave as such: it is included in the following Child care leave and Family leave.

#### Parental leave (Child Care leave):

- **Scope:** The child care leave entitlements under the *Act on the Welfare of Workers Who Take Care of Children etc.* apply to all workers, other than day labourers and national and local public officers, who have a child under the age of 1 year or, in prescribed circumstances, under the age of 1.5 years.

- **Conditions:** In order to apply, the *mother or father* have to be employed on a permanent basis; or has to have been employed on a fixed term basis for at least 1 year and is likely to continue to be employed after the date on which her child reaches 1 year of age.

The employer may refuse an application for childcare leave if there is a written agreement with a union or a person representing a majority of workers which refuses this leave to the following workers: those whose continuous term of employment by the employer is less than 1 year; those whose spouse is a parent of the child requiring care and is deemed to be a person who can normally take care of said child; workers with regard to whom there is deemed to be good cause for not allowing to take child care leave.

**Length:** until the child is 1.5 years old.

- **Sickness leave:** A worker who is taking care of a child before the time of commencement of elementary school may take up to 5 days' leave per fiscal year to look after the child in the event of injury or sickness to the child.

#### Family Care leave:

- **Scope:** A worker, other than a day labourer or a national or local public officer, who cares for his or her child may be entitled to apply for family care leave if the child is in a condition requiring constant care for a period of 2 weeks or more due to injury, sickness or physical or mental disability.

- **Conditions:** A worker will be eligible to apply for Family care leave if the worker is employed on a permanent basis; or has been employed on a fixed term basis for at least 1 year and is likely to be employed beyond the maximum period of leave.

However, employers may be entitled to refuse applications for Family care leave from the following categories of workers upon written agreement with a union or person representing the majority of workers: workers with less than 1 year of service; workers whose spouse is deemed as normally able to care for the child; workers whose employment relationship is certain to be terminated within 93 days from the date of the family care leave application; and workers who perform only extremely few prescribed working days per week.

- **Length:** Family care leave may be taken for a maximum period of 93 days (13 weeks), less the number of days on which the employer has allowed the worker shortened working hours or other measures to facilitate the balancing of the worker's work and family responsibilities.

#### Adoption leave:

- **Scope:** No leave entitlements specific to adoptive parents identified. However, where the adoption takes place before the child's first birthday, the adoptive parents may be entitled to take child care leave to care for their child in accordance with the *Act on the Welfare of Workers Who Take Care of Children or Other Family Members etc.*, 1991.
- **Conditions:** Same qualifying conditions as for Child care leave.
- **Length:** Same length as Child care leave.

#### Part-time work:

- Any of the following workers may request shortened hours and/or the benefit of other prescribed measures that facilitate the balancing of the worker's work and family responsibilities, including shortened hours. The employer is obliged to grant the request in the two following cases: workers

who care for a child under 1 year, and who have not taken Child care leave in respect of that child; workers who care for a child over the age of 1 but under the age of 3. For the following workers, the employer is requested to try to grant the request: workers who care for a child over the age of 3 but under the age of elementary school.

- Female workers with a medical certificate related to pre- and post-natal health care are entitled to part-time work to comply with their health needs.

#### Cash benefits:

- **Maternity leave benefits: General: Scope/Conditions:** are payable to women workers who are insured either under the *Employment Insurance Act* or the *National Health Insurance Law*. **Amount/Duration:** The legal amount is currently at 66.67% of the average daily basic wage, according to wage class, for a period of 42 days (6 weeks) before birth and 56 days (8 weeks) after the expected date of childbirth (total: 14 weeks).
- **Child Care leave benefits: General:** The right to *Basic Child Care Leave Allowance* applies, under certain conditions, to persons insured under the *Employment Insurance Act, 1974* and who take Child care leave to care for his/her child during the period until the child's first birthday under the *Act on the Welfare of Workers who Care for Children or Other Family Members, 1991*. **Employment Insurance Act: Scope:** the benefits provided by this Act are payable to insured workers who take Child care leave. **Conditions:** An employed worker may be insured unless she is 65 years of age or older; a part-time worker whose working hours are fewer than the number specified by the Minister of Health, Labour and Welfare; a prescribed day-worker; employed in a seasonal undertaking scheduled for a period not exceeding 4 months; insured under Article 17 of the *Mariners Insurance Act 1939*; employed by the national, prefectural or municipal governments or in the undertakings of equivalent bodies and qualified to receive payment of benefits that are deemed to exceed the level of job applicant benefits and employment promotion benefits.  
To qualify for allowance the mother must meet the qualifying conditions of leave and have been insured under the *Employment Insurance Act* for a total period of 12 months or more within the 2-year period preceding the day on which the family care leave was commenced.  
The benefits shall not be paid to a person who has received or attempted to receive payment by means of deception or other wrongful conduct, **Amount:** 30% of the worker's wages as received prior to taking leave. Upon return to work after child care leave, the father will receive a further 10% of his pre-leave wage, for the duration of the leave taken, as a re-engagement benefit for workers returning from child care leave. **Duration:** Allowance is for the duration of the Child care leave period. **Paid by:** Mixed payment: The National Treasury finances one-eighth of the cost of child care leave benefits. The remainder is financed by worker and employer payments to the Employment Insurance Fund.
- **Family Care leave benefits: Scope:** The right to *Family Care Leave Allowance* applies, under certain conditions, to persons who are insured under the *Employment Insurance Act, 1974* and who take family care leave to care for his or her child under the *Act on the Welfare of Workers who Care for Children or Other Family Members, 1991*. Same specifications as for Maternity benefits under *Employment Insurance Act, 1974*. **Amount:** 40% of the worker's regular monthly wages earned before taking leave. **Paid by** the National Treasury finances one-eighth ; the remainder is financed by worker and employer payments to the Employment Insurance Fund.
- **Adoption leave benefits:** No benefits specific to adoptive parents. However, where adoptive parents are entitled to child care leave under the *Act on the Welfare of Workers Who Take Care of Children or Other Family Members etc. 1991*, the parent may be entitled to child care leave allowance under the *Employment Insurance Act*. For details see Child care leave benefits above.

#### Medical benefits:

- Medical benefits are covered by the *National Health Insurance Law*. This law applies generally to persons (including self-employed persons) residing in a city, town or village which elects to administer the National Health Insurance in its jurisdiction. While the national law stipulates that maternity care benefits for delivery are to be paid by the insurer, the scope, qualifying conditions and amount are to be set by local ordinance.  
The duration of the benefits payable are set by city, town or village ordinance.  
The financing of the maternity care benefits is determined by city, town or village ordinance.
- Where an expectant and nursing mother is unable to receive in-hospital midwifery care due to economic reasons, regardless of the necessity in terms of healthcare, the Welfare Office of the prefecture, city, town or village in which the expectant or nursing mother lives shall provide midwifery care to her in a midwifery home, when the expectant and nursing mother applies. However, this obligation shall not apply where there is an “unavoidable reason such as non-existence of an adjacent midwifery home”. Mothers who qualify for midwifery care in a midwifery home may also be referred for additional assistance in a Midwifery Care Practice or Maternal and Child Aid Practice.
- Where an expectant or nursing mother is unable to finance in-hospital midwifery care herself, the services shall be financed by the relevant municipal or prefectural government. Where required by Cabinet Order, the National Treasury shall bear half of the expenses spent for the Midwifery Care Practice or the Maternal and Child Aid Practice afforded by the municipal government.

#### Health protection:

- **Night work/Overtime:** The pregnant or nursing worker must ask her employer to not work at night, overtime or on rest days if she so desires.  
When requested by the worker, an employer shall not allow a pregnant or nursing worker to work more than 40 hours per week or 8 hours per day under any averaging system established by written agreement.
- **Time off for medical examinations:** Employers shall secure the necessary time off so that women workers may receive the health guidance and medical examinations prescribed in the *Maternal and Child Health Act* (once every 4 weeks up to the 7<sup>th</sup> month of pregnancy).  
Moreover, the *Act on Securing Equal Opportunity and Treatment between Men and Women in Employment* also imposes a general obligation on employers to take necessary measures, such as change of working hours and reduction of work, in order to enable women workers to comply with the directions they receive from medical specialists in relation to pre- and post-natal health.
- **Dangerous, unhealthy work:** An employer shall not assign pregnant women or women within 1 year after childbirth to any work injurious to pregnancy, childbirth, nursing and the like.  
The *Industrial Safety and Health Act* requires employers to comply with the minimum standards for preventing industrial accidents provided for in that Act, as well as endeavor to ensure the safety and health of workers in workplaces through creating a comfortable working environment and improving working conditions.  
An employer shall not assign pregnant women or women within 1 year after childbirth to work involving the handling of heavy materials, to work in places where harmful gas is generated, to work underground in any circumstances.
- **Transfer:** According to Labour Ministry guidelines, the employer shall take necessary measures with regard to maternity health care of pregnant and postpartum women workers, such as: 1) mitigation of commuting; 2) extending break times and increasing the number of breaks; and 3) limiting work, reducing working hours and granting a day off.  
Where a pregnant worker has requested, an employer must transfer her to other lighter activities. Where a female worker wants to return to work after 6 weeks have passed since childbirth, the employer may only employ the worker to work in activities approved by a doctor as having no adverse effect on her. This may require a transfer to another post.

#### Non-discrimination/Job protection:

- **General:** Employers are prohibited from discriminating against workers with regards to recruitment, promotion or other conditions of employment on the grounds of sex.
- **Specific:** Employers are also prohibited from giving disadvantageous treatment to women workers by reason of pregnancy, childbirth, or being unable or having been unable to provide labour service, or experiencing a decline in labour efficiency due to a symptom that is attributable to pregnancy or childbirth.
- **Dismissal:** of women workers who are pregnant or in the first year after childbirth shall be void, unless the employer can prove that the dismissal was for reasons other than that of pregnancy, childbirth, or reduced capacity arising from pregnancy or childbirth. Employers are also prohibited from stipulating marriage, pregnancy or childbirth as a reason for retirement of women workers.  
Further, an employer may not dismiss for reasons of applying for or taking child care leave or family care leave under the *Act on the Welfare of Workers who Care for Children etc.*  
Finally, a dismissal shall be treated as an abuse of right and be invalid under the *Labour Contract Act* if it lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms.
- **Burden of proof:** Where a woman worker is dismissed while pregnant or during the first year after childbirth, the onus is on the the employer to prove that the dismissal was for reasons other than that of pregnancy, childbirth, or reduced capacity arising from pregnancy or childbirth. Where the employer fails to prove this fact, the dismissal will be invalid.
- **Job guarantee:** No express guarantee of the right to return to work identified. However, there are various prohibitions on discriminatory dismissal and dismissal during a period of maternity-related leave.  
Further, the *Act on the Welfare of Workers Who Take Care of Children etc.* obliges employers who are recruiting to give special consideration to re-employing former employees who resigned because of pregnancy, childbirth or child care or family care.

#### **Breastfeeding:**

- **Breastfeeding breaks:** Women raising an infant under the age of 1 year are entitled upon request to two 30-minute nursing breaks a day in addition to the statutory rest periods.  
No provision for remuneration of nursing breaks has been identified.
- **Breastfeeding facilities:** If a worker who cares for an infant seeks shortened hours and/or the benefit of other measures that facilitate the balancing of the worker's work and family responsibilities, the employer is obliged to take at least one of a number of prescribed measures, which include establishing and operating a nursery facilities for workers' children under 3 years of age, or providing services equivalent to those under said nursery system.



## KIRIBATI

### Name of Acts:

- Employment Ordinance, 1977, amended to incorporate Employment (Amendment) Act 1980, No. 9, 1980.
- No. 6, 2000
- No. 2, 2008.

### Scope:

- The maternity leave entitlement applies to all workers of the female sex. A worker is any person who has entered into or works under a contract of employment and includes any immigrant worker, a worker who is apprenticed and any domestic servant and self-employed persons including children working in the absence of an employment relationship.

### Maternity leave:

- **Conditions:** An employer shall allow a woman employee to leave her work upon production of a medical certificate by a medical practitioner stating confinement will take place within 6 weeks.
- **Length:** The general total duration of maternity leave is up to 12 weeks, being a maximum of 6 weeks before confinement and a minimum of 6 weeks after confinement.
- **Compulsory leave:** An employer shall not permit a woman to work during the period of 6 weeks following confinement.
- **Extension:** No provision for extending maternity leave identified.

### Cash benefits:

- **Maternity leave benefits: Scope:** The maternity leave cash benefit entitlement applies to all workers of the female sex.  
**Conditions:** The employee must produce a medical certificate given by a medical practitioner stating that her confinement will take place within 6 weeks.  
**Amount:** A woman employee shall be entitled to be paid not less than 25% of the wages she would have earned had she not been absent on maternity leave.  
**Duration:** The duration of the maternity leave cash benefit reflects the duration of maternity leave taken by the worker (a maximum of 12 weeks).  
**Benefits are paid** by the employer.

### Medical benefits:

- No statutory entitlement to pre-natal, childbirth or post-natal care identified. However, Kiribati has a publicly funded formal health care system and a parallel traditional health system offering ante-natal, childbirth and post-natal care. Approximately 90% of childbirths are attended by trained health personnel.  
A 2009 joint Family Planning International/Secretariat of the Pacific Community study reported that 100% of women receive ante-natal care.  
Post-natal care rates are not known.
- Benefits are paid by public funds.

### Health protection:

- **Night work:** General prohibition on employing women at night. Women (irrespective of pregnancy) shall not be employed during the night in any undertaking, except where the night work: a) has to do with raw materials or materials in course of treatment which are subject to rapid deterioration; or b) is necessitated by an emergency which it was impossible to foresee and which is not of a recurring character; or c) is that of a responsible position of management held by a woman who is not ordinarily engaged in manual work; or d) is that of nursing and of caring for the sick, or other health or welfare work; or e) is carried on in a cinematograph or other theatre while such theatre is open to the public; or f) is carried on in connection with a hotel or guest house, or with a bar, restaurant or club; or g) is carried on by a registered pharmacist; or h) is not prohibited by an international convention applying to Kiribati and is specifically declared by the Minister by order to be work upon which women may so be employed.

Further, the Minister may by order from time to time to suspend the prohibition of the employment of women during the night when in case of serious emergency the public interest so demands.

- **Dangerous or unhealthy work:** No general obligation to identify, assess or ensure against risks arising from dangerous or hazardous work identified. The only OSH-related provisions impose specific obligations on employers to provide amenities, fresh water, medical care and treatment etc. None of these requirements bear any particular relation to the particular needs of pregnant or breastfeeding workers.
- **Particular risks:** No woman shall be employed on *underground work* in any mine, unless she holds a position of management and does not perform manual work, or she is employed in health or welfare services.

#### Non-discrimination/Job protection:

- **General:** No person shall discriminate, directly or indirectly, against any employee or applicant for employment on the grounds of race, colour, sex, religion, political opinion, national extraction, social origin, disability, non contagious disease including actual or perceived HIV/AIDS status, in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment relationship.  
Further, men and women shall receive equal remuneration for work of equal value.
- **Pregnancy tests:** No prohibition on pregnancy testing identified. Moreover, it is a statutory requirement that employers shall cause every worker who enters into a contract to be medically examined by a medical officer or a person approved for that purpose by the Health Officer.
- **Dismissal:** No employer shall give notice of dismissal to a woman employee who is absent on maternity leave, or who remains absent as a result of illness certified by a medical practitioner to arise out of pregnancy or confinement and rendering her unfit for work until such absence has exceeded in all a period of 12 weeks.
- **Burden of proof:** Whenever discrimination is alleged, the employer against whom the allegation is made must establish that it is justified.
- **Job guarantee:** No express guaranteed right to return to work identified, beyond the protection offered by the prohibition on dismissing a worker while on maternity leave.

#### Breastfeeding:

- **Breastfeeding breaks:** No mention.



## KOREA (Republic of)

### Name of Acts:

- Act on Equal Employment and Support for Work-Family Reconciliation, Act No. 3989, 1987, amended to Act No. 10339, 2010
- Labour Standards Act, No. 5309, 1997, amended to Act No. 10719, 2011
- Employment Insurance Act, No. 4644, 1993, amended to Act No. 10719, 2011
- Enforcement Decree of the Labour Standards Act, Presidential Decree No. 15320, 1997, amended to Presidential Decree No. 22804, 2010
- Enforcement Decree of the Employment Insurance Act, Presidential Decree No. 14570, 1995, amended to Presidential Decree No. 22603, 2010
- Mother-Child Health Act, wholly amended by Act No. 3824, 1986, amended by Act No. 5859, 1999.
- Act on the Promotion of the Economic Activities of Career-break Women, etc., No. 9101, 2008, amended to Act No. 10339, 2010
- Enforcement Decree of the Act on Equal Employment and Support for Work-Family Reconciliation, Presidential Decree No. 12489, 1988, amended to Presidential Decree No. 22269, 2010
- Occupational Safety and Health Act No. 4220, 1990, amended to Act. No. 9796, 2009
- Enforcement Decree of the Occupational Safety and Health Act, Presidential Decree No. 13053, 1990, amended to Presidential Decree No. 22061, 2010.

### Scope:

- The *Act on Equal Employment and Support for Work-Family Reconciliation, 1987* applies to all businesses or workplaces that employ workers provided that all or part of this act may not apply to business prescribed by the *Presidential Decree*.
- The *Enforcement Decree of the Occupational Safety and Health Act* does not apply, in whole, to business or workplaces consisting of blood relatives residing together and to housekeepers.
- The *Labour Standards Act*, which provides for maternity leave, applies to all businesses or workplaces in which five workers or more are ordinarily employed.
- Businesses or workplaces in which only relatives living together with the employer are engaged as well as domestic workers are excluded.

### Maternity leave:

- **Conditions:** No qualifying conditions to be entitled with maternity leave.
- **Length:** 90 days (13 weeks), (up from 60 days or 8 weeks, in 2008), to be distributed before and after childbirth.
- **Compulsory leave:** 45 days (6 weeks) post-natal leave.
- **Extension:** Leave in case of *illness or complications* related to maternity is not expressly provided.  
Leave in case of *sickness of the child* is not provided expressly, but the employee may ask for leave to take care of a child as it is explained in the field of parental leave.

### Paternity leave:

- **Scope/Conditions:** This norm shall apply to all business or workplaces that employ workers provided that they are not businesses prescribed by *Presidential Decree* and to workers whose spouse has given childbirth.  
To be granted upon request of the worker, before the expiry of 30 days after childbirth.
- **Length:** 3 days.

### Parental leave (Child Care leave):

- **Scope:** A worker is entitled to Child care leave to take care of his/her child (including an adopted child) aged 6 and under, who is not enrolled in elementary school. S/he must request this leave from the employer. This applies to workers in all businesses or workplaces that employ workers,

provided that they are not businesses prescribed by *Presidential Decree* (such as businesses or workplaces employing blood relatives residing together and to housekeepers).

- **Conditions:** To qualify the worker must have offered continuous services to the business concerned for more than a year prior to the scheduled date of Child care leave; or the worker's spouse is not on Child care leave for the same infant.

To apply for Child care leave the worker must submit to the employer a detailed application form not later than 30 days prior to the scheduled start date of leave (or shorter in specific dire situations).

- **Length:** up to 1 year.

#### Adoption leave:

- No express legal provisions for adoption leave.
- However, adoptive parents are also entitled to ask for Child care leave.

#### Part-time work:

- **Scope:** For same workers as those eligible for Child care leave.
- **Length:** For 1 year or less, entitled to a reduction amounting to 15 hours minimum up to 30 hours maximum per week shall be granted.
- **Job guarantee:** Once the period of time reduction is over, the worker shall return to the same work or to work offering the same level of wage as before.

#### Cash benefits:

- **Maternity leave benefits: Scope:** Enterprises applicable to this Fund are: all businesses or workplaces that hire workers with the exception of businesses in agriculture, forestry, fishery and hunting in which four workers or less are ordinarily employed or construction projects of which the total construction amount is less than 20 million Won.

**Conditions:** Moreover, workers need to qualify to benefit from the Employment Insurance Fund. Are excluded: workers whose fixed working hours per month is lower than 60 hours (including those whose fixed working hours per week is less than 15 hours), daily workers (referring to those employed for 1 month or less), Government officials under the *State Public Officials Act* and the *Local Public Officials Act*, those who are subject to the *Private School Teachers Pension Act*, some categories of foreign workers and special post office staff.

To receive the maternity leave benefits, the total insured period before the last day of the maternity leave is 180 days or more. The application shall be made in general within 1 month after the first day of leave or 12 months after the last day of leave.

**Amount:** 100% of ordinary wage with a maximum and a minimum amount.

**Duration:** Up to 30 days in excess of 60 days (13 weeks).

**Paid by** the Employment Insurance Fund. For enterprises which fail to meet the criteria set forth by the *Enforcement Decree of the Employment Insurance Act*, the employer pays the first 60 days. The Employment Insurance Fund is formed with collected premiums, reserve funds, profits derived from the operation of the fund and other revenues). An employer shall advance partial payments of wages corresponding to work offered even prior to the payday, if a worker requests the employer to do so in order to meet the expenses for childbirth, diseases, disasters, or other cases of emergency as prescribed by the *Presidential Decree* (Emergency payment).

- **Paternity leave benefits: Amount:** Unpaid leave.

**Duration:** 3 days.

- **Child Care leave benefits: Scope:** For workers who take more than 30 days of leave for child rearing (excluding the days that overlap with the 90-day maternity leave period), up to 1 year or less: the State may provide support for part of living costs of the worker concerned and part of employment retention costs of an employer concerned when the employer allows the Child care leave to the worker.

**Conditions:** 1) the employee was insured for employment insurance benefits for a total of at least 180 days prior to taking the leave; 2) the employee's spouse, if eligible for national employment

benefits, is not currently on a leave of absence for child rearing; 3) the employee has applied for the cash allowance 1 month after the commencement date of the leave and within 12 months of the conclusion date of the leave.

**Amount:** Benefits amount to 40% ordinary monthly wages with maximum and minimum amounts.

**Paid by** the Employment Insurance Fund.

- **Adoption leave benefits:** Same as Child care leave benefits (see above).

#### Medical benefits:

- The head of city/county/urban district shall take appropriate measures necessary for the health care of pregnant or nursing women (until 6 months after delivery) and infants, such as periodical health checkups and vaccinations, mother-child health personnel home visits, etc.
- Coverage includes: diagnosis, provision of medicine or materials for medical treatment, treatments, operations and other treatments, accommodation in medical facilities, nursing, and transfer; also hospitalization for delivery or personnel if delivery is at home.
- Paid by the National Health Insurance Programme which is financed by three sources of funding contributions (employer, employee, government), government subsidies, and tobacco surcharges.

#### Health protection:

- **Night work:** In general, if an employer requests that a woman aged 18 or more work from 10 pm to 6 am and on holiday, the worker must give her consent.  
In the case of pregnant workers, the employer needs the permission from the Minister of Labour and the worker must agree.
- **Overtime:** no overtime work for pregnant workers. For 1 year after giving birth, no overtime exceeding 2 hours per day, 6 hours per week, or 150 hours per year, even if provided for in a collective agreement.
- **Work on rest days:** forbidden for pregnant workers and workers under 18, except in the case of consent by the worker under 18, the mother whose child is less than 1 year, or if the pregnant worker requests it. Needs permission from the Minister and a discussion with the workers' representative.
- **Time off for medical examinations** accepted if worker makes the request. No cut in wages. There is no special leave during pregnancy or breastfeeding periods because of illness associated or derived from work.
- **Dangerous or unhealthy work:** In general a women under 18 years, a pregnant woman or a woman whose child is under 1 year cannot be employed in hazardous and dangerous work in terms of morality or health.  
The employer shall not employ a female or minor under the age of 18 for any work inside a pit, except where the work is temporarily needed to perform the business as determined by *Presidential Decree* such as health, medicine, news report, news coverage, etc.  
Concerning risk assessment, there are no special provisions for pregnant workers. However, the *Occupational Safety and Health Act* and the *Enforcement Decree* regulate the duties of employers in order to guarantee safety and health in working places for all workers (formulate monitoring plans on workers or workplaces, gather samples, and analyse and assess the environment, with a supervisor to carry out the safety and health related duties prescribed by the *Presidential Decree*. There are no special measures provided in this regard for pregnant workers or nursing mothers. General duties in the employer's hands apply to guaranteeing safety and health of all workers in work places.
- **Transfer:** If there is a request, the employer shall transfer pregnant workers to a lighter duty.

#### Non-discrimination/Job protection:

- **General:** The employer shall not discriminate - directly or indirectly - against men or women based on gender (on account of sex, marriage, status in family, pregnancy or child-birth) in recruitment, hiring, with regard to retirement age or dismissal.

- **Specific:** An employer shall not enter into a labour contract stipulating marriage, pregnancy or child-birth of working women as a cause of retirement.

The following cases are not considered to be discriminatory: 1) in case workers of specific gender are inevitably needed due to the nature of a job; 2) in case measures are taken to protect the maternity of working women in their pregnancy, childbirth, child-feeding, etc.; or 3) in case the State and local governments or employers temporarily take special measures to give a preferential treatment to a particular gender to remove the existing discrimination.

- **Dismissal:** A female worker before and after childbirth shall not be dismissed during a period of temporary interruption of work, as provided, and within 30 days thereafter. However, this shall not apply where the employer has paid a lump sum compensation or where the employer cannot continue to conduct a business.

An employer shall not dismiss or give any other unfavourable treatment to a worker on account of taking Child care leave, nor dismiss the worker concerned during the childcare leave period provided that this does not apply if the employer is not able to continue her/his business.

- **Burden of proof** in settling the disputes related to the *Equal Employment Act* shall be borne by the employer.

- **Job guarantee:** An employer shall allow the employee who ended Child care leave or reduced working hours for Child care to return to the same work which the employee used to do before the Child care leave or to a post paying the equivalent level of wages.

An employer shall provide support to a worker completing maternity leave, Child care leave or working hour reduction for Child care purposes, enabling her to adjust to work upon return.

After the end of the protective maternity leave, the employer shall allow the female worker to return to the same work, or one with the same level of pay, as before the leave.

#### **Breastfeeding:**

- **Breastfeeding breaks:** A female worker whose infant is under 12 months is allowed to take two nursing breaks per day of at least 30 minutes each.  
Nursing breaks are paid.
- **Breastfeeding facilities:** An employer shall install nursing facilities necessary for Child care such as breastfeeding, nursing, etc. to support employment of workers.

## LAO PEOPLE'S DEMOCRATIC REPUBLIC

### Name of Acts:

- Decree regarding the Social Security Regime for Employees in Enterprises, No. 207/PM, 1999
- Law on Development and Protection of Women, No. 70/PO, 2004
- Labour Act (Amended) 2006, Act No. 06/NA, 2006.

### Scope:

- *Social Security Decree* applies to employees who work in State, private and partnership enterprises in the areas of industry, agriculture, services and other activities; as well as to employers to have ten or more employees (or have previously had ten or more employees and became insured at that time), and to labour units which have less than ten employees but are a branch of a large labour unit.  
The Decree is not enforceable on 1) civil servants, soldiers and police; 2) those working with embassies and international organizations in the Lao PDR; 3) foreign persons who work with companies that have a multinational network located in the Lao PDR for a period not exceeding 12 months; 4) Lao employees in companies that have affiliates in other countries and who are sent to work abroad for 12 or more months; 5) school students, university students, medical interns or other trainees who do not receive compensation from employers.
- *Law on Development and Protection of Women, 2004* does not include an express statement as to its scope and therefore is understood to cover the whole of Lao People's Democratic Republic.
- *Labour Law (Amended), 2006* applies to all employees and employers who carry out activities in labour units, which are defined as the production, business or service units of the economic and social sectors. It also applies to persons working under written contracts for employment of 3 months or more. However, the *Labour Law* does not apply to civil servants, military and police personnel employed in Party or State organisations, the Lao Front for National Construction or mass organisations.
- The right to maternity leave applies to all employees who carry out activities in labour units and to persons working under written contracts for employment of 3 months or more. However, the right to maternity leave does not apply to civil servants, military and police personnel employed in Party or State organisations, the Lao Front for National Construction or mass organisations. "Labour units" are defined as the production, business or service units of the economic and social sectors.  
"Employees" are persons working under the supervision of an employer while receiving compensation for work through salary or wages, benefits or other policies as regulated by laws, regulations and the employment contract.  
"Employers" are persons or organisations using employees for their activities by paying salary or wages, and providing benefits and other policies to the employees as regulated by laws, regulations and the employment contract.

### Maternity leave:

- **Conditions:** No qualifying conditions identified.
- **Length:** 90 days (13 weeks) at least, before and after giving birth.
- **Compulsory leave:** At least 42 (6 weeks) days of the 90-day maternity leave entitlement must be taken after giving birth.
- **Extension:** No provision for an extension of maternity leave identified, except in the event of certified *illness* resulting from the birth. In this case, a woman can take additional leave of up to 30 days (4 weeks) with payment of 50% of her salary or wages. In the event that the woman worker suffers a *miscarriage*, she is entitled to take leave for a certain period as determined by a doctor.  
No provision for leave in the case of *illness or complications* during pregnancy, beyond the generally-applicable right to sick leave on full pay for up to 30 days (4 weeks) per year.

### Paternity leave:

- When a worker's wife delivers a baby, he has the right to take leave according to regulations to take care of his wife and children. He must be married to the woman.
- **Length** of the leave entitlement is not specified.

#### Cash benefits:

- **Maternity leave benefits:** two forms of maternity benefits, a maternity grant and maternity allowances.
- **Maternity grant:** Under the *Labour Law*, women workers shall, on giving birth to a child (or after miscarriage), be entitled to a one-time benefit equivalent to at least 60% of the minimum wage established by the government, if contributions have been fully paid (12 months in the last 18 months to the Social Security Fund) by the insured person, or, in the case of a male worker, his wife, shall be entitled to receive a childbirth grant for each child to whom she gives birth or adopts (while the child is still under 1 year). Where she gives birth to two or more children at the same time, the one-time benefit shall be increased by 50% (also in the event of a miscarriage). Under the *Social Security Regime*, an insured person shall receive childbirth benefits equal to 70% of the insured earnings (this has lowered, from 100% in 1998).
- **Maternity allowances:** Under the *Labour Law*: a woman is entitled to cash benefits in as much as she qualifies for maternity leave; payment amounts to her normal salary or wages (100%) for at least 90 days of maternity leave and, where her period of absence is extended due to a certified illness resulting from giving birth, she is entitled to payment of 50% of her salary or wages for at least 30 additional days.

**Under the Social Security Decree:** a woman is entitled to childbirth benefits if she is insured; the amount equals 70% of the insured earnings for a maximum period of 3 months. If, after 3 months, the woman cannot return to work due to a medical reason, she is entitled to 50% of her salary or wages for at least 30 additional days by her employer and, thereafter, to an amount equivalent to 60% of the insured earnings.

- **Benefits paid by:** Liability for the cash benefits is determined by the amount of contributions made into the Social Security Fund. If a worker is insured by Social Security (the Short-term Benefit Fund) and contributions have been fully paid, the cash benefits are paid by Social Security. If not, they are paid by the employer. Revenue sources of the Social Security Fund derive from contributions from employers and employees; contributions from those who are voluntarily insured; interest or penalties from delayed payment of contributions or in case of violations of regulations or laws; revenue from investments).
- **Paternity leave benefits: Scope/conditions:** The right to paternity leave cash benefits under the *Social Security Decree* applies to insured persons provided that they have contributed for 9 months into the Social Security Fund within the last 12 months; and stop work due to childbirth or adoption.  
**Length:** 70% of the insured earnings.  
**Duration:** Benefits may be received for up to 3 months.

#### Medical benefits:

- Women have the rights of treatment, medical examination, and vaccination according to regulations, especially girls, young women and women of reproductive age, including women in remote areas. When a woman delivers a baby, there should be medical staff or birth assistants, as is feasible in the circumstances.
- An insured person, and the insured person's spouse and children, are entitled to receive health care benefits, provided that the insured person has paid a minimum of 3 months' contributions into the Social Security Fund within the last 12 months. The health care benefits include prenatal and post-natal services.
- Paid by the Social Security Fund.

#### Health protection:



- **Overtime:** No overtime or work on holidays for pregnant women or women with a child under 12 months of age.
- **Dangerous or unhealthy work:** the employer is responsible for ensuring that the workplace, machines, materials and various stages of production, including the use of chemicals under its supervision, are safe and not dangerous to the workers' health. Further, the employer shall ensure that workers acquire sufficient knowledge of the rules governing their own safety and health protection and should organize training courses in this respect (internal regulations and policies). No risk assessment provisions specific to pregnant or breastfeeding mothers.
- **Transfer:** An employer shall re-assign a pregnant woman or the mother of a child under 6 months of age who usually performs work that involves heavy lifting or carrying or long periods of standing, working in the air, or with explosives or who performs work in the sectors specified in §16 of the *Labour Law* (sectors in direct exposure to radiation or contagious diseases, gas, smoke or dangerous chemicals, including explosives; working in pits, underground tunnels, underwater or at heights; working in abnormally hot or cold environments; and working directly with constantly vibrating machinery), to other temporary duties during her pregnancy and the period she is caring for her newborn child. She continues to receive her normal salary or wage for a maximum period of 3 months, after which she shall be paid the salary or wage corresponding to her new assignment.
- **Sick leave:** All workers are entitled to take up to 30 days per year of paid sick leave upon production of a medical certificate. If the certificate is obtained, a pregnant or breastfeeding mother who is subject to a health or safety risk could arguably use this leave entitlement to avoid such a risk. However, no provisions specifically relevant to these circumstances (i.e. risk of harm rather than a realised injury or illness) have been identified.

#### Non-discrimination/Job protection:

- **General:** The *Labour Law* states that work shall ensure that the employer and employees receive mutual benefit without discrimination as to race, nationality, gender, age, religion, beliefs or socio-economic status.  
The *Law on the Development and Protection of Women* states that women have the right to choose their professions, to be employed, to be remunerated and to receive other benefits from their work. It also stipulates that women who have the same position, task, work, and responsibility as men shall have the right to remuneration and benefits on an equal basis with them.
- **Dismissal:** No relevant provisions identified guaranteeing their right to return to work after maternity leave, beyond the prohibition to terminate the employment contract of a female employee who is pregnant or has given birth less than 1 year before or otherwise forcing such employees to stop work. (An equivalent prohibition exists in relation to dismissing employees who are ill or undergoing, or recovering from, medical treatment upon certification of a doctor.)
- **Job guarantee:** No explicit guarantee.

#### Breastfeeding:

- **Breastfeeding breaks:** During 1 year after giving birth, the worker has the right to 1 hour per day of rest in order to feed or take care of her child, if she brings her child to a nursery, and to take her child to immunisation in accordance with regulations.  
The *Labour Law* does not specify whether nursing breaks are remunerated or not.



## MALAYSIA

### Name of Acts:

- Employment Act, 1955
- Employment Ordinance 1955, Ordinance No. 38, 1955, amended to Act No. A2085, 2000
- Employment (Minimum Rate of Maternity Allowance) Regulations, 1976
- D.R No. 15 of 2011, Bill Bernama amending the Employment Act, 1955
- Act No. 4, Employee's Social Security Act, 1969
- Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace, 1999
- Occupational Safety and Health Act, Act No. 514, 1994.

### Scope:

- Maternity leave under the *Employment Act* covers all female employees (unionized and non-unionized) in the private sector.
- The Act only applies to Peninsular Malaysia, while Sabah and Sarawak have their own labour ordinances.

### Maternity leave:

- **Conditions:** There are no qualifying conditions for a female worker in order to be entitled to maternity leave.
- **Length:** Not less than 60 consecutive days (8 weeks) in respect of each confinement. A female employee is entitled to commence her maternity leave at any time during the 30 days immediately preceding her confinement or not later than the day immediately following her confinement. "Confinement" means the birth of a child whether alive or dead after 22 weeks of pregnancy). Where a medical certificate stipulates that, as the result of her advanced state of pregnancy, an employee is unable to perform her duties satisfactorily, she may be required to commence her maternity leave at any time during a period of 14 days preceding the date of her confinement as determined in advance by the medical officer. If she begins her leave for medical reasons before 30 days before confinement, such abstention shall not be treated as maternity leave and she shall not be entitled to any maternity allowance.
- **Compulsory leave:** No compulsory leave, but limitations: at least 30 days after birth.
- **Extension:** There are no provisions for extension of maternity leave in case of *multiple births*. If for *medical reasons* she remains absent 30 days after her maternity leave, she cannot be dismissed.

### Cash benefits:

- **Maternity leave benefits: Scope:** Same scope as for leave.  
**Conditions:** No right to maternity allowance if the workers has five or more surviving natural children; she must have been employed by the employer for a period of, or a period amounting in the aggregate to, not less than 90 days during the 9 months immediately before her confinement; she has been employed by the employer at any time in the 4 months immediately before her confinement. If she is about to leave her employment and knows or has reason to believe that she will be confined within 4 months from the date upon which she leaves, she shall, before leaving her employment, notify her employer of her pregnancy and if she fails so to do, she shall not be entitled to receive any maternity allowance from her employer.  
Within a period of 60 days immediately preceding her expected confinement, a female employee shall notify her employer of her pregnancy and the date on which she intends to commence her maternity leave and if she begins it without notifying her employer, the payment of maternity allowance may be suspended until notice is given to her employer. Failure to give notice within the period specified shall not prejudice the right of a female employee to receive any maternity allowance if it is found that she could not act otherwise.  
**Amount/Duration:** 100% for the whole period of leave. The maternity allowance is based on the monthly wages if the woman is employed on a monthly rate of pay. Otherwise, a female employee who is eligible for maternity allowance shall be entitled to receive her ordinary rate of

pay for each day of the eligible period of maternity allowance or at the rate prescribed by the Minister, whichever is the greater.

The minimum rate of maternity allowance for each day is 6 ringgit.

**Paid by the employer.**

#### Medical benefits:

- Pre-natal, childbirth and post-natal care not expressly provided. Art. 42 of the *Employment Act* makes allusion to free medical services provided by the employer, but no norm seems to establish this medical service as an employer's duty.
- The *Employment Act* mentions that any female employee whose employer provides free medical treatment for his employees and who refuses medical treatment in connection with her pregnancy/confinement loses her right to maternity allowance for 7 days.
- The *Employees' Social Security Act 1969* does not mention medical benefits or healthcare for pregnant workers.

#### Health protection:

- **Night work:** Night work is forbidden to all women in any industrial or agricultural undertaking between 10 pm and 5 am; break between two workdays is of at least 11 hours. Some exceptions.
- **Overtime and work on rest days:** Not prohibited for women and pregnant workers.
- **Dangerous, unhealthy work:** Provisions for all workers but none specifically for pregnant workers: it is the duty of every employer and every self-employed person to ensure, so far as is practicable, the safety, health and welfare at work of all his employees.  
Prohibition to employ female workers in underground work.  
General provisions on risk assessment for the health and safety of all workers but not for pregnant workers in particular.

#### Non-discrimination/Job protection:

- **Discrimination:** No provisions.
- **Dismissal:** An employer who terminates the service of a female employee during the period she is entitled to maternity leave commits an offense provided that such termination is not due to the closure of the employer's business.  
If during the period of 4 months immediately preceding her confinement the employer terminates her service with wages in lieu of notice, she shall, in computing the period of her employment for the purposes of this part, be deemed to have been employed as if she had been given notice instead of wages in lieu thereof.
- **Job guarantee:** No guarantee for the worker to return to her post after maternity leave.  
If, because of certified illness due to confinement, the employee does not return to her work after maternity leave for a period less than 90 days, the employer cannot terminate her services or give her notice of termination of service.

#### Breastfeeding:

- **Breastfeeding breaks:** No provisions.

## MONGOLIA

### MONGOLIA HAS RATIFIED C103 (3.06.1969)

#### Name of Acts:

- Labour Law, 1999, amended 2002
- Act Respecting Pensions and Benefits Payable from the Social Insurance Fund, 1994, Turiin Medeelel, 1994, amended 2002
- Order of the Minister for Health and Social Welfare Establishing the Lists of the Jobs Prohibited to Women and Minors, No. A/204, 1999
- Law of Mongolia on Social Insurance, 1994.

#### Scope:

- The *Labour Code* applies to: labour relations between a citizen of Mongolia and a domestic or foreign business entity or organization operating within the territory of Mongolia; labour relations between a citizen of Mongolia, a foreign citizen or a stateless person; labour relations between a domestic business entity or organization and a foreign citizen or stateless person, unless otherwise provided in international treaties to which Mongolia is a party; labour relations between a foreign business entity, organization, citizen, and stateless person that operate in the territory of Mongolia.

#### Maternity leave:

- **Conditions:** No qualifying conditions.
- **Length:** 120 days (16 weeks) pre-natal and post-natal.
- **Compulsory leave:** No compulsory leave.

#### Parental leave (Child care leave):

- **Scope:** At the request of an employee-mother who has used her maternity leave and regular vacation, the employer shall grant child care leave to the mother or father of a child under 3 years of age.
- **Length:** unknown.
- **Job guarantee:** After the leave, or if requested before the end of that leave, the employer is obliged to re-employ the mother or father in her or his previous work or position and, and if it has been eliminated or the number of staff has been reduced, the employer shall provide her or him with another job or position.

#### Adoption leave:

- **Scope:** Women and single fathers adopting a newborn child are granted the same leave as a mother who gives birth to a child,
- **Length:** until the child reaches the age of 60 days (8 weeks plus). Parents are also entitled to child care leave (see above).

#### Part-time work:

- Pregnant women or nursing mothers are entitled to work reduced hours on the basis of a medical certificate.
- No indication of time limit or conditions.

#### Cash benefits:

- **Maternity leave benefits: Scope/Conditions:** To qualify, mothers have to have paid contributions of benefit insurance for not less than 12 months, of which 6 continuously prior to the maternity leave.  
Are also eligible for benefits mothers who give birth prematurely, who have an abortion or interruption of pregnancy through medical intervention, or who give birth to a baby able to survive although it was born prior to 196 days (28 weeks).  
Working mothers, who give birth while they are on Child care leave are also entitled to maternity benefits. This is applicable to two births of a mother remaining on leave.  
**Amount:** 70% of the average salary over the preceding 12 months, or comparable income.

**Duration:** Paid for 4 months.

**Paid by** the Social Insurance Fund (premiums paid by insurees, employers, bank interest on deposit of the uncommitted balance, penalties imposed for delay in paying social insurance premiums, contributions from the state central budget and other sources) and calculated on the basis of working days.

- **Child care benefits:** unknown if paid or not.
- **Adoption leave benefits:** also unknown if paid or not.

#### Medical benefits:

- Persons employed on a contractual basis by business entities, organizations or individuals, and government servants are subject to compulsory insurance, unless otherwise provided by law.
- Self-employed may be affiliated voluntarily to the Social Insurance.
- The Social Insurance includes health insurance, but does not list medical expenses covered or excluded.

#### Health protection:

- **Night work/Overtime:** Pregnant women, women with children under 8 years of age, and single fathers with children under 16 years of age may work on night shifts only with their consent.
- **Work on rest days** is not prohibited for pregnant workers.
- **Dangerous or unhealthy work:** for all workers, the employer shall retain a relevant authority to evaluate workplace conditions; the organization of the workplace shall meet the requirements of the relevant production technology and meet applicable safety and sanitary requirements; the employer shall provide favorable labour conditions and ensure that chemical, physical and biological factors arising in the course of the work processes do not have an adverse impact on the labour hygiene of the workplace and environment; the employer shall arrange for employees to undergo advanced and regular health examinations required for and related to the manufacturing, works and services in accordance with regulations approved by relevant authorities.

A list of occupations that women cannot perform is provided by Order of the Minister for Health and Social Welfare. It includes more than 80 specific jobs in 13 categories of work: mining, leather, textile, glass, printing, meat, timber, construction and clothing industries, transportation (train, boat, road, air), social services and others.

Women are prohibited from lifting and carrying weights heavier than those approved by government regulations.

- **Transfer:** A pregnant woman or a breastfeeding mother shall be transferred to another job that is not detrimental to her health if relevant medical authorities determine such action appropriate.

#### Non-discrimination/Job protection:

- **General:** Discrimination, setting of limitations or privileges in labour relations based on nationality, race, sex, social origin or status, wealth, religion, or ideology is prohibited.
- **Specific:** Unless related to the work or duty to be performed, when recruiting an employee, no questions pertaining to the private life, ideology, marital status, political party membership, religious beliefs, or pregnancy of the employee are allowed. In case a question was put in breach of this provision, the employees shall not be obliged to reply.
- **Dismissal** is prohibited for pregnant women and women with children below 3 years of age on grounds other than liquidation of the enterprise or organization. This provision applies equally to single fathers with children under 3 years of age.
- **Job guarantee:** After expiration of the Child care leave, the employee is entitled to resume to previous work or position and if her work or position has been eliminated due to business reasons, the employer shall assign her to another job or position.

#### Breastfeeding:

- **Breastfeeding breaks:** Women employees are entitled to 2 hours additional break a day for child care or feeding if the child is below 6 months of age or twins below 1 year of age.

One hour if the child is between 6-12 months, or if the child is over 1 year but needs special care, as determined by relevant medical authorities. This provision shall apply equally to single fathers with a child.

Breaks for breastfeeding and child care shall be treated as working hours.

- **Transfer:** A nursing mother shall be transferred to another job that is not detrimental to her health if relevant medical authorities determine such action appropriate.

**MONGOLIA HAS RATIFIED C103 (3.06.1969)**

## MYANMAR

### Name of Act:

- Law defining the Fundamental Rights and Responsibilities of the People's Workers, Revolutionary Council, Law No. 6, 1964
- Social Security Act, 1954
- Leave and Holidays Act, 1951.

### Scope:

- Are included, female employees working in industrial establishments, shop trading establishments and public entertainment in which at least five workers are employed, and in public entertainment in which at least five workers are employed, and in public industrial and transport establishments, ports, mines, oil fields and any other establishments which may be notified.
- *Social Security Act*: benefits apply to insured women who absent themselves from work due to pregnancy or childbirth in any of the following establishments: a) Industrial establishments in which at least ten workers are employed, or have been employed since 1956, provided that it will not apply to an establishment which has not employed more than four workers on any day in the preceding financial year. b) Railways under the Union of Burma Railway Board. c) Public industrial and transport establishments of or under the Union Government or any local authority, or of or under any Board constituted by an *Act of Parliament* or by order of the Union Government or local authority. d) Ports as defined in the *Rangoon Port Act* and in the *Ports Act*. e) Mines as defined in the *Mines Act*. f) Oilfields as defined in the *Oilfields Act*. g) Stevedoring establishments covered by the *Dockworkers Act*. h) The Social Security Board with regard to its own employees. i) Any other establishment as notified by the President from time to time. The *Leave and Holiday Act* applies to any person who is employed, whether permanently or temporarily, on wages or on basic pay not exceeding 400 rupees per month, in or upon any of the following trades or industries or establishments: a) Factories as defined in the *Factories Act*. b) Factories and undertakings as defined as railways in the *Railway Act*. c) Ports as defined in the *Rangoon Port Act* and in the *Ports Act*, in so far as labour directly employed by the Ports Authorities is concerned. d) Notified oilfields as defined in the *Oilfields Act*. e) Mines as defined in the *Mines Act*. f) Shops, commercial establishments and establishments for entertainment as defined in the *Shops and Establishments Act, 1951*. g) Factories and offices of factories of or under the Union Government, or of or under any Board constituted by the Government. h) Factories and offices of factories of or under any local authority, or of or under any Board constituted by the local authority. However, the Act does not apply to: a) Any member of the family of any employer in cases where the latter is carrying on his own trade or industry or establishment. b) Persons who are remunerated out of the profits of the trade or industry or establishment in the shape of shares. c) Domestic servants. d) Workers in respect of whom leave and holidays are provided under the *Minimum Wage Act, 1949*. e) Persons employed in government offices and undertakings, or offices and undertakings under the Government, or offices and undertakings of local authorities or offices and undertakings under local authorities, which are neither factories nor offices of factories. **Maternity leave:**
- **Length:** No entitlement to maternity leave identified, however, women insured under the *Social Security Act, 1954* are entitled to 12 weeks maternity benefits in cases of pregnancy and childbirth which involve suspension of earnings: 12 weeks, 6 weeks before and 6 weeks after confinement.
- **Compulsory leave:** not clearly compulsory: 6 weeks after confinement.
- **Extension:** No entitlement to leave specific to pregnancy-related *illness or complications* identified. However, employees covered by the *Leave and Holidays Act* may be entitled to take leave on medical certificate for up to 30 days.

### Paternity leave:

- No paternity leave. However, the 1951 *Leave and Holiday Act*, stipulates 6 days a year for “casual leave” for all employees covered by the Act, which they can enjoy with full pay.
- This leave can be used by fathers to assist their spouses at the time of confinement. These days are paid by the employer.
- No criteria are imposed as to when casual leave may be taken, however an employee may only take up to 3 days’ casual leave at any one time and may not take it in connection with any other kind of leave. Any casual leave not taken within the year shall lapse.

#### Cash benefits:

- **Maternity benefits:** these depend on the law covering the worker.
- **Social Security Act: Scope:** See Scope of *Social Security Act*, above.  
**Conditions:** Employees who have 26 weeks of contributions to the social insurance system in the 52 weeks before confinement.  
 The grant of maternity benefits shall be subject to the female employee: a) having fulfilled a qualifying period of 26 contribution weeks in the 52 weeks preceding confinement; b) not performing paid work while claiming the maternity benefit.  
**Amount:** 66% of salary. The amount is fixed by regulations and paid for the whole duration of maternity leave (12 weeks), based on average salary earned in the 26 weeks before taking her leave.  
**Duration:** The maternity benefit shall be paid for a period of 6 weeks before and 6 weeks after childbirth, and shall in no case exceed 12 weeks.  
 In the case of miscarriage, the duration of the payment shall be determined in each case on the basis of a medical certificate, up to a maximum of 6 weeks.  
**Paid by** the Social Security Board. The maternity leave benefits paid by the Social Security Board are funded by employer and employee contributions. (In 2010, the employer contribution level was set at 1.5% of monthly payroll and the employee contribution level set at 1.5% of monthly earnings).
- **Leave and Holidays Act: Conditions:** An employee who takes leave on medical certificate under the *Leave and Holidays Act* in connection with an illness or incapacity to work arising from her pregnancy or childbirth, the employee shall be entitled to wages or pay, paid by the employer, for a period of up to 30 days.  
 The employee shall be entitled to be paid for any period of leave on medical certificate only if she has been in service for at least 6 months and after a waiting period of 3 days for which she shall be paid half her usual pay of wages.  
 However, this entitlement will not apply to an employee of an employer covered by the *Social Security Act*.
- **Paternity leave benefits:** No entitlement to paternity leave benefits have been identified. However, any casual leave taken under the *Leave and Holidays Act* shall be paid by the employer with wages or pay (as the case may be).

#### Medical benefits:

- **Social Security Act:** Maternity-related medical care is provided free of charge to persons insured under the *Social Security Act* in cases of pregnancy and confinement. Also, insured persons who are entitled to maternity benefits under that act shall receive a hospital benefit during their stay in hospitals, maternity institutions or other medical institutions where they receive board and lodging free of charge.
- The maternity leave benefits paid by the Social Security Board are funded by employer and employee contributions.

#### Health protection:

- No provisions identified concerning night work, overtime or even dangerous or unhealthy work.

#### Non-discrimination/Job protection:



- **Non-discrimination regarding salary reduction:** Employers are prohibited from reducing the wage or salary of an employee during any period that the employee is receiving maternity or hospitalisation benefits or medical treatment in accordance with the *Social Security Act*.
- **Dismissal:** Employers are prohibited from dismissing an employee during any period that the employee is receiving maternity or hospitalisation benefits or medical treatment under the *Social Security Act*. Any notice of dismissal or discharge given to an employee during the relevant period shall not be valid.
- **Job guarantee:** No guaranteed right to return to work identified, beyond the prohibition on dismissing employees, and the invalidity of any notices of dismissal or discharge given to an employee, while the employee is in receipt of benefits under the *Social Security Act*.

#### **Breastfeeding:**

- **Breastfeeding breaks:** No provisions.

## NEPAL

### Name of Acts:

- Labour Rules No. 2050, 1993
- Labour Act, 1992, amended by Labour (First Amendment) Act, 1998 and by Labour (Second Amendment) Ordinance, 2006
- Civil Service Act No. 2049, 1993, amended by Civil Service (Second Amendment) Act, No. 2064, 2007
- Civil Service Rules No. 2050, 1993, amended by Civil Service (Eighth Amendment) Rules, No. 2067, 2010.

### Scope:

- The *Labour Act, 1992* defines “employees” as “persons engaged in the administrative functions of the enterprise”; “enterprise” is defined to apply only to those with 10 or more workers or employees (except where the enterprise is in government-established industrial districts. The term “employee” is distinguished from the term “worker”, which is defined more broadly to mean “a person employed on the basis of remuneration to work in any building, premises, machinery or any part thereof used for any production process or providing service, or any act relating to such work or for any unscheduled works and this expression also includes any worker working at piece-rate, contract or agreement”.
- The *Civil Service Act and Rules* apply to the civil service; “civil service employee” means any person who is holding a post in the civil service.
- Female employees are entitled to maternity leave.
- All pregnant female employees are entitled to maternity leave. **Maternity leave:** Maternity leave depends on the law covering the worker.

- **Labour Rules 1993: Conditions/Length:** Pregnant female employees are entitled to maternity leave for a period of 52 days (7 weeks) for up to two births for pre- and post-delivery. They are entitled to further periods of maternity leave under the *Labour Rules 1993* if their first two children have died. No qualifying conditions placed on the entitlement to maternity leave for the first two pregnancies in any period of service.

**Compulsory leave:** No compulsory leave provisions. **Extension:** No provision for leave specific to cases of pregnancy-related *illness* or *complications* identified. However, an employee with at least 1 continuous year of service in an enterprise shall be entitled to up to 15 days’ sick leave per annum in the event of certified illness.

Also, any permanent worker or employee who does not have accrued leave entitlements may seek a period of special leave of up to 6 months.

- **Civil service Rules: Conditions/Length:** employees are entitled to 60 days (8 weeks plus) for pre- and post-delivery maternity leave. No qualifying conditions placed on the entitlement to maternity leave for the first 2 pregnancies in any period of service.

**Compulsory leave:** No compulsory leave provisions. **Extension:** They are allowed to extend the period of maternity leave up to 6 months.

All civil service employees are entitled to 12 days’ paid sick leave per year, with the possibility to take sick leave in advance of the entitlement accruing.

### Paternity leave:

- No provision for paternity leave except for male civil service employees who are entitled to *maternity care leave* of 15 days before and/or after the delivery in the event their wife is pregnant. The father must submit the child’s birth certificate within 3 months of the birth. He is entitled only to two such leaves during a service period.

### Cash benefits:

- **Maternity leave benefits: Scope:** The scope of the entitlement to cash benefits mirrors the entitlement to maternity leave, with same duration.  
**Duration/Amount:** The whole period of maternity leave (52 or 60 days) and of maternity care leave (15 days) are paid 100%.

**Paid by** the employer at the employee's ordinary rate of pay (100%).

**Medical benefits:**

- Civil service employees are entitled to annual medical expenses equivalent to between 12-21 months' salary.
- Owners of enterprises must establish a welfare fund which may be used to assist workers or employees in various ways.

Private sector employers are obliged to arrange for Medical Treatment Centres in enterprises where 400 or more workers or employees work, and Health Centres in enterprises where 1,000 or more workers or employees work.

- Medical expenses are therefore covered by the employer.
- Generally employer-funded medical benefits apply.

**Health protection:**

- **Night work:** females (whether or not pregnant or new mothers) may only be engaged in work normally from 6 am until 6 pm.

However, by "making an appropriate arrangement with mutual consent between the owner and the worker or employee, females may also be engaged in work similar to that of males." It is not clear whether this is a reference to the time or type of work they perform.

**Non-discrimination/Job protection:**

- **General non-discrimination:** No provisions establishing a right to non-discrimination on grounds of pregnancy or sex identified, except in relation to remuneration rates.
- **Job protection:** No provision for employment security following the birth of a child identified.

**Breastfeeding:**

- **Breastfeeding breaks:** Breastfeeding workers and employees in enterprises with 50 or more workers or employees are entitled to time as needed and to a place to breastfeed.
- **Breastfeeding facilities:** Where 50 or more female workers and employees are engaged in the work, the owner of the enterprise shall have to make provisions of a healthy room for the use of children of such female workers and employees.

## NEW ZEALAND

### Name of Acts:

- Parental Leave and Employment Protection Act, Act No. 129, 1987
- Human Rights Act, Act No. 82, 1993
- Employment Relations Act, Public Act No. 24, 2000
- Parental Leave and Employment Protection Regulations, Order in Council No. 98, 2002
- Parental Leave and Employment Protection (Rate of Parental Leave Payment) Regulations, Order in Council No. 181, 2011
- Social Security Act, Act No. 136, 2011.

### Scope:

- Statutory maternity leave entitlement applies to every female employee, except those who are covered by a comprehensive employment agreement or other arrangement which provides the employee with rights and benefits in the nature of parental leave that are at least as favourable to the employee as the *Parental Leave and Employment Protection Act 1987*. “Employee” is defined as any person of any age employed by an employer to do any work for hire or reward under a contract of service, including a homemaker. Volunteers who are not, and do not expect to be, rewarded for work performed as a volunteer and film production workers are excluded from this definition.
- A comprehensive employment agreement or other arrangement is an agreement or arrangement that effectively addresses all of the following matters: a) the conditions of eligibility for any parental leave; b) the duration of parental leave; c) the degree of protection provided for the employee’s position in the employment of the employer during, and subsequent to, any absence on parental leave; d) the employer’s obligation or lack of an obligation to pay remuneration during the parental leave; and e) the procedural requirements relating to parental leave.

### Maternity leave:

- **Conditions:** a pregnant employee needs to have been in the employment of the same employer for at least an average of 10 hours a week over the immediately preceding 12 or 6 months, at the expected date of delivery.  
Maternity leave must be taken in one continuous period.
- **Length:** One continuous period not exceeding 14 weeks. It may be taken up to 6 weeks before delivery.
- **Compulsory leave:** Where a period of maternity leave commences before 6 weeks prior to the expected delivery date due to medical advice or employer’s risk assessment, the employee’s maternity leave entitlement will be extended (if necessary) to ensure that the worker has at least 8 weeks’ leave after the expected delivery date.
- **Extension:** An employer may direct a pregnant employee to commence her maternity leave on such a date as the employer appoints if: a) by reason of pregnancy, the employee is unable to perform her work to the safety of herself or others, or is incapable of performing her work adequately; and b) no other suitable work is available.  
A female employee who is pregnant is entitled, before taking maternity leave, to take a total of up to 10 days special leave without pay for reasons connected with her pregnancy.

### Partner’s/Paternity leave:

- **Scope:** The partner’s/paternity leave entitlement applies to every employee except if a more favourable work arrangement exists for the employee.
- **Conditions:** To qualify for partner’s/paternity leave, an employee must: a) be the spouse or partner of a pregnant woman; b) assume or intend to assume the care of the child of the pregnancy; and c) have been, at the expected date of delivery for that child, in the employment of the same employer for at least an average of 10 hours a week over the immediately preceding 12 or 6 months.

- **Length:** If employment has been 6 months, leave is 1 week; if employment has been 12 months, leave is 2 weeks.

Entitlement begins on: a) the date of confinement; b) such a date as elected by the employee falling within 21 days before the expected date of confinement and 21 days after the actual date of confinement (or such later date on which the child is released from hospital or similar establishment); or c) such other date as agreed by the employee and his or her employer.

#### Parental leave (Extended leave):

- **Definition:** The extended leave entitlement is taken by an employee and/or the employee's spouse or partner for a period of 52 weeks and is a combination, to be taken consecutively or concurrently but in no more than one continuous period each, of a) maternity leave taken by the employee or his or her spouse or partner, excluding any period of maternity leave in excess of 14 weeks; and b) extended partner's/paternity leave.

An employee may elect to take extended leave instead of taking maternity leave or partner/parental leave.

Extended leave is unpaid.

- **Scope:** This entitlement applies to every employee except if a more favourable work arrangement exists for the employee.
- **Conditions:** To qualify for extended leave under the *Parental Leave and Employment Protection Act*, an employee must: a) assume or intend to assume the care of a child to whom the employee, or the employee's spouse or partner, has given birth; b) have been, at the expected date of delivery of that child, in the employment of the same employer for at least an average of 10 hours a week during the immediately preceding 12 months; and c) have provided his/her employer with written notice of his or her intention to take maternity, partner's/parental and extended leave.
- **Length:** A new mother may elect to extend her period of absence from work by taking "extended leave", which may be taken by the mother and/or her spouse or partner until the date on which their child attains 12 months of age. The total collective entitlement to extended leave (i.e. including any period of maternity leave or partner/parental leave taken, but excluding any extended period of maternity leave taken due to medical advice or employer risk assessment) is 52 weeks.

The right to commence or continue extended leave ends on the child's first birthday.

#### Adoption leave:

- **Scope:** Same entitlements for adoption leave as for entitlements to maternity, partner/paternity and extended leave. The scope of the entitlements for adoptive parents mirror the scope of the entitlements for birth parents.
- **Conditions:** To qualify for maternity, partner/paternity or extended leave, an adoptive parent has to: a) be assuming (with a view to adoption by her or her and her spouse or partner jointly) the care of a child who is not more than 5 years of age; b) have been, at the date on which she first assumes the care of the child with a view to adoption, in the employment of the same employer for at least an average of 10 hours a week over the immediately preceding 12 months or, in the case of maternity and partner/paternity leave, the immediately preceding 6 months; c) for the purposes of taking maternity leave, not have previously taken, in respect of that child, a period of maternity leave or leave in the nature of maternity leave under any Act or employment agreement; and d) for the purposes of taking extended leave, have given written notice to his or her employer.
- **Length:** The length of the maternity, partner's/paternity and extended leave entitlements for adoptive parents mirror the length of entitlements for birth parents. However, the date for determining when the right to leave commences and ends is the date on which the employee first assumes care of the child with a view to adoption, and the first anniversary of that date.

#### Part-time work:

- No right to part-time work.

- However, an employee may request to vary his or her hours and days of work if s/he: a) has the care of any person; and b) has been employed by his/her employer for the immediately preceding 6 months as at the date the request is made.
- An employee may request a temporary or permanent variation to his or her hours or days of work. Employees may only request to vary his/her hours or days of work once in any 12-month period, irrespective of the outcome of the previous request.

#### Cash benefits:

- **Maternity leave benefits: Scope:** Maternity benefit entitlements apply to all female employees and female self-employed persons.  
**Conditions:** Both the employee and the self-employed person must make an application for payment.  
 Moreover, a *pregnant female employee* must: a) have been in the employment of the same employer for at least an average of 10 hours a week over the immediately preceding 6 or 12 months, at the expected date of delivery; b) give written notice to her employer of her wish to take maternity leave (either under the *Parental Leave and Employment Protection Act* or an alternative source of entitlement); and c) take maternity leave from her employment.  
 A *pregnant female self-employed person* must: a) at the expected date of delivery, have been self-employed for at least an average of 10 hours a week over the immediately preceding 6 or 12 months; and b) take maternity leave from self-employment in respect of the child.  
**Amount:** The rate of maternity leave payments payable to *employees* is the lesser of: a) \$458.82 per week; and b) either 100% of the employee's ordinary weekly pay before the commencement of the leave, or 100% of the employee's average weekly earnings, whichever is the greater.  
 The rate of maternity leave payments payable to *self-employed persons* is the lesser of: a) \$458.82 per week; and b) either 100% of the self-employed person's average weekly earnings or \$130 per week, whichever is the greater.  
**Duration:** Maternity leave payments are payable for one continuous period not exceeding 14 weeks. The entitlement to maternity leave benefits is reduced by the amount of maternity leave benefits transferred by the mother to her spouse or partner.  
 A pregnant person who is more than 26 weeks pregnant and unable to work due to her pregnancy may be eligible for sickness benefits of up to \$288.47 a week, under the *Social Security Act, 1964*.  
**Benefits paid by:** The money to be expended in providing maternity leave benefits is to be paid out of a Crown Bank Account, from money appropriated by Parliament for this purpose. This is "State" or public money.
- **Partner's/Paternity leave benefits: Scope:** Partner's/paternity leave will only be paid where the mother transfers her entitlements to maternity leave payments to her spouse or partner. The spouse or partner may be an employee or a self-employed person.  
**Conditions:** an *employee* must: a) give written notice to his/her employer of the wish to take parental leave; b) take parental leave from his/her employment in respect of the child; and c) at the expected date of birth, have been employed by the employer for at least an average of 10 hours per week over the immediately preceding 6 or 12 months;  
 A *self-employed person* must: a) assume or intend to assume the care of a child to whom the person's spouse or partner gives birth; b) take parental leave from his/her self-employment; and c) at the expected date of delivery, have been self-employed for at least an average of 10 hours a week over the immediately preceding 6 or 12 months.  
 The employee or self-employed person must also make an application for payment.  
**Duration:** The duration of payments to an employee who is taking partner's/paternity leave will be determined by the amount of maternity benefits transferred by the mother to her spouse or partner to a maximum continuous period of 14 weeks.

**Amount:** The amount payable to *employees* taking partner's/paternity leave is the lesser of: a) \$458.82 per week; and b) either 100% of the employee's ordinary weekly pay before the commencement of the leave, or 100% of the employee's average weekly earnings, whichever is the greater. The rate of paternity/partner's leave is to be calculated on the rate of the spouse or partner's earnings, and not that of the employee who transfers paternity/partner's leave benefits to the spouse or partner.

The amount payable to *self-employed persons* taking partner's/paternity leave is the lesser of: a) \$458.82 per week; and b) either 100% of the self-employed person's average weekly earnings or \$130 per week, whichever is the greater.

**Benefits paid by:** The money paid to persons on partner's/paternity leave is to be paid out of a Crown Bank Account, from money appropriated by Parliament for this purpose.

- **Parental (Extended) leave benefits:** Unpaid leave: There is no entitlement to cash benefits.
- **Adoption leave benefits:** Same conditions and amounts as for maternity/partner's/paternity leave benefits.

Benefits are payable to adoptive parents: a) for one continuous period not exceeding 14 weeks; or b) where part of the entitlement is transferred, for one continuous period per employee or self-employed person, so long as the two continuous periods do not together exceed 14 weeks.

#### Medical benefits:

- No pre-natal, childbirth and post-natal care entitlements.

#### Health protection:

- **Night work/Overtime:** No relevant provisions concerning night work, overtime, work of rest days for pregnant/lactating workers.
- **Dangerous or unhealthy work:** No provisions regulating particular risks with respect to pregnant or breastfeeding employees identified.
- **Transfer:** However, if a female pregnant employee is unable to perform her work in safety of herself or others, or is incapable of performing her work adequately if no other suitable work is available, her employer may temporarily transfer her from one job to another or direct her to commence her maternity leave on such a date as the employer appoints (including a date that is earlier, by more than 6 weeks, than the expected date of delivery).

#### Non-discrimination/Job protection:

- **General:** Sex (which includes pregnancy and childbirth) and marital status are prohibited grounds of discrimination.
- **Specific:** Preferential treatment shall not constitute a breach where granted by reason of: a) a woman's pregnancy or childbirth; or b) a person's responsibility for part-time or full-time care of children or other dependents.
- **Dismissal:** Employers are prohibited from dismissing an employee on any of the grounds: a) the employee's pregnancy; b) an employee's state of health during pregnancy, unless her state of health is materially affected by causes which are not related to pregnancy; c) the employee indicates that s/he intends to take parental leave or to claim any related benefits; or d) the employee assumes the care of a child with a view of adoption.

Employers are also prohibited from dismissing an employee during any absence from work on parental leave, and for a period of 26 weeks thereafter, except where the employer can prove that the dismissal was effected on account of a redundancy situation and no substantially similar position was available.

- **Burden of proof:** No express provision of burden of proof on the employer: However, for the purposes of defense, the employer has to prove that: a) any termination during a period of parental leave or 26 weeks thereafter was effected for reasons of a redundancy situation; or b) any other termination, which is alleged to have been effected on the parental leave-related grounds, was in fact for a substantial reason not related to the pregnancy of the employee or the



employee's spouse or partner; or the employee assuming care of a child with a view to adoption; or the employee's benefits under the Act.

- **Job guarantee:** Employers are presumed able to keep employees' positions open for the duration of any parental leave taken, subject to the following exceptions: a) the employer proves that this was not possible due to the occurrence of a redundancy situation; and b) where the parental leave is for a period longer than 4 weeks - the employer proves that this was not possible because a temporary replacement is not reasonably practicable due to the key position occupied within the employer's enterprise by the employee.

The employee may contest the employer's decision not to keep the job open. If the job cannot be kept open, there is a 26-week period following termination of parental leave during which the employee has preference for employment. The size of the enterprise and the training period or skills requires in the job are essential in determining whether the employee holds a key position.

#### **Breastfeeding:**

- **Breastfeeding breaks:** An employer must ensure that, so far as is reasonable and practicable in the circumstances, appropriate breaks are provided to an employee who is breastfeeding and wishes to breastfeed during a work period.

For purposes of determining what is reasonable and practicable in the circumstances, the relevant circumstances include a) the employer's operational environment, and b) the employer's resources.

Breastfeeding breaks are paid only if agreed between the parties.

- **Breastfeeding facilities:** An employer must ensure that, so far as is reasonable and practicable in the circumstances, appropriate facilities are provided in the workplace for an employee who is breastfeeding and who wishes to breastfeed in the workplace.

## PAKISTAN

### Name of Acts:

- West Pakistan Maternity Benefit Ordinance, 1958, No. 32, amended by Labour Laws (Amendment) Ordinance No. 23, 1993
- West Pakistan Maternity Benefit Rules, 1961
- Constitution of the Islamic Republic of Pakistan 1973, modified in 2010
- Provincial Employees' Social Security Ordinance, 1965.

### Scope:

- *The West Pakistan Maternity Benefit Ordinance, 1958* applies to the whole of Pakistan and to all persons employed for wages or otherwise to do skilled or unskilled, supervisory, clerical, manual or other work in or in connection with the affairs of an industry or establishment, but does not cover: public servants (including armed forces, police and railway services), persons in undertakings under the control of a Defense Organisation or Railway, persons in the service of a local authority, persons employed in family undertakings and persons employed on wages exceeding Rs. 10,000 per month. All women are covered who work in an organization, whether industrial, commercial or otherwise. The maternity leave entitlements bestowed by the *Maternity Benefit Ordinance, 1958* apply to establishments across the whole of Pakistan. Establishments are defined as any organization, whether industrial, commercial or otherwise.

### Maternity leave:

- **Conditions:** To be entitled to maternity leave the worker has to have been employed in the establishment of the employer from whom she claims maternity benefits for a period of not less than 4 months immediately preceding the day on which she delivers the child (some documents request 9 months of employment).
- **Length:** If the worker informs her employer either orally in person or in writing that she expects to be confined within the next 6 weeks, she is entitled to up to 12 weeks' maternity leave (being from the day after giving notice until 6 weeks after the day of delivery). If she does not give notice until she has already given birth, she is entitled to 6 weeks' maternity leave (from the day of delivery until 6 weeks after that day).
- **Compulsory leave:** 6 weeks after birth.

### Cash benefits:

- **Maternity leave benefits: Scope:** Maternity benefits are bestowed to women working in establishments across the whole of Pakistan.  
**Conditions:** To be entitled the worker must have been employed at least 4 months by her employer and produce proof that she has been delivered of a child within 6 months of the delivery.  
A secured woman is entitled to maternity benefits under the *Provincial Employees' Social Security Ordinance 1965*, if contributions were paid for not less than 180 days during the 12 calendar months immediately preceding the expected date of confinement as certified by a medical practitioner. Rate of payment is not stipulated.  
The *West Pakistan Maternity Benefit Ordinance, 1958* suggests that the worker need not have taken 12 weeks' maternity leave to be entitled to 12 weeks' benefits.  
**Amount/Duration:** 100% (same rate as her last wages before taking leave), for 12 weeks.  
**Benefits paid by** the employer who is liable for payment of the maternity benefits. (In 1994, payment was mixed between employer and Social Security).

### Medical benefits:

- A secured woman is entitled to pre-natal, confinement and post-natal medical care, if contributions in respect of her were paid or payable for not less than 180 days during the 12 calendar months immediately preceding the expected date of her confinement as certified by a medical practitioner or if, during 6 calendar months immediately preceding her claim, contributions in respect of her were paid or payable for not less than 90 days.

- The medical benefits are financed through employer contributions to a Social Security Fund.

#### Health protection:

- **Night work/Overtime:** No provisions identified.
- **Dangerous work:** No general obligation to identify and assess risks to safety and health of workers.

Provisions regulating particular risks are contained in a number of industry-specific laws. These regulations are of gender neutral application and none impose requirements directed specifically to the protection of pregnant or breastfeeding workers.

#### Non-discrimination/Job protection:

- **General:** The Constitution of Pakistan prohibits discrimination on the basis of sex.
- **Dismissal:** It is not lawful for an employer to dismiss a worker on maternity leave, during her period of absence on such leave or on such day that the notice will expire during her absence. However, where a woman is dismissed from her employment by her employer without sufficient cause within a period of 6 months before delivery of a child, she will maintain her entitlement to any maternity benefit she would otherwise have been entitled to under the *West Pakistan Maternity Benefit Ordinance*.  
The *Provincial Employees' Social Security Ordinance 1965* prohibits employers from dismissing or discharging employees during the period in which the employee is in receipt of maternity benefits or medical care and declares any such notice of dismissal or discharge to be invalid.
- **Job guarantee:** There is no express guarantee of the right to return to work after maternity leave.

#### Breastfeeding:

- **Breastfeeding breaks:** No provisions.

**PAPUA NEW GUINEA**  
**PAPUA NEW GUINEA HAS RATIFIED C103 (2.06.2000)**

**Name of Act:**

- Employment Act, Act No. 54, 1978.

**Scope:**

- The entitlement to maternity leave under the *Employment Act, 1978* applies to all female employees (i.e. women working under a contract of employment), except women employed: a) by the State in carrying in the vicinity of her village from day to day; or b) under any other law in force in the country.

**Maternity leave:**

- **Conditions:** The employee must have been employed for the same employer for not less than 180 days within a period of 12 months or for not less than 90 days within a period of 6 months immediately preceding the commencement of maternity leave.
- **Length:** The period of maternity leave to be granted shall be: a) the period necessary for hospitalization prior to confinement; and b) 6 weeks following confinement.
- **Compulsory leave:** No compulsory leave identified. A female employee may, if she so desires, resume her employment at any time during the period of maternity leave upon production of a medical certificate from a registered health professional, certifying her fitness for work.
- **Extension:** No provision is made for an extension of maternity leave, except where an employee is unable to carry out her employment due to *sickness* following confinement. In such circumstances, the employee shall be granted an additional period of maternity leave not exceeding 4 weeks.  
No leave entitlements specific to *illness or complications* during pregnancy. However, an employee is entitled to up to 6 days of *sick leave* in such circumstances.

**Cash benefits:**

- **Maternity leave benefits:** No entitlement to maternity leave benefits.  
Maternity leave shall be without wages, except where the employee elects to convert recreation or sick leave credits into paid maternity leave.

**Medical benefits:**

- No entitlement to state-funded medical benefits, or employer-funded medical benefits specific to prenatal, childbirth or postnatal care.
- However, employers are obliged to provide employees and their dependents with access to medical care at each place where an employer employs or accommodates: a) more than 800 employees and accompanying dependents (in which case the employer must provide a medical practitioner and a medical aid whose full time duty is the medical care of the employees and their accompanying dependents); b) not less than 400 but not more than 800 employees and accompanying dependents (in which case the employer must provide a medical aid or a health extension officer whose full time duty is the medical care of the employees and their accompanying dependents); c) not less than 50 but not more than 400 employees and accompanying dependents (in which case the employer shall provide a medical aid or a health extension officer).  
Further, at the request of an employee or an accompanying dependent who resides at or adjacent to the place of employment, the employer shall make or cause to be made all necessary arrangements for the treatment or hospitalization of the employee or accompanying dependent, as the case requires.  
The requirement to provide access to medical care at the place of employment does not apply to a place that is within reasonable distance from a hospital conducted by a registered medical practitioner, medical aid or nurse, the service of whom are available to the employees and accompanying dependents.

Benefits are paid by the employer. Medical and other treatment at the place of employment shall be free of charge to the employee. All necessary medical and other treatment required by an employee employed under an attested contract and his accompanying dependents shall be provided by the employer free of charge to the employee, unless the need for medical treatment arises from the patient's negligence, fault or refusal to use the medical aid provided by the employer.

#### Health protection:

- **Night work:** Forbidden to all female employees. Female persons shall not be employed between the hours of 6 pm and 6 am in any industrial undertaking, except where she: a) holds a responsible position at a managerial or technical level; or b) is employed in health or welfare services; or c) is employed in an undertaking in which only members of the same family are employed.

The Minister may, where in his opinion there exists a national emergency or it is in the national interest to do so, by notice in the *National Gazette*, suspend the operation of the prohibition on night work for women.

- **Dangerous or unhealthy work:** Apart from a general prohibition on employing females in heavy labour or underground in mines, no relevant provisions identified.

An employer who knowingly requires an employee to perform work for which the employee is not physically fit is guilty of an offence.

A female person shall not be employed in heavy labour, or underground in any mine except where she holds a responsible position and is not employed in manual work.

#### Non-discrimination/Job protection:

- **General:** An employer who discriminates against a female person on account of her sex, or fails to pay a female employee the same wages as a male employee employed at the same level in the same work, is guilty of an offence.
- **Dismissal:** The employment of a female employee who has been employed for more than 90 days may not be terminated on grounds of or arising out of pregnancy without her consent. The *Employment Act, 1978* also provides that where the employer of a female employee is notified or becomes aware of the pregnancy of the employee, the employer shall agree, if the employee so desires, to the termination of the employment without penalty.
- **Job guarantee:** An employee's employment shall not be terminated during a period of maternity leave, except by mutual consent. This does not mean that the employee's job awaits her after her leave, though it is implied.

#### Breastfeeding:

- **Breastfeeding breaks:** Where an employee is nursing her child, she shall be allowed two half-hour breaks each day during normal working hours for that purpose.

An employer shall not make any deductions from the wages of an employee for nursing breaks.

### PAPUA NEW GUINEA HAS RATIFIED C103 (2.06.2000)

## PHILIPPINES

### Name of Acts:

- Paternity Leave Act, Act No. 8187, 1996
- Rule XVI of the Omnibus Civil Service Rules Implementing Book V of the Administrative Code, 1987 (Executive Order No. 292), amended 2003
- Labour Code of the Philippines - Presidential Decree No. 442
- Social Security Act, Republic Act No. 8282, 1997
- Guidelines on Special Leave for Women Employees in the Private Sector - Departmental Order No. 112-11, 2011
- Solo Parents' Welfare Act - Republic Act No. 8972, 2000
- Batas Kasambahay Act, 2004
- Omnibus Rules to Implement the Labour Code, 2011.

### Scope:

- The provisions of the *Labour Code* relating to maternity protection shall apply to employees in all establishments and undertakings whether for profit or not, but will not apply to: government employees, managerial employees, field personnel, members of the family of the employer who are dependent on him for support, domestic helpers, persons in the personal service of another, workers who are paid by results as determined by the Secretary of Labour in appropriate regulations, farm tenancy or leasehold, and persons working in their respective homes in needle work or in any cottage industry duly registered in accordance with law.
- The *Omnibus Rules* (implementing the Labour Code) relevant to maternity protection apply to all employers, whether operating for profit or not, including educational, religious and charitable institutions, except the Government and government-owned or controlled corporations and to employers of household helpers and persons in their personal service.
- The *Batas Kasambahay Act, 2004* sets the minimum working conditions, including maternity protection, for Kasambahay (household helpers), defined as being any person employed full-time in the homeowner's or employer's home performing tasks ascribed as normal household chores within a specific household for which s/he is being paid by the employer. The term includes the maids, cooks, houseboys, family drivers and 'yayas' who provide daily service to a single, specific household on a live-in basis.
- The entitlement to maternity leave under the Rule XVI of the *Civil Service Rules* implementing Book V of the *Administrative Code* of 1987 applies to every woman in government service.

### Maternity leave:

- **Conditions:** Leave is given for the first four births. *Employees* covered by the maternity leave entitlements in the *Labour Code* must have rendered an aggregate service of at least 6 months for the last 12 months to qualify for maternity leave.  
*Kasambahay (domestic helpers)* must have rendered at least 6 months' service to qualify for maternity leave.  
No qualifying conditions apply to *government employees* seeking to take maternity leave.
- **Length:** Under the *Labour Code* and the *Batas Kasambahay Act* employees are entitled to 6 weeks of maternity leave, at least 2 weeks prior to the expected date of delivery and 4 weeks after normal delivery or abortion. The portion of leave before birth that is not taken is added to the portion after birth.  
Government employees are entitled to 60 days' (8.5 weeks) maternity leave.
- **Compulsory leave:** No compulsory leave.
- **Extensions:** Employees covered by the maternity leave provisions of the *Labour Code* and the *Batas Kasambahay Act* may extend the period of maternity leave in the event of *illness* medically certified to arise out of the pregnancy, delivery, abortion or miscarriage, which renders the woman unfit for work.



Employees covered by the *Omnibus Rules* may request the extension of maternity leave beyond the 4-week post-delivery leave paid by the employer from their unused vacation and/or sick leave credits, if any, or allowed without pay in the absence of such leave credits, where the extended leave is due to *illness* medically certified to arise out of the pregnancy, delivery, complete abortion or miscarriage which renders her unfit for work.

*Government employees:* No provision is made for an extension of the maternity leave period for government employees.

Women in the *private sector* are entitled to 2 months' leave on full pay following surgery for *gynecological disorders*, which are defined to include dilatation, curettage, those involving a woman's reproductive organs.

No generally-applicable provision for leave in case of *sickness of the child* with the exception of *solo parents* (7 days' parental leave per year).

#### **Paternity leave:**

- **Scope:** Paternity leave applies to every married male employed in either the public or private sector.
- **Conditions:** To qualify, the male employee must be married to, and living with, the pregnant woman; be expecting one of his wife's first four childbirths or miscarriages; and notify his employer of the pregnancy and the expected date of delivery.
- **Length:** 7 days leave.

#### **Parental leave:**

- **Scope:** The right to parental leave applies only to *solo parents*, defined as any individual who falls under any of the following categories: a) a woman who gives birth as a result of rape and other crimes against chastity even without a final conviction of the offender, provided that the mother keeps and raises the child; b) a parent left solo or alone with the responsibility of parenthood due to death of spouse; c) or whose spouse is detained or is serving sentence for a criminal conviction for at least 1 year; d) or whose spouse suffers physical and/or mental incapacity as certified by a public medical practitioner; e) or is legally separated or de facto separated for at least 1 year, as long as s/he is entrusted with the custody of the children; f) or due to declaration of nullity or annulment of marriage as decreed by a court or by a church as long as s/he is entrusted with the custody of the children; g) or due to abandonment of spouse for at least 1 year; h) or unmarried mother/father who has preferred to keep and rear her/his child/ren instead of having others care for them or give them up to a welfare institution; i) or any other person who solely provides parental care and support to a child or children; j) or any family member who assumes the responsibility of head of family as a result of the death, abandonment, disappearance or prolonged absence of the parents or solo parent.
- **Conditions:** Solo parents must have rendered at least 1 year's service to qualify for the parental leave entitlement.
- **Length:** Solo parents are entitled to parental leave of not more than 7 days each year.

#### **Cash benefits:**

- **Maternity leave benefits: Under the Labour Code** qualifying **conditions** for benefits are the same as for maternity leave: a woman must have worked for her employer for at least 6 months during the last 12 months and be expecting one of her first four deliveries.  
**Amount/Duration:** Maternity benefits are full pay (100% of average daily wages) for the duration of the maternity leave entitlement for all women entitled to maternity leave (6 weeks).  
**Payment** is ensured by the employer.
- **Under the Batas Kasambahay Act:** qualifying **conditions** for benefits are the same as for maternity leave. An employee covered by the Batas Kasambahay Act must have worked for her employer for at least 6 months, and be expecting one of her first four deliveries.  
**Amount/Duration:** Maternity benefits are full pay (100% of average daily wages) for the duration of the maternity leave entitlement for all women entitled to maternity leave (6 weeks).

**Payment** is ensured by the employer.

- **Under the *Administrative Code*, conditions** for government employees are: have to have worked an aggregate period of 2 years or more for full pay maternity leave (60 days) on full pay.

**Amount/Duration:** The entitlement under the *Administrative Code* is expressed as an entitlement to 'full pay' for 60 days, whether or not the employee decides to take the full 60 days off work. If they have worked less they are entitled to a proportionate lower level of benefits. Government employees who have rendered less than 1 year's service will be entitled to 60 days' maternity leave on half pay.

**Payment** is ensured by the employer who is reimbursed by the Social Security System (which consists of employee, employer and government contributions).

- **Under the *Social Security Act, 1997*, Scope:** only members of the Social Security System (SSS) are entitled to benefits (100% of average daily wages). Membership is compulsory for all employees under 60 years of age provided a minimum income, for all self-employed professionals, partners and single proprietors of businesses, actors and directors, professional athletes and coaches and individual farmers and fishermen.

**Conditions:** a woman must have made at least 3 monthly contributions in the 12-month period immediately preceding the semester of confinement or miscarriage; given notice to her employer of her pregnancy and the expected date of confinement, which must then be forwarded by the employer to the Social Security System; and be expecting one of her first four deliveries or miscarriages.

**Amount/Duration:** The entitlement under the *Social Security Act* is expressed as an entitlement to 100% of the member's average daily salary credit for 60 days, or 78 in case of caesarean delivery.

**Benefits are paid** by Social Security.

- **Paternity leave benefits: Conditions:** Same conditions as for paternity leave.

**Duration:** 7 days fully paid by the employer.

- **Parental leave benefits:** The *Solo Parents' Welfare Act 2000* does not expressly state that parental leave (7 days per year) is to be paid. However, it is suggested that the right to payment can be implied from the definition of "parental leave", being "leave benefits granted to a solo parent to enable him/her to perform parental duties and responsibilities where physical presence is required".

The qualifying **conditions** for the entitlement to cash benefits during parental leave mirror those for parental leave.

It may be implied that the entitlement is to the employee's regular wages for the 7 days' absence from work, and thus paid by the employer.

#### Medical benefits:

- No entitlement to pre-natal childbirth or post-natal care.
- Though employers are required to provide medical services for the purposes of attending to any medical emergency experienced at the workplace, it is not clear that these services would extend to maternity-related treatment.

#### Health protection:

- **Night work:** no woman shall be employed at night in industrial, commercial or non-industrial, agricultural undertakings except in certain conditions: impending emergencies caused by serious accident, fire, flood, typhoon, earthquakes, epidemic or other disaster or calamity, to prevent loss of life or property or in cases of force majeure or imminent danger to public safety; urgent work to be performed on machineries, equipment or installation, to avoid serious loss which the employer would otherwise suffer; to prevent serious loss of perishable goods; where the woman employee holds a responsible position of a managerial or technical nature, or where she has been engaged to provide health and welfare services; the nature of the work requiring the manual skill and dexterity of women and the same cannot be performed with equal efficiency by male

workers; or where the women employees are immediate members of the family operating the establishment or undertaking.

- **Overtime:** No limitation on overtime, work on rest days particular to pregnant, breastfeeding or other women workers.
- **Dangerous, unhealthy jobs:** The Secretary of Labour and Employment shall establish standards that will ensure the safety and health of women employees: provide seats for women and permit them to use such seats when they are free from work and during working hours, provided they can perform their duties in this position without detriment to efficiency; establish separate toilet rooms and lavatories for men and women and provide at least a dressing room for women; establish a nursery in a workplace for the benefit of the women employees therein; determine appropriate minimum age and other standards for retirement or termination in special occupations such as those of flight attendants and the like.

There are no requirements for employers to assess workplace risks.

#### **Non-discrimination/Job protection:**

- **General:** It is unlawful for any employer to discriminate against a female employee solely on account of her sex with respect to the terms and conditions of employment.
- **Dismissal:** It is unlawful for any employer: to discharge any woman employed by him for the purpose of preventing such woman from enjoying the maternity leave, facilities and other benefits provided under the *Labour Code*; to discharge such woman employee on account of her pregnancy, or while on leave or in confinement due to her pregnancy; to discharge or refuse the admission of such woman upon returning to her work for fear that she may be pregnant; to discharge any woman or child or any other employee for having filed a complaint or having testified or being about to testify under the *Labour Code*; and to require as a condition for a continuation of employment that a woman employee shall not get married or to stipulate expressly or tacitly that upon getting married, a woman employee shall be deemed resigned or separated, or to actually dismiss, discharge, discriminate or otherwise prejudice a woman employee merely by reason of her marriage.
- **Job guarantee:** There is no provision guaranteeing the right to return to work beyond the prohibition on employers discharging a female employee in anticipation of, during or upon her return from maternity leave.

#### **Breastfeeding:**

- **Breastfeeding breaks:** No right to nursing breaks or daily reduction of hours of work identified.
- **Breastfeeding facilities:** The Secretary of Labour shall, in appropriate cases and by regulation, require any employer to establish a nursery in a workplace for the benefit of the women employees therein.

## SINGAPORE

### Name of Acts:

- Employment Act, No. 17 to Consolidate and Amend the Law Relating to Employment, 1968, amended to Act 36, 2010
- The Employment (Female Workmen) Regulations, Statutory Instrument, No. 101, 1988
- Employment (Part-Time Employees) Regulations 1996, Employment (Part-Time Employees) Regulations 1996, Statutory Instrument, No. 421, 1996
- Children Development Co-Savings Act, No. 13, 2001, amended to Act 13, 2011
- Adoption of Children Act, Cap. 4, Ordinance 18, 1939, updated 1985
- Workplace Safety and Health Act, 2006, amended to Act 18, 2011
- Women's Charter, 1961, amended to Act 2, 2011.

### Scope:

- *Employment Act*: All female employees, and some categories of public servants who have been declared employees.
- The *Child Development Co-Savings Act* includes also self-employed mothers as entitled to paid maternity leave.
- Domestic servants and managers as well as seamen are not covered.

### Maternity leave:

- ***Employment Act: Conditions:*** mother who gave birth on or after 31 October 2008; child is a Singapore citizen; mother is lawfully married to the child's father; has worked for the company for at least 90 days immediately preceding delivery date. A pregnant worker must give written notice to her employer, accompanied by a certificate from a medical officer or a registered medical practitioner certifying pregnancy. At least 1 week before taking leave she must inform the employer of the date on which she intends to begin her leave.

**Length:** 12 weeks leave.

The employer pays the first 8 weeks if the worker has fewer than two living children (excluding the newborn and with the exception of twins or triplets), and she has worked for the employer for at least 90 days before the birth of the child. The last 4 weeks can be taken flexibly over a 12-month period after the child's birth.

If the worker has three or more children, leave is 16 weeks, 4 before and 12 after. 48 days (8 weeks) can be taken flexibly over a 12-month period.

**Compulsory leave:** 4 weeks after birth.

- ***Child Development Co-Savings Act: Conditions:*** the mother gave birth on or after 31 October 2008; child is a Singapore citizen; mother is lawfully married to the child's father; has worked for the company for at least 90 days immediately preceding delivery date. The pregnant worker must give written notice to her employer, accompanied by a certificate from a medical officer or a registered medical practitioner certifying pregnancy. At least 1 week before taking leave she must inform the employer of the date on which she intends to begin her leave.

**Scope:** This Act covers self-employed mothers engaged in a trade, business, profession or vocation.

**Length:** 16 weeks of paid maternity leave. Can be taken 4 weeks before birth + 12 after.

If mutual agreement with the employer, the employee can take the last 8 weeks (maximum 48 days) of leave flexibly over a 12-month period from the child's birth.

**Compulsory leave:** 4 weeks after birth.

**Extensions:** If the *child is ill*, sick leave can be taken by either parent.

### Parental (Child Care) leave:

- **Conditions:** Any employee covered by the *Employment Act* has the right to a paid child care leave if the employee has served an employer for a period of not less than 3 months and s/he has a child below the age of 7 years at any time during any relevant period.

- **Length:** S/he shall be entitled to childcare leave of 2 days for that relevant period. Maximum 14 days in all or 6 days per year.

#### Adoption leave:

- **Scope:** Every female employee who adopts a child in accordance with any written law relating to the adoption of children.
- **Conditions:** Long list of criteria for adoption leave and benefits, including the following: adopted newborn child must be less than 12 months, a citizen of Singapore; the employer must agree to grant the leave; the adoptive mother must have fewer than four other children, be married, or widowed, or divorced.
- **Length:** Female employee is granted leave by her employer for one or more periods not exceeding 24 days (4 weeks) in all.

#### Cash benefits:

- **Maternity leave benefits: *Employment Act*: Scope:** female employees are entitled to maternity leave paid by the employer for a maximum of two children.  
**Conditions:** Same conditions as for leave.  
**Amount:** 100% of salary.  
**Duration:** Leave taken prior to the date of meeting all the criteria will be unpaid except for the first 8 weeks of maternity leave of the first two confinements for working mothers covered under the *Employment Act*.  
**Benefits paid by employer for first 8 weeks.**
- **Children Development Co-Savings Act: Scope:** all married working women (fixed term contract, temporary and part-time employment), including self-employed women, are entitled to paid maternity leave for the third child and above.  
A mother whose child is not a Singapore citizen and/or who is not lawfully married to the child's father at the point of birth, but subsequently meets all the criteria within 12 months of the child's birth, is eligible for the remaining Government-Paid Maternity.  
**Amount:** Payment 100% of salary. Coverage changes depending on the scenario: single (unmarried) employee, child is not a citizen of Singapore, foreigner in Singapore (leave for 12 weeks but only 8 are paid), self-employed mother, employee on probation; employee fails to inform employer (only 50% of benefits); part-time employee... There is a ceiling amount of payment.  
**Benefits paid by:** the employer during the entire 16 weeks of maternity leave, reimbursed by the Government for the last 8 weeks for the first and second confinements and all 16 weeks for the third and subsequent confinements.
- **Parental (Child Care) leave benefits:** No information concerning payment.
- **Adoption leave benefits:** The Government-paid *Adoption Leave Scheme 2004* provides 4 weeks of leave for an adoptive mother; the Government reimburses employers up to 4 weeks of salary.  
**Amount:** No information.

#### Medical benefits:

- Medisave (national savings scheme) can be used to pay the delivery and pre-delivery medical expenses incurred for the delivery of the first four living children of the mother, as well as delivery of 5<sup>th</sup> child, under the Maternity Package of Medisave (consultations, ultrasounds, tests, medications etc.).
- No post-natal consultation fees under Medisave.
- Contributions are paid by employers, employees (7%-9% of monthly wages) and self-employed.

#### Health protection:

- **Night work:** between 11 pm and 6 am is prohibited for female workers unless the pregnant employee has given her consent in writing and is not certified as unfit by a medical practitioner.

- **Overtime:** an employee shall not be required under his/her contract of service to work more than 6 consecutive hours without a period of leisure; more than 8 hours per day; or more than 44 hours per week; or more than 72 hours per month.
- **Work on rest days:** No employee shall be compelled to work on a rest day unless s/he is engaged in work which by reason of its nature requires to be carried on continuously by a succession of shifts.
- **Dangerous or unhealthy work:** no specific provisions for pregnant workers.

#### Non-discrimination/Job protection:

- **Specific discrimination:** A contract of service stipulating that a female employee relinquishes her right to maternity benefits under the *Employment Act* is null and void, in so far as it purports to deprive her of that right or to remove or reduce the liability of any employer to make a payment.
- **Dismissal:** *Employment Act:* When a female employee absents herself from work because of maternity leave, it shall not be lawful for her employer to give her notice of dismissal during her absence or on such a day that the notice will expire during her absence. No notice of dismissal may be given to a female employee without sufficient cause if she gave birth on or after 31 October 2008 within a period of 6 months preceding the estimated date for her confinement.
- **Job guarantee:** The right to return to work and to perform the same work performed before taking maternity or adoption leave is not expressly provided for female workers.

#### Breastfeeding:

- **Breastfeeding breaks:** No provisions.



## SOLOMON ISLANDS

### Name of Acts:

- Labour Act, and related Rules, including the Labour (Domestic Servants) Rules and the Holidays, Sick Leave and Passages Rules, amended, 1996
- Safety at Work Act, revised 1996.

### Scope:

- The right to maternity leave applies to all female workers except casual workers.
- “Worker” is defined in the *Labour Act* as meaning any person who has entered into or works under a contract of service or apprenticeship with an employer whether by way of manual labour, clerical work or otherwise, whether the contract is expressed or implied, is oral or in writing, but does not include a domestic servant or seaman.
- However, the entitlement to maternity leave is extended to domestic servants and seamen by virtue of the *Labour (Domestic Servants) Rules* and the *Labour (Seamen) Rules*.

### Maternity leave:

- **Conditions:** The pregnant worker must produce a medical certificate stating the anticipated date of her confinement.
- **Length:** A female worker shall be entitled to up to 12 weeks’ maternity leave from her employer.
- **Compulsory leave:** At least 6 weeks of the maternity leave period must be taken after childbirth. It is an offence for the worker’s employer or any other employer to give her employment during this 6-week period, and acceptance by a female worker of such employment from any other employer shall be deemed to be a breach of her previous contract.
- **Extension:** The leave before the anticipated date of confinement shall be extended by any period elapsing between the anticipated date of confinement and the actual period of compulsory leave to be taken after confinement shall not be reduced on that account.  
In case of *illness* arising *out of pregnancy* the leave entitlement before confinement shall be of such duration as is certified to be necessary by a medical practitioner.  
In the case of *illness* arising *out of confinement*, any extension of leave in addition to the period of compulsory leave, shall be of such duration as is certified to be necessary by a medical practitioner.  
However, any additional leave certified as necessary which exceeds the 12 weeks of maternity leave may be deducted from the annual leave or sick leave entitlement of the worker. (Employees who have been continuously employed for at least 26 weeks are entitled to up to 22 days’ paid sick leave per calendar year, as may be certified to be necessary by a medical practitioner.)

### Cash benefits:

- **Maternity leave benefits: Scope:** The scope of the maternity leave cash benefits mirrors the scope of the maternity leave entitlement.  
**Conditions:** same qualifying conditions.  
**Amount:** Not less than 25% of the wages the worker would have earned had she not been absent from work and for any period of additional annual or sick leave at the full rate to which she is entitled during such leave.  
**Paid by** the employer.

### Medical benefits:

- A female worker shall be entitled to such medical benefits, including pre-natal, confinement and post-natal care and hospitalisation where necessary, as may be provided by government or private medical services, and her freedom of choice of doctors and between a public and private hospital shall be respected by the employer.
- Paid by the employer.

### Health protection:

- **Night work:** Women shall not be employed during the night in any undertaking, except where the night work has to do with raw materials or materials in course of treatment which are subject

to rapid deterioration; or in case of an emergency which was impossible to foresee and which is not of a recurring character; or if she holds a responsible position of management and is not ordinarily engaged in manual work; or her post is of nursing and of caring for the sick, or other health or welfare work; or is carried on in a cinematograph or other theatre while such theatre is open to the public; or is carried on in connection with a hotel or guest house, or with a bar, restaurant or club; or is carried on by a registered pharmacist; or is not prohibited by an international convention applying to the Solomon Islands and is specifically declared by the Minister by order to be work upon which women may so be employed.

For the purpose of this provision, "night" is the period from 7:00 pm to 6:00 am the next day.

- **Dangerous, unhealthy work:** There are no restrictions specific to pregnant or breastfeeding or female workers, save for the prohibition on mine work for women. However, employers have a general duty to ensure, so far as is reasonably practicable, the health and safety at work of all their employees.

However, they have no express requirement to conduct risk assessments.

No woman shall be employed in underground work in any mine, unless she a) holds a position of management and does not perform manual work; or b) is employed in health or welfare services.

#### **Non-discrimination/Job protection:**

- **Dismissal:** During the period that a female worker is absent from work on maternity leave, it shall be unlawful for her employer to give her notice of dismissal, or to give her notice of dismissal at such a time that the notice would expire during her absence or to give her notice of dismissal until such absence has exceeded the normal period of maternity leave and any additional leave which may have been certified to be necessary by a medical practitioner.
- **Job guarantee:** The *Labour Act* does not provide for a guaranteed right to return to work after maternity leave: it imposes an obligation on workers who have received cash benefits during a period of maternity leave to return to work after the maternity leave or additional period of leave approved by their employer.

Where a worker fails to do so without reasonable cause, she shall be regarded as having abandoned her employment without due notice and shall be required to pay to her employer an amount equivalent to the greater of: a) the wages payable during the period of notice; and b) the wages payable during the period of notice for which express or implied provision is made in her contract or service.

#### **Breastfeeding:**

- **Breastfeeding breaks:** An employer shall allow a female worker who is nursing a child to leave her work for this purpose for up to an hour twice a day during her working hours (2 hours/day). Such interruptions of work shall be counted as working time and shall be remunerated accordingly.

## SRI LANKA

### SRI LANKA HAS RATIFIED C103 (1.04.1993)

#### Name of Acts:

- Act to regulate the Employment of Women, Young Persons and Children No. 47, 1956, amended to Act No. 24, 2006
- Ordinance to Prohibit the Employment of Females on Underground Work in Mines No. 13, 1937
- Maternity Benefits Regulations
- Maternity Benefits Ordinance, 1941, amended to Act No. 43. 1985
- Shop and Offices Employees Act No. 19, 1954, amended to Act No. 44, 1985
- Constitution, Chapter III
- Ordinance to make provisions for the Safety and Welfare of Workers in Factories
- Health Services Statute No. 8, 2000.**Scope:**
- Maternity protection under the *Maternity Benefits Ordinance 1941* (amended 1981) covers women workers (except shop workers and office-workers covered by the *Shops and Offices Employees Act*; or casual workers) employed with wages in any trade, whether such wages are calculated by time or by work done or otherwise and whether the contract of employment or service is expressed or implied, oral or in writing.
- Other workers implicitly excluded are: domestic workers and agricultural workers.

#### Maternity leave:

- **Conditions:** 4 weeks prior to her confinement, a woman may give notice to her employer that she expects to be confined within 1 month.  
1 week after confinement, a woman worker shall give notice to her employer of the date on which she was confined to ascertain the number of days she is allowed leave; she will also specify the number of children she has.  
An employee in a shop or an office is entitled to maternity leave upon giving notice to her employer that she expects to be confined within 14 days from the date specified in the notice.
- **Length:** *Two first living children:* 12 weeks, of which 2 weeks before and 10 after confinement for the first and second surviving child  
*3<sup>rd</sup> or subsequent child:* 6 weeks of which 2 before and 4 after confinement and in the case of a stillborn child.  
For *employees in shops or offices*, maternity leave is 42 days (6 weeks), 14 days (2 weeks) before and 28 days (4 weeks) after confinement.
- **Compulsory leave:** *Up to two children:* 2 weeks up to including the day of confinement and 10 weeks immediately following that day.  
*Two or more children:* 6 weeks, or 2 weeks up to and including the day of her confinement and 3 weeks immediately following that day.  
*Stillborn child:* 28 days (4 weeks) commencing on the date of her confinement

#### Cash benefits:

- **Maternity leave benefits:** different laws.
- **Maternity Benefits Ordinance: Conditions:** Same eligibility conditions as for maternity leave. Also, necessity to have worked under the employer for not less than 150 days (21 weeks) within the period of 1 year immediately preceding the date of the notice that women may give to the employer before confinement.  
**Amount:** 6/7 of the wages or one rupee per day for those earning less than one rupee/day (up until 2004, remuneration was 100%).  
The employer shall pay maternity benefits to the worker for the period of maternity leave. If the woman has worked any number of days during the 2 weeks before confinement, she is entitled to maternity benefits for that number of days after the 10 or 4 weeks of post-natal leave.  
**Benefits paid by** the employer.

- **Shop and Offices Employees Act: Scope:** Under this act, a woman may nominate another person to whom maternity benefits are to be paid on her behalf.  
**Amount:** 100% of the remuneration.  
**Benefits paid by the employer.**
- **Estate workers:** may receive other forms of benefits such as the use, for the confinement, of a maternity ward or a lying-in-room for at least 10 days; the services of a mid-wife at the confinement; food during the period she remains in the maternity ward or the lying-in-room; and the payment of cash benefits. A worker who refuses to accept the alternative benefits shall not be entitled to the normal maternity benefits.  
**Benefits paid by the employer.**

#### Medical benefits:

- The Provincial Department of Health Services provides general hospitals, district hospitals, peripheral units, rural hospitals, maternity homes, central dispensaries, ancillary to maternity homes, central dispensaries, branch dispensaries and health centres, some of which provide maternity and child care that cover ante-natal care, skilled attendance at delivery, post-partum care at home.
- All essential treatment for the people in the province, provincial health services, prevention of diseases and all health services is free of charge.

#### Health protection:

- **Night work:** Employment of women at night in industrial undertakings is subject to the following conditions: no woman shall be compelled to work at night against her will; a prior written sanction of the Commissioner of Labour should be obtained; no woman who has been employed during the hours of 6 am and 6 pm shall be employed after 10 pm.  
Every woman who works at night shall receive not less than one and half times her normal payment; female wardens shall be appointed to see to the welfare of women workers working at night; every woman worker working at night shall be provided with rest rooms and refreshments by the employer; no woman shall be employed for more than 10 days per month on night work. These provisions do not apply to women holding responsible positions of a managerial or technical character; to women employed in health and welfare services who are not ordinarily engaged in manual work; and to an industrial undertaking in which only members of the same family are employed.  
Any female who has attained the age of 18 years may be employed in or about the business of a shop or office for the period, or for any part of the period, between 6 pm and 8 pm.
- **Overtime:** In factories, the overtime employment of a woman or young person shall not exceed 12 hours in any day. In shops, another time limit.
- **Dangerous or unhealthy work: General provisions** are established to guarantee health and safety in working places in work involving arduous work, exposure to chemical, biological or physical agents, these measures are applicable to all workers and not only to pregnant or female workers.
- **Jobs forbidden for women:** No woman, of any age, shall be employed on any underground work in any mine, with exceptions for women holding position of management; women employed in health and welfare services; women who in the course of their studies spend a period of training in the underground parts of a mine; or any other women who may occasionally have to enter the underground parts of a mine for the purpose of a non-manual occupation.  
A woman or young person shall not clean any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, and shall not clean any part of any machine if the cleaning thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.

A **pregnant worker** must not be employed or be caused or permitted to be employed on any such work that may be injurious to her or her child during the 3 months before the expected date of confinement or during the 3 months following confinement.

In every room in which female persons are employed in the serving of customers in any shop, the use of seats shall be provided in the proportion of not less than one seat for every three female persons employed in that room.

No provisions to evaluate risks of work for pregnant women, but the chief factory inspecting engineer may assess if the necessary measures to guarantee the safety and health of workers in the working place have been adopted.

#### Non-discrimination/Job protection:

- **General:** Chapter III of the *Constitution* establishes the right to equality. All persons are equal before the law and are entitled to the equal protection of the law. No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds.

No person shall, on the grounds of race, religion, language, caste, sex or any one such grounds, be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion.

The State shall in all fields of society take appropriate measures, including the promulgation of legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

The State shall take all appropriate measures to ensure the same rights and the same opportunities in employment in the public, private and informal sectors at all levels of employment without gender-based discrimination.

- **Specific:** In addition, in order to prevent discrimination against women on grounds of marriage or maternity and to ensure their effective right to work, the State shall take appropriate measures to ensure that the granting and enjoyment of maternity leave and benefits shall be considered a fulfillment of parental and community responsibilities and to work towards the granting of parental leave and to prohibit and impose sanctions for dismissal on the grounds of marriage, pregnancy or of maternity leave.
- **Dismissal:** When a woman worker absents herself from work in accordance with the provisions on maternity protection, it is unlawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during the absence.  
The employment of a woman worker shall not be terminated by reason only of her pregnancy or of any illness consequent on her pregnancy or confinement.
- **Burden of proof:** Where an employer is prosecuted for the offence of acting in contravention of the provisions on discriminatory dismissal due to pregnancy or confinement, the burden of proving that the employment of the woman was terminated by reason of some fact other than her pregnancy or confinement or any illness consequent on her pregnancy or confinement shall be upon the employer.
- **Job guarantee:** No explicit provisions guaranteeing a woman's right to return to her work after maternity leave.

#### Breastfeeding:

- **Breastfeeding breaks:** Women covered by the *Maternity Benefits Ordinance* are entitled to two breastfeeding breaks in a period of 9 hours until child is 12 months old.  
Each break shall, where crèche or other suitable place is provided by the employer to the worker for the purpose of nursing her child, be not less than 30 minutes, and, where no crèche or other suitable place is provided, be not less than 60 minutes.

The nursing breaks shall be in addition to any break provided for meals or rest under any written law.

The nursing breaks shall be regarded, for the purposes of the worker's employment, as time during which she has worked in her employment.

- **Breastfeeding facilities:** The employer of more than a prescribed number of women workers in any trade shall establish and maintain a crèche for children under 5 years of age, and shall allow any woman worker who has in her care a child or children under the age of 5 to leave such child or children in the crèche during the hours when she is required to work for her employer.

**SRI LANKA HAS RATIFIED C103 (1.04.1993)**



## THAILAND

### Name of Acts:

- Labour Protection Act, B.E. No. 2541, 1998, amended by Labour Protection Act No. 2, B.E. No. 2551, 2008 and Labour Protection Act No. 3, B.E. No. 2551, 2008
- Social Security Act, B.E. No. 2533, 1990, amended by Social Security Act No. 3, B.E. No. 2542, 1999
- Ministerial Regulations No. 7, B.E. No. 254, 1998
- Ministerial Regulations No. 9, B.E. No. 254, 1998
- Ministerial Regulation No. 1, B.E. No. 2541, 1998.

### Scope:

- Maternity protection under labour protection legislation covers employees in general, with some exceptions: employees who work for central, provincial and local administrations; state enterprises under the law governing state enterprise labour relations; employees who perform agricultural work, housework, or work that is not intended to seek economic profit; work in private schools under the law governing private schools, but only in respect to headmasters and teachers.

### Maternity leave:

- **Conditions:** No qualifying conditions identified.
- **Length:** A female employee who is pregnant shall be entitled to maternity leave of not more than 90 days (13 weeks) for each pregnancy.
- **Compulsory leave:** No compulsory leave requirements identified.
- **Extension:** No provision for an extension of maternity leave identified. The worker may be able to exercise the right to take *sick leave* on those days that she is actually ill. The entitlement to sick leave appears unlimited, provided that the employee provides a medical certificate from a first class medical practitioner or government clinic when the sick leave is taken for 3 or more working days.

### Cash benefits:

- **Maternity leave benefits:** The payment of cash benefits is shared between the employer and the Social Security System.
- **Benefits paid by the employer: Scope:** For the part the employer shall pay, the scope is the same as for maternity leave.  
**Conditions:** Cash benefits are paid for a maximum of two children.  
**Amount:** The employer shall pay a female employee on maternity leave 100% of her wages of a working day but not exceeding 45 days per year.
- **Benefits paid by the Social Security Fund: Scope:** Concerning the part due by the Social Security Fund, all employees are covered, with the following exceptions: public officials (such as employees of foreign governments or international organizations; teachers or headmasters of private schools under the law on private school; students, nurse students, undergraduates or interning physicians who are employees of schools, universities or hospitals; and other activities or employees described in Royal Decrees); daily temporary employees and hourly temporary employees of the Central Administration, Provincial Administration and Local Administration, but excluding monthly temporary employees.  
**Conditions:** The insured person must have paid contributions for not less than 7 months during the period of 15 months before the date of receiving medical benefits.  
Cash benefits are paid for a maximum of two children.  
**Amount:** The Social Security Fund pays a maternity allowance at a rate of 50% of wages for 90 days.

### Medical benefits:

- Maternity benefits consist of: medical examinations and child bearing expenses; medical treatment; medicine and medical supplies; confinement; lodging, meals and treatment in hospital;

new-born baby nursing and treatment expenses; ambulance or transportation for patients and other necessary expenses.

- They are paid by the Social Security Fund, which is financed by the contributions of the Government, employers and the insured, additional payments, interest, fees.

#### Health protection:

- **Night work:** An employer shall not require a female employee who is pregnant to work between 10 pm and 6 am.
- **Overtime:** An employer shall not require a female employee who is pregnant to work overtime or to work on a holiday. However, the employer may employ a pregnant employee in an executive position or one who carries out technical or administrative work to work overtime during working days with the employee's consent.
- **Dangerous or unhealthy work:** An employer shall not require a female employee to do work in mining or construction work to be performed underground, underwater, in a cave, or in a tunnel or mountain shaft, except where the nature of the work is not hazardous to the health and safety of the employee.

Concerning pregnant women, an employer shall not require a pregnant female employee to perform work which involves driving, or going on vehicles; working in a boat or other work as prescribed in the Ministerial Regulations.

- **Transfer:** When a pregnant female employee presents a certificate from a first class physician certifying that she is unable to continue in her previous duties, she is entitled to request a temporary change in her duties before or after delivery, and the employer shall consider changing her duties to more suitable work.

#### Non-discrimination/Job protection:

- **General:** In employment, an employer shall treat male and female employees equally unless the description or nature of the work prevents such treatment.
- **Dismissal:** An employer shall not terminate the employment of a female employee on the grounds of her pregnancy.
- **Job guarantee:** No mention.

#### Breastfeeding:

- **Breastfeeding breaks:** no mention of breastfeeding breaks, shorter days to care for child, breastfeeding facilities, crèches, etc.

## TIMOR LESTE

### Name of Act:

- Labour Code, Article 58-65.

### Scope:

- **Principle:** Maternity and paternity constitute an essential social value and all rights relating thereto shall be guaranteed to the working mother and father.
- Female and female workers (working mothers and fathers).

### Maternity Leave:

- **Extended scope:** In case of birth of a child followed by the death of the spouse or of a person with whom the worker lives in cohabitation, the male worker shall have, at that very moment or up to 2 weeks after delivery, the right to the maternity leave, without loss of the remuneration and the right to seniority.
- **Length:** 12 weeks without loss of remuneration and seniority rights. The period of maternity leave shall neither affect the remuneration nor the length of the vacation period.
- **Compulsory leave:** 10 weeks after delivery.
- **Extensions:** Without prejudice to maternity leave female workers shall be entitled to leave of absence *prior to delivery* in situations of *clinical risks* for the worker or the newborn that hamper the exercise of her functions for the period of time established by medical prescription and deemed necessary for preventing such risks.

In case of *interruption of pregnancy* the worker shall have the right to a leave for 4 weeks.

Workers with *children aged less than 10 years* shall have the right to be away from work up to a maximum of 5 days per annum in order to provide pressing and indispensable assistance to them in case of disease or accident against presentation of relevant certification with loss of remuneration corresponding only to the days the worker was away from work.

### Paternity leave:

- **Scope:** Male workers shall have the right to a 5-day remunerated paternity leave after the birth of their children without losing the right to seniority. The period of paternity leave shall neither affect the salary nor the duration of the length of the vacation period.
- **Length:** 5 days.

### Maternity benefits:

- **Amount:** 100% of salary. No loss of seniority and other rights.
- **Paid by:** It shall be the responsibility of the employer to pay the remuneration to the workers during the period of maternity and paternity leave until such time as the Social Security System is established.

### Paternity benefits:

- **Amount:** 100% of salary.
- **Paid by** the employer until a Social Security System is in place.

### Health protection:

- **Leave of absence for medical consultation and breastfeeding:** Pregnant workers shall have the right to be away from work without loss of remuneration or of any rights in order to undergo medical examinations.
- **Night work/Overtime:** Pregnant or breastfeeding workers shall have the right to not provide night or overtime work.
- **Dangerous, arduous work:** Pregnant or breastfeeding workers shall have the right, without reduction to their remuneration, of not performing functions that are not advisable to their health status, notably works that imply physical efforts or their exposure to dangerous substances for them and the child.

### Non-discrimination/Job protection:

- **Non-discrimination: General:** All workers, men and women, have the right to equality of opportunities and treatment insofar as access to employment, training and capacity building, work conditions and remuneration are concerned.  
Nor worker or employment candidate may, either directly or indirectly, be benefited, negatively affected, deprived of any right or exempted from any duty on the basis of colour, race, civil status, gender, nationality, ascendancy or ethnical origin, social position or economic status, political or ideological convictions, religion, physical or mental condition, age or health status.
- **Specific:** Any distinction, exclusion or preference based on qualifications required for accessing to or executing a certain work shall not constitute discrimination. Any specifically defined legislative measure of a temporary nature that benefits certain disadvantaged groups, notably on the basis of gender, reduced work capacity or deficiency, with the objective of ensuring the exercise, under conditions of equality, of the rights provided for in this Code, shall not be considered discriminatory.
- **Dismissal** of the female worker due to pregnancy, breastfeeding or child feeding shall be prohibited.
- **Burden of proof:** It shall be incumbent upon the employer dismissing the pregnant, breastfeeding or child feeding worker to prove that the dismissal is not based on these facts.
- **Job protection:** Once the maternity leave has ended, female workers shall have the right to be reintegrated in their work position or in an equivalent work position with the same remuneration.

#### **Breastfeeding:**

- **Breastfeeding breaks:** Female workers shall have the right to be away from work in order to breastfeed their children until such time as the latter reach 6 years of age, without loss of remuneration or of any rights.  
The worker shall have the right to two breastfeeding periods per day with the duration of 1 hour each.

## VANUATU

### Name of Act:

- Employment Act, 1983, amended in 1986, 1989, 1995, 1997 and 2001 and including amendments made by Acts No. 31, 2008, No. 33, 2009 and No. 25, 2010.

### Scope:

- The entitlement to maternity leave under the *Employment Act* applies to all women employees.

### Maternity leave:

- **Conditions:** A woman employee must provide her employer with a medical certificate stating that her confinement is likely to take place within 6 weeks.
- **Length:** The total duration of the maternity leave entitlement is 12 weeks, 6 weeks before and 6 weeks after confinement.
- **Compulsory leave:** An employer must not permit a pregnant worker to work for a period 6 weeks after her confinement. The employer must also not permit a pregnant worker to work for a period of 6 weeks before her confinement, unless she provides a medical certificate certifying that she is fit to work during that period.
- **Extension:** No provision is made for the extension of maternity leave. No entitlement specific to maternity-related *illness or complications* identified. However, the employee may exercise her right to 21 working days' leave in these circumstances.

To be eligible to *sick leave*, the employee must have been in continuous employment with the same employer for more than 6 months and must provide a medical certificate showing good and sufficient cause for absence from work where she is away more than 2 or 4 days (depending on her location within Vanuatu).

Further, employers are prohibited from giving notice of dismissal to a woman employee who remains absent for up to 3 weeks following a period of maternity as a result of *illness* certified by a medical practitioner to arise out of pregnancy or confinement and rendering her unfit for work.

### Cash benefits:

- **Maternity leave benefits: Scope:** The entitlement to maternity leave benefit under the *Employment Act* applies to all women employees.  
**Conditions:** A woman employee must provide her employer with a medical certificate stating that her confinement is likely to take place within 6 weeks.  
**Amount:** A woman employee shall be entitled to be paid 66% of the remuneration she would have earned had she not been absent on maternity leave.  
**Duration:** The maternity leave benefits last for the duration of the woman's absence on maternity leave, i.e. up to 12 weeks.  
**Benefits are paid by** the employee's employer or, where applicable, employers. If there is more than one employer from whom a woman employee would be entitled to claim wages under this subsection, the Commissioner of Labour, a Labour officer or a Labour inspector must determine the amount of wages that must be paid by each employer according to the number of hours the woman employee has worked for the relevant employer.

### Medical benefits:

- No relevant public health care or entitlement to employer-funded pre-natal, childbirth or post-natal care identified. However, employers are obliged to provide employees and, where they reside on the employer's premises, members of employees' families, with medical aid in accordance with such scale as the Minister may prescribe as suitable in the circumstances of any undertaking. This may include maternity-related medical aid.
- Benefits are paid by the employer.

### Health protection:

- **Night work:** Women (irrespective of pregnancy) shall not be employed during the hours of 7 pm and 6 am in any undertaking, except where the work: a) has to do with raw materials or materials in course of treatment which are subject to rapid deterioration; b) is necessitated by an emergency

which it was impossible to foresee and which is not of a recurring character; c) is that in a responsible position of management held by a woman who is not ordinarily engaged in manual work; d) is that of nursing and of caring for the sick, or other health or welfare work, including work in a pharmacy; e) is carried on in a theatre or other place of public amusement; f) is carried on in connection with a hotel, guest hotel, bar, restaurant, club, or similar establishment; g) is carried on in connection with the transport of passengers by sea or air; h) is carried on in connection with postal and telecommunication services or broadcasting; i) is authorised by the Minister by order in conformity with international conventions.

However, the Ministry may by Order suspend the prohibition of the employment of women during the night when in case of serious emergency the public interest so demands.

- **Overtime/Work on rest days:** No restriction on overtime/rest days for pregnant or breastfeeding workers identified.
- **Dangerous or unhealthy work:** Every employer is required to take appropriate steps as soon as possible to remedy any working conditions which may be dangerous for the health or welfare of his employees. However, no maternity- or female-specific protections identified beyond the general prohibition on night work for women.

#### **Non-discrimination/Job protection:**

- **General:** Where a woman is employed on like work with a man in the same employment she shall be entitled to remuneration at the same rate as that man.
- **Dismissal:** No employer shall give notice of dismissal to a woman employee who remains absent as a result of illness certified by a medical practitioner to arise out of pregnancy or confinement and rendering her unfit for work, provided that such additional absence from work shall not exceed 3 weeks.
- **Job guarantee:** A woman who returns to her employment after maternity leave: a) must return to the same or equivalent position held prior to proceeding on maternity leave, without any loss of salary, wages, benefits or seniority; or b) may be appointed to a higher position.

#### **Breastfeeding:**

- **Breastfeeding breaks:** An employer shall allow a woman employee who is nursing a child half an hour twice a day during her working hours for this purpose. Such interruptions of work shall be counted as working hours and shall be remunerated accordingly.



## VIETNAM

### Name of Acts:

- Labour Code, 1994, amended 2002
- Law amending and supplementing a number of Articles of the Labour Code, 2006
- Law on Social Insurance, Act No. 71/QH11/2006, 2006
- Decree No. 152/2006 guiding a number of Articles of the Law on Social Insurance regarding Compulsory Insurance, 2006
- Law on Gender Equality, Law No. 73/2006/QH11, 2006
- Circular No. 03/1994, stipulating Harmful Working Conditions and A List of Occupations in which Employment of Females is Prohibited, 1994
- Decree No. 55/2009, on Sanctioning Administrative Violations of Gender Inequality, 2009
- Decree No. 67/2007, on Support Policies for Social Protection Beneficiaries, 2007
- Decree No. 23/1996, providing Details and Guidance for the Implementation of a number of Articles of the Labour Code on Women Labourers, 1996
- Decree No. 48/2009, providing Measures to Assure Gender Equality, 2009.

### Scope:

- All female workers hired on the basis of a contract of employment in any sector of the economy, regardless of the form of ownership, apprentices and domestic servants.
- Vietnamese citizens and foreigners working in enterprises with foreign capital or in an international organisation operating in Vietnam are also covered, except if the provision of an international treaty signed by Vietnam provides for other rules.
- Civil servants, the armed forces and members of cooperatives are covered by other legislation.

### Maternity leave:

- **Conditions:** There are no qualifying conditions identified.
- **Length:** The duration of the maternity leave entitlement varies from 4 to 6 months, depending on the nature and conditions of the employee's work.
  - a) 4 months (16 weeks) for the female employee who works in normal conditions;
  - b) 5 months (20 weeks) for the female employee who works in a hazardous occupation or on a heavy duty job or on three shifts duty; or works in public security areas;
  - c) 6 months (24 weeks) for the disabled female employee with a specifically regulated disability.
- **Compulsory leave:** Women are required to have at least 2 months' (8 weeks) rest after the birth, and longer if not certified as fit to return to work at that time.
- **Extension:** In the case of *twin or multiple births*, the female employee shall be entitled an additional leave of 30 days for each child from the second.

If a female worker remains *weak after the maternity leave period*, she may take leave for convalescence and health rehabilitation for 5 - 10 days/year.

Where required and with the agreement of the employer, a female employee may take additional leave without pay at the end of the maternity leave.

There is no right to leave in the case of *pregnancy-related illness* or complications. Rather, it is expected that where a female employee has a doctor's certificate which states that continued employment would adversely affect her foetus, and no alternative work can be provided by her employer, a pregnant female employee may unilaterally terminate the labour contract and shall not be liable for payment of compensation. The period in which the female employee must give notice to the employer depends on the period determined by the doctor.

### Paternity leave:

- There is no paternity leave.
- However, if only one parent is covered by social insurance or both the father and mother are covered by social insurance and the mother dies in childbirth, the father or the person directly nursing the newborn child is entitled to the maternity regime until the child is 4 months old. It is interpreted that the father is entitled to both cash benefits and leave.

To qualify, the father or the mother must be covered by compulsory insurance, and the mother must have died during childbirth.

#### Adoption leave:

- Workers adopting a child under 4 months are entitled to adoption leave until the child reaches 4 months of age.

#### Leave in case of sickness of the child:

- A mother is entitled to take 20 working days for a child under 3 years of age, and 15 working days at most if the child is between 3 and 7 years of age. In order to attend to a sick child under 7, the mother is entitled to social insurance benefits or to be paid by the employer a sum equal to the amount of social insurance benefits.

#### Cash benefits:

- **Maternity leave benefits:** are of two types, a maternity grant and a maternity allowance.
- **Maternity leave grant:** The female employee who gives birth or accepts to raise an adopted infant under 4 months of age is entitled for each child to a lump-sum benefit equivalent to 2 months of the common minimum wage.
- **Maternity leave allowance: Conditions:** Workers giving birth must have paid social insurance premiums for at least 6 months prior to childbirth to qualify for maternity leave cash benefits. **Amount:** Workers on maternity leave are entitled to cash benefits equivalent to 100% of the wages plus an additional allowance of 1 month's wages. The daily benefit for workers taking leave for convalescence and health rehabilitation for between 5-10 days a year shall be equivalent to 25% of the common minimum salary (45% if they are in a rest home). **Duration:** The maternity leave benefits are for the full period of the relevant maternity leave entitlement. A female worker who returns to work after 2 months' leave (8 weeks instead of 16, 20 or 24 weeks) remains entitled to the full period of maternity leave, in addition to normal wages for the days worked. **Benefits paid by:** The maternity leave cash benefits are paid from Social Insurance Funds, established from the following sources: a) the employer : 15%; b) each employee: 5%; c) the State contributes and assist with additional funds to ensure the implementation of Social Insurance regimes for employees; d) profits generated from the funds; e) other sources.
- **Adoption leave benefits:** come from the same sources and are the same amounts as for maternity benefits.

#### Medical benefits:

- Pre-natal, childbirth and post-natal care: Female employees are entitled to receive a payment either from the Social Insurance System or their employer during leave to attend pregnancy examination(s).
- No specifications for other medical expenses.

#### Health protection:

- **Night work/Overtime:** Forbidden for a female employee 7 or more months pregnant or currently raising a child under 12 months.
- **Time off for medical examinations:** Pregnant workers are entitled to take leave for five prenatal check-ups, 1 day for each check-up. In the event that they live far from medical establishments or have pathological signs or abnormal pregnancies, they are entitled to a 2-day leave for each pre-natal check-up. In each case, the employee is entitled to Social Insurance benefits or to be paid by the employer a sum equal to the amount of Social Insurance benefits.
- **Dangerous or unhealthy work:** forbidden to employ women for heavy or dangerous duties or in jobs which require direct contact with hazardous chemicals which may affect their reproduction and child-rearing functions. Enterprises employing women in such work must prepare plans for training and gradually transfer them to other suitable work or, if replacements are not available, reduce their daily work time by at least 2 hours from the required work time while still receiving full pay. A female employee who is employed in heavy work and is in her 7<sup>th</sup> month of pregnancy

shall be either transferred to lighter duties or entitled to work 1 hour less every day and still receive the same wage.

The categories of work subject to the prohibition and the transfer requirement are set out.

- **Assessment of workplace risks:** No specific risk assessment requirements for pregnant or breastfeeding women. However, when recruiting and organizing employees, an employer must take into account the stipulated health criteria in respect of each job, and must organize the training, instructing, and notification of employees of occupational safety and hygiene regulations, preventive measures, and possible accidents which might occur for each particular job of each employee.
- **Transfer:** A female employee who is 7 months pregnant and performing heavy work shall be transferred to lighter duties or entitled to work 1 hour less every day and still receive the same wage.

There is no right to paid or unpaid leave for health risks arising during pregnancy.

There is no express right to return to original position following pregnancy-related transfer.

- **Jobs forbidden:** It is prohibited to employ *female workers* in overexerting work such as manual lifting, carrying, pushing or pulling of loads). Further, a female employee who is 7 or more months *pregnant* and employed in heavy work shall be either transferred to lighter duties or entitled to work 1 hour less every day and still receive the same wage.

An employer may not assign a female employee to work in which she would be immersed in water or in dirty water, or in contact with open radiation or subjected to direct exposure to chemicals or in contact with magnetic voltage higher than the permitted standards, or working in direct contact with chemicals whose accumulation in the body causes bad effects on cell metabolism, or in high and sheer workplaces, or is exposed to high temperatures or high thermal radiation or vibrations, etc.

#### Non-discrimination/Job protection:

- **General:** Employers are strictly prohibited from conduct which is discriminatory towards a female employee or conduct which degrades the dignity and honour of a female employee. An employer must implement the principle of equality of males and females in respect to recruitment, utilization, wage increases, and wages. Furthermore, the *Labour Code* requires employers to give preference to a female who satisfies all recruitment criteria for a vacant position which is suitable to both males and females in an enterprise.
- **Dismissal:** The employer shall not dismiss female workers or unilaterally terminate the employment contract of female workers because of pregnancy, maternity leave or breastfeeding a child under 12 month of age, except in cases where the enterprise ceases its activities. Further, during pregnancy, maternity leave, or raising a child under 12 months, a female worker may postpone any unilateral termination of her labour contract or period of consideration for labour discipline, except where the enterprise ceases its operation.
- **Job guarantee:** At the end of normal maternity leave, or maternity leave with additional unpaid days off, a female employee shall be guaranteed employment upon her return to work.

#### Breastfeeding:

- **Breastfeeding breaks:** Female workers breastfeeding children under 12 months of age shall be entitled to 60 minutes of rest on every working day  
Women who take time off to breastfeed are entitled to full pay.
- **Breastfeeding facilities:** Enterprises which employ a high number of female employees (from 10-100 female workers and women account for at least 50% of the total workforce; or enterprises employing over 100 workers and in which women account for at least 30% of the total workforce) are responsible for assisting in the organization of child care centres and kindergartens or for assisting with a portion of the costs of female employees with children of nursing or kindergarten age.