

2.2 Maternity cash benefits

Cash benefits shall be provided, in accordance with national laws and regulations, or in any other manner consistent with national practice, to women who are absent from work on leave [both in respect of maternity leave and leave in case of complication or illness].

Convention No. 183, Article 6(1)

Out of the 185 countries and territories with information available, all but two provide cash benefits to women during maternity leave. The two exceptions are Papua New Guinea and the United States, all of which provide some form of maternity leave but have no general legal provision for cash benefits.³⁵ In Oman, paid maternity leave was not a statutory right until 2011. A worker could choose either to consider her period of absence from work as maternity leave without pay, or as sick leave paid by social security. As pointed out by the ILO Committee of Experts, drawing on sick leave benefits instead of maternity leave benefits is contrary to ILO standards on maternity protection, as the practice has the effect of unduly shortening the worker's right to sickness benefits in the postnatal period, when she might need them most, and leading to potential discrimination against women (CEACR, Observation, C183, Latvia, 2013). In 2011, Oman introduced paid maternity leave for 50 days instead of the previous six weeks. Full salary is paid by employers.

This section considers the level of cash benefits paid during maternity leave and how these benefits are financed, as well as trends in the provision of cash benefits over the past 20 years.

Amount and duration

In order to achieve conformity with Convention No. 183, the cash benefits paid during maternity leave should be at least two-thirds of a woman's previous earnings (or a comparable amount if other methods are used to determine cash benefits) for a minimum of 14 weeks. The guiding principle is that the level of benefits should ensure that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living. The method of calculating benefits based on previous earnings is the system used in the

overwhelming majority of countries. Other methods include the provision of a flat rate benefit, which should be comparable to what would be paid on average from the application of the method based on previous earnings. In addition, Convention No. 183 also reaffirms the principle enshrined in the Social Security Convention No. 152 (Article 52) that the cash benefit should be paid throughout the entire duration of maternity leave.

The Convention does not contain a definition of "previous earnings" or of "such of those earnings as are taken into account for the purpose of computing benefits" and countries have defined such earnings in different ways. For example, in Mongolia, the benefit is 70 per cent of the average salary, calculated over the preceding 12 months. In Iceland, the payment is 80 per cent of the woman's average wage, but no period for defining that average is given. In Senegal, the rate of 100 per cent is applied to the daily wage received on the last pay day, including allowances directly related to the

Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.

Convention No. 183, Article 6(2)

Where, under national law or practice, cash benefits paid with respect to leave referred to in Article 4 are based on previous earnings, the amount of such benefits shall not be less than two-thirds of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.

Convention No. 183, Article 6(3)

Where, under national law or practice, other methods are used to determine the cash benefits paid with respect to leave referred to in Article 4, the amount of such benefits shall be comparable to the amount resulting on average from the application of the preceding paragraph.

Convention No. 183, Article 6(4)

Where practicable, and after consultation with the representative organizations of employers and workers, the cash benefits to which a woman is entitled during leave referred to in Articles 4 and 5 of the Convention should be raised to the full amount of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.

Recommendation No. 191, Paragraph 2