

2.3 Financing of maternity cash benefits

In order to protect the situation of women in the labour market, benefits in respect of the leave referred to in Articles 4 and 5 shall be provided through compulsory social insurance or public funds, or in a manner determined by national law and practice. An employer shall not be individually liable for the direct cost of any such monetary benefit to a woman employed by him or her without that employer's specific agreement except where:

- (a) such is provided for in national law or practice in a member State prior to the date of adoption of this Convention by the International Labour Conference; or*
- (b) it is subsequently agreed at the national level by the government and the representative organizations of employers and workers.*

Convention No. 183, Article 6(8)

ILO Conventions Nos. 3 and 103 emphasized that employers should not be individually liable for the cost of maternity benefits payable to women employed by them, and that benefits should be provided through compulsory social insurance or public funds, which are the pillars of social security.⁴⁷ The principle of payment through social insurance or public funds is important for mitigating discrimination in the labour market, which is more likely where employers have to bear the full costs of maternity leave directly. This principle is maintained in Convention No. 183, although, to allow for its ratification by member States which do not have a social security maternity benefits branch, this Convention allows employers to assume individual liability for maternity benefits in cases where they have given their specific agreement. Convention No. 183 also authorizes employers to bear the cost of maternity benefits, where this was determined at the national level before the adoption of the Convention in 2000, or where it is agreed upon at the national level by the government and the social partners.

Financing mechanisms around the world

Access to social security is a fundamental human right and a public responsibility. It is typically provided through public institutions financed either from contributions or

taxes or a combination of both. There are a number of different methods of funding maternity cash benefits during maternity leave. The countries surveyed in this report show that the most commonly employed sources of funding currently include: employment-related social insurance (contributory schemes), the employer, through the direct payment of maternity benefits ("employer liability") or a combination of the two methods ("mixed system"). Less frequently, maternity benefits are paid out of public funds (non-contributory schemes), which can finance maternity benefits individually or in conjunction with social insurance or the employers.

Social insurance is an employment-related system which generally bases eligibility for pensions and other periodic payments on length of employment or self-employment. In the event of maternity, the level of short-term payments is usually related to the level of earnings before earnings ceased due to the pregnancy. Such programmes are contributory, being financed entirely or largely from contributions (usually a percentage of earnings) made by employers, workers or both, sometimes with a government subsidy (see box 2.1; ILO, 1989). In most instances they are compulsory for defined categories of workers and their employers. Employers usually play a role as they are the parties who mainly interact with the institutions in charge of the benefit administration (i.e., collecting and transmitting contributions to the social insurance institution and informing it of the identity and wages of insured workers). Maternity benefits are often provided along with, or as part of, another social insurance scheme, such as sickness, health insurance, unemployment compensation, or employment injury and disease benefits.

The principle of solidarity in financing maternity benefits is inherent in earnings-related contributions. In general, a national social insurance programme aims at triple cross-subsidization: from healthy to ill individuals, from high- to low-income persons, and from single persons or small families to larger families (Cichon et al., 1999). Individual health risks (e.g., pre-existing conditions, age and gender) should not influence the level of contributions, nor should they inevitably lead to exclusion from protection. Therefore, it is a principle that all workers, including men, pay contributions to finance maternity benefits, as set out in maternity protection standards (Convention No. 103 and Recommendation