

to the employer after childbirth. A woman worker in Seychelles must give her employer three months' notice before her expected date of childbirth.

In some countries, a woman needs only to be employed at the time of going on maternity leave in order to be entitled to such leave (usually upon production of a pregnancy certificate).<sup>87</sup> In other countries, a woman has to have been employed for a certain period before the maternity leave, and often this employment has to have been with the same employer.<sup>88</sup> The Committee of Experts has repeatedly pointed out that establishing this type of qualification period does not conform with ILO maternity protection standards. It therefore noted with satisfaction the adoption of the 2010 Labour Relations Act of Libya, which repealed the qualifying period of six consecutive months of employment previously stipulated in order to benefit from maternity leave and brought national legislation in line with Convention No. 103 (ILO CEACR, 2014).

In some countries, part-time workers may be particularly affected by rules setting minimum working hours as a condition of eligibility for leave. For example, the Family and Medical Leave Act of 1993 (FMLA) in the United States applies only to employees who have worked 1,250 hours for the employer over the past 12 months, or about 104 hours per month.<sup>89</sup> In South Africa, by contrast, a female employee must work a minimum of 24 hours a month for her employer to be required to grant her maternity leave.

Certain countries restrict the number of times a woman can take maternity leave, or leave may be granted only once during a given period. Most frequently, such limitations can be found in employer liability schemes in which the aim is to not overburden employers. The former is the case in Egypt, where a worker may not obtain maternity leave more than twice throughout the period of employment, and in Barbados, where women cannot take maternity leave more than three times while working for the same employer. In Sri Lanka, women giving birth to a third or subsequent child are only entitled to six out of 12 weeks of maternity leave. Since Sri Lanka has ratified Convention No. 103, the Committee of Experts has remarked on the need to ensure full leave, irrespective of the number of children (CEACR, Observation, C103, Sri Lanka, 2011).

### Eligibility requirements for maternity cash benefits

*Each Member shall ensure that the conditions to qualify for cash benefits can be satisfied by a large majority of the women to whom this Convention applies.*

Convention No. 183 Article 6(5)

*Where a woman does not meet the conditions to qualify for cash benefits under national laws and regulations or in any other manner consistent with national practice, she shall be entitled to adequate benefits out of social assistance funds, subject to the means test required for such assistance.*

Convention No. 183 Article 6(6)

The right to receive cash benefits while on maternity leave is usually subject to by eligibility requirements, which in most cases differ from the eligibility requirements for leave. According to Convention No. 183, a member State may set up conditions that a woman must meet in order to qualify for cash benefits, provided that such conditions can be satisfied by a large majority of women workers. For instance, if the majority of women workers are employed in part-time or non-standard jobs, the qualifying conditions should not be established in a way which makes it difficult for these workers to qualify. In addition, women who do not qualify for contributory cash maternity benefits should be entitled to adequate benefits paid out of social assistance funds, subject to the requisite means test (Article 6, Paragraph 6). The CEACR has indicated that Convention No. 183 "requires social assistance benefits to be of an adequate level and to allow for the needs of the mother and her child to be met throughout the period of leave provided for in the Convention, namely 14 weeks" (CEACR, Direct Request, C183, Cuba, 2007).

In a number of countries, a woman worker must have been affiliated to the social insurance or public scheme for a certain period before she qualifies for cash benefits during maternity leave. Most countries specify such requirements. Countries in which maternity benefits are paid by employers often impose a minimum period of employment with the same employer for the employee to be entitled to income replacement during the maternity leave period.<sup>90</sup> For example, in