
FOREWORD

I- Background

LEGAL BACKGROUND AMONGST PRIMARY LEGISLATION

Leave of absence rights and Social Security benefits related to birth, adoption and fostering are of vital importance to ensure the rights of children being cared for by their parents. It is equally important to guarantee that parents enjoy their maternity and paternity without preventing them from neither finding quality employment nor maintaining the same level of earnings for those already employed. Both conditions are necessary in order that men, women and children enjoy full equal opportunities, family harmony and a life free from poverty. All these rights fulfil the constitutional mandate stated by article 35 (Title I) of the Spanish Constitution, which declares that all the citizens have the right and duty to work, the right to freely choose their profession, the right to career promotion through work and the right to be paid an adequate salary to meet their needs and those of their families. Article 39 of the said constitutional text ensures child protection according to international standards and it highlights the duty of fathers and mothers to assist in every way their children, whether those children are born in wedlock or not. Article 39 also stresses the need for public authorities to afford the social, economic and legal protection to families in general. On the other hand, article 14 of the Spanish Constitution proclaims equality before the law of all Spanish people as a guiding principle of our legal system, without the possibility of any discrimination based on sex to prevail.

HISTORICAL BACKGROUND

Children's need to be cared by parents, which did not enjoy legislative consideration in the past, before the incorporation of women into wage-labour, is recognised in Spain through the establishment of the Mandatory Maternity Insurance, which already in 1931 granted a maternity leave of 12 weeks. Subsequently, this was extended until reaching the current 16 weeks, and in 1994 there was an increase in the level of maternity allowance which went from 75% up to 100% of the regulatory base. On the other hand, demands for leave rights, reduced working hours and other so-called rights of 'reconciliation between work and family life' have been gradually introduced, although either they lack any kind of remuneration or they are paid just at a low level by some Regional Governments (CCAA), with the exception of the breastfeeding leave which is one hundred per cent paid by the employer.

In 1989, for the first time in Spain, men became eligible to their own childcare rights in 1989, whereby they could enjoy up to 4 weeks from their partner's maternity leave (subsequently increased up to the current 10 weeks), **but only through its previous assignment by the mother**, since such a legal right belongs entirely to her by law. The same legal consideration holds true for mothers' breastfeeding leave rights, which equally may be assigned to the father. Subsequent provisions on extended parental leave and reduced working hours which were later extended, do recognise fathers as subjects of rights in themselves under the same terms as mothers are. However, since those are unpaid rights, fathers do not use such benefits extensively. Therefore, in practice, these new 'conciliation' measures have come to prolong women's absence from the

workplace in order to meet the care needs of their newborn babies, fostered or adopted children, without much impact on male's behaviour.

The Constitutional Act 3/2007, 22 March, on the Effective Equality of Women and Men (the '*Ley Orgánica para la igualdad efectiva de mujeres y hombres*'), recognises for the first time in Spain the fathers' right (or the other parent's right) to their own non-transferable thirteen days' leave, with its corresponding Social Security benefits, in order to meet their responsibilities arising from birth, adoption or fostering of minors.

The statement of intent in the Constitutional Act 3/2007 describes this paternity leave as '*the most innovative measure to further reconciliation of work, private and family life*', which has entailed an effective development in fathers' involvement in children upbringing. According to official figures, 84% of fathers enjoyed a paternity leave in 2010. Yet, less than 2% of those fathers enjoyed a part of the 10-week transferable maternity leave, whereas less than 5% enjoyed unpaid leaves or leaves being paid at low rates. In short, 4 years of application of a paid and non-transferable leave intended for the 'other parent' has proven to be an effective co-responsibility measure.

The same results can be seen in those neighbouring countries which implemented and extended exclusive paternity leaves. In all countries and periods analysed, all studies undertaken on the use of leaves agree on concluding that fathers mostly use the leaves when they are non-transferable and paid at closely 100% of their salary, whilst only an extremely low minority use the part of leaves which may be transferred to the mother or which are poorly paid.

Based on the successful experience of the exclusive paternity leave, the Act 9/2009 of 6 October, on the extension of the duration of the paternity leave for birth, adoption and fostering lays down its increase to four weeks in order '*to encourage fathers' involvement in family responsibilities*', while it calls on the Government '*to submit annually to Parliament statistical monitoring of the measures introduced to understand its social impact*'. However the said Act, which according to its Second Final Provision should have come into force on 1 January 2011, was suspended by means of the Thirteenth Final Provision contained in the General State Budget Act of 2011 (39/2010) of 22 December.

SUMMARY OF THE CURRENT SITUATION ON PARENTAL LEAVES AND THEIR CONTRIBUTION TO SOCIAL PROGRESS

1) PARENTS' INEQUALITY HAVING ADVERSE EFFECTS ON CHILDREN

Hence, despite the aims stated by the legal system, the current situation continues to be highly imbalanced, as the paternity leave is eight times shorter than the maternity leave. In addition to violating the principle of equal access by all workers to a social security benefit which is contributory, the shorter length of paternity leaves denies children appropriate care by one of their parents. Such lack of care is important, since time devoted to caretaking within the family could be extended substantially if only fathers enjoyed parental leave in their own right in the same terms as mothers do.

Initially conceived as a recovery period from childbirth, the maternity leave period has been progressively extended to meet caretaking responsibilities, which have been almost exclusively assumed by mothers.

2) STATE OF UNCLEAR, AT TIMES CONFLICTING, REGULATORY OVERLAP

Other provisions have been added to the maternity leave rules which have attempted to adapt legislation to the societal changes occurred in the last half century. Nevertheless, this overlap of scattered rules gives rise to many conflicts and problems. So we encounter a leave right (the last 10 weeks of the maternity leave) that may be used by both parents but only at the expense of the mother transferring her right, and this is even so if she has not accumulated enough social security contributions to enjoy this right herself (pursuant to paragraph 4 of article 48 contained in the Workers' Statute Act), which is unprecedented in our labour and social security legal systems. However, in cases of adoption the father does hold its own paternity leave right (albeit transferable between both parents), thus producing a discrimination against the children born to those adopted. On the other hand, a paradoxical situation exists for the breastfeeding leave, originally conceived for mothers' breastfeeding. This leave may be used by the father, even if also conditioned to the mother transferring it in his favour. This fact, together with its widespread use and the existing option to accrue such leave periods into full-time working days, makes the breastfeeding leave benefit no longer related to its original purpose but for its name.

3) AN OUTDATED SYSTEM, NOT FRIENDLY TO SOCIAL PROGRESS

The leaves framework currently in place does not adequately portray the evolution and diversity of existing family models, neither do so the difference between existing rights nor the current benefits designation. To begin with, the different length in benefits is not appropriate in a society largely committed to co-responsibility in caretaking tasks. Furthermore, designations of fatherhood and motherhood are no longer appropriate in a society which recognizes equal rights for all forms of cohabitation and parenting. With current legislation, there is a paradox that a mother should take a 'paternity' leave (in the case of two female parents) or that a father should take a 'maternity' leave (in the event of adoption or the biological mother transferring the leave to the father). Thus, an update of the wordings is needed here in order to turn parental rights into personal and non-transferable rights without there being any gender bias.

4) RIGHT TO BE CARED FOR

Special attention should be given to take into account the needs of the newborn child. It is worth noting that for recovery of the mother after childbirth, in case of two-parent homes, the presence of both is required in the family environment, since whilst the mother is recovering the other parent will take care of her and other children in the family, if they exist.

Moreover, if breastfeeding takes place, the other parent may facilitate the access to the child by the mother during her breaks once she gets back to work, as well as feed the baby with the help of the latest methods/systems to preserve the breast milk, bearing in mind that just a tiny minority carries on, beyond the first months, with a breastfeeding-only diet routine (according to the WHO, an exclusive breastfeeding diet should under no circumstances be extended beyond the infant's first six months of life). The equalization of the status of both parents' leaves thus affords a

substantially more favourable situation for breastfeeding than the currently existing one, whereby mothers have to get back to work without the possibility of the other parent being available to make the task easier in the aftermath.

Certainly, this breastfeeding role fulfilled only by some biological mothers could also be attained extending such leave to all mothers. However, to do so before matching it to the other parent's leave would mean that the full system of children's rights becomes conditional upon just one of those rights, at the expense of infringing many others (for instance, the right to being cared for by both parents, the right to family harmony or the right to escape poverty). Indeed, the present imbalance increases the risk of child poverty, inasmuch as mothers are faced with the breakdown of their earnings and their professional future. Further, not only infants are denied early in their lives the care and affection provided by the other parent, but this also impairs thereafter the development of attachment bonds that are so beneficial for their psychosocial development. Consequently, a balanced contribution by both parents is the only way of safeguarding the comprehensive rights of childhood, be it emotional or material rights and including the right to food.

5) IMPACT ON THE ORGANIZATION OF WORK

Meanwhile, businesses are faced with direct salary costs, since they are currently responsible for the two-day birth leave afforded to the parents, and also for the full breastfeeding leave periods. Non-wage costs are also added to the former, as a by-product of a system based on mothers taking almost full responsibility for the infants' care with the resulting absences from work. Absences due to family responsibilities are not exclusively limited to maternity, paternity or breastfeeding leave terms, but they often carry on as a consequence of the likelihood of demanding unpaid leaves and shorter working hours. Therefore they may even be postponed in time spanning up to as long as 8 years after the birth date or the constitution of adoption or fostering placements. In addition, they are difficult to anticipate because they may be taken in many different periods. Finally, reductions in working hours are extremely flexible and may take any form ranging from an 8th to a half of the normal working day. All the above considerations give rise to important difficulties in the organization of work.

6) DISCRIMINATION AGAINST WOMEN IN THE WORKPLACE

Furthermore, as an inevitable consequence of current legislation, women are being discriminated against in recruitment and promotion. Indeed, employers take well into consideration the longer duration of leaves specific to women (namely, maternity leave and breastfeeding leave), as well as the fact that women (and not men) are who largely make use of the reduction in working hours and extended leaves. Thus, women in general are labelled as 'high-risk labour force' whether or not they intend to be mothers (a circumstance known as 'statistical discrimination'). Meanwhile, men are coerced into not exercising their rights, especially in male-dominated sectors. All the above increases the horizontal and vertical occupational segregation, which is not only highly detrimental to those affected but also to productivity and economic competitiveness in general. This type of problems can be prevented by a parental leave system that involves both parents equally and is covered by the public Social Security system.

7) NEGATIVE IMPACT ON FERTILITY AND ON POVERTY

It is worth mentioning the serious structural problems faced by our country: the very low fertility rate (one of the lowest in the European Union), the very high children's poverty (one of the highest), and the very high women's poverty to which the former is associated with (particularly, poverty that hits single-parent families). To address such phenomena it is essential that proper conditions are put in place so that all adults may reconcile their maternity or paternity with quality employment. A necessary, but not exclusive, condition is the existence of a parental leave system which guarantees the income replacement throughout the leave period, which ensures a long enough coverage in time for the newborn or adopted child, which does not require anyone to be off work neither for excessive periods nor more than any other work colleague (which could infringe a person's employment rights), and which effectively protects the jobs of those exercising their parental rights. Countries that have made reforms in this direction, as it is the case with some Nordic countries, are those which benefit from fertility rates that grant generation replacement, as well as from lower child poverty and higher employment rates.

CONCLUSION

In short, modernization of the parental leaves system is required since such a system no longer reflects the social and economic situation in Spain, contravenes the equality principle, seriously infringes the rights and needs of children and does not contribute to parental co-responsibility. A wide majority of Spanish citizens prefer *'a family in which both partners are in paid employment with similar commitment and share housework and childcare, if they have any children'* (CIS Barometer, September 2010). However, our legal order does not allow families to carry out those rightful aspirations, because it discriminates against parents in accessing their rights to childcare as well as mothers in accessing quality employment. Besides, this situation is exacerbated by the lack of public educational services designed to meet the childcare needs of infants whose parents have returned to paid work.

The reform addressed herein falls within this framework. The parental leave system for birth, adoption and fostering is modernized with a strategic and comprehensive vision in order to make it more equitable and adapted to the current social and economic situation in Spain. The proposed developments are incorporated into the existing regulatory framework, keeping as far as possible the structure of the laws currently in force as those that are considered sufficiently adequate. Moreover, the reform relating to the extension of the paternity leave period (which changes its denomination) to equalize all parents' rights to the ones currently enjoyed by mothers, has a time aspect as its gradual implementation is henceforth envisaged.

II.- Relevant aspects and objectives of the proposed reform

Article 39.4 of the Spanish Constitution establishes the State's duty to protect children in accordance with International Treaties that safeguard their rights. To adequately serve this purpose providing an effective protection, the State has the obligation to establish appropriate mechanisms. The parental leaves system and the benefits available in cases of birth, adoption or foster care of children, along with a system of public services of quality and rationalized schedules, are the way forward to guarantee that both parents conveniently exercise their care and child maintenance duties. Such a system should be organized in a way that ensures all needs are met without infringing upon anyone's rights.

The Constitutional Act 3/2007, of 22 March, on the Effective Equality of Women and Men establishes in article 44 that *'the rights of reconciliation between work, private and family life will be recognised to male and female workers in a way that a balanced ownership of family responsibilities is encouraged, thus preventing all types of discrimination stemming from the exercise of such duties'*.

The main objectives of the current reform are to improve child protection, ensuring each parent's care rights, and to guarantee all adults' rights to reconcile quality employment with their maternity or paternity, without neither loss of income nor denial of enjoyment of their personal and family lives. To this end, national and international practices are taken into account, as well as recently found scientific evidence regarding the effects produced by the different conciliation measures implemented to date. This also simplifies and organizes legislative development of the rights to care and to receive care, removing existing legal loopholes on this issue, and particularly, avoiding substitution of rights, which should be non-transferable.

Accordingly, notwithstanding subsequent more in-depth analysis of the Act's contents, there are certain elements in the reform which should be given top priority.

1) INDIVIDUALIZATION OF RIGHTS

In order to achieve a balanced assumption of family responsibilities, a necessary and crucial measure, though not the only one, is that parental leaves should be **equal for both parents, non-transferable and paid at 100% of the regulatory base**. As a result, this becomes one of the guiding principles of the system. The individualization of parental leaves will be guaranteed by a design in which each individual parent will enjoy his or her own rights regardless of the decisions taken by the other parent (if there is any).

An additional and wanted effect of the individualization and equalization of parental leaves is that the right thus established is non-discriminatory on grounds of family type. The former design of parental leaves was aimed exclusively at heterosexual two-parent families with unequal distribution of care duties.

2) DESIGN OF THE NEW PARENTAL LEAVES: SAME PROTECTION GRANTED TO THE BIOLOGICAL MOTHER AS WITH THE FORMER PARENTAL LEAVE SYSTEM, TOGETHER WITH A GREATER PROTECTION OF THE CHILD

In order to protect women during recovery from childbirth and to care for the newborn or adopted child and the rest of the offspring, if any, the presence of both parents is ensured through a parental leave term that covers this period. Later on, the upbringing period however does not usually require the presence of both parents but, on the contrary, their rotation is preferred so that the childcare period within the home environment is hence extended.

Therefore, each parent shall be entitled to two parental leave periods with different denominations: -

- the first one, called '**initial parental leave**' will consist of (2) obligatory weeks to be enjoyed from the originating event (birth, adoption or foster care). It will therefore be simultaneous for both parents, if there were two.

- the second leave period entitled '**upbringing parental leave**' will last (16) weeks, four of which will be of obligatory use.

The upbringing parental leave may be enjoyed in a continuous period or, with prior company's consent, in several shorter periods, but always within 18 months following the originating event. Thus a parental leaves system is set up whereby the presence of both parents is assured during a reasonable period of two weeks (in accordance with international standards) and families are able to organize the following upbringing period according to their specific needs.

3) WORK ENVIRONMENT: WORKING PEOPLE

The aim of preventing all discrimination based on the exercise of conciliation rights, as established in article 14 of Constitutional Act 3/2007, demands the effective protection of parents'

jobs, from the very moment of communicating their paternity/maternity to their employer until the end of their leave period. To that end, prohibition of dismissal during all such leave period is established. In addition, to ensure the rights of the child and of the working parent, it is compulsory that all parents enjoy at least six weeks of their parental leave, which currently applies only to biological mothers.

4) WORK ENVIRONMENT: EMPLOYERS

The reform takes steps in order to help in the organization of work and ensures zero costs for companies in all the instances. It eliminates the burden that the two-day birth leave and the breastfeeding leave currently entail, since both are at present born by employers, by including such leave rights in a new system exclusively paid by the public Social Security.

On the other hand, an 8-week notice period is established as well as a rebate of a 100% of employers' contributions in the event of employing a temporary worker substituting a regular employee in all types, and for any length, of leave periods. These measures will make the organization of work easier because they will allow better planning of the substitution of regular employees' absences. Moreover, it is foreseeable that by granting this right to all parents, the number of reduced working hours and extended leaves of absence requested by female employees will fall down substantially, whereas currently many of them are forced to use these arrangements in order to extend the childcare period at home.

The intended effect is to eradicate the perception that female labour has a lower availability, which in turn will provide greater stability for employers, broadening likewise the full use of the workforce talent and potential due to a better integration of women into labour. All this will lead to a reduction in occupational segregation, and will improve productivity and reduce the risk of poverty, particularly that affecting children.

5) REFORM INTRODUCTION TIMESCALE

In order to maximize adjustment to the new system by all those involved, a progressive introduction of the reform is envisaged, with a special focus on financing and companies organizational needs.

Firstly, the reform begins by easing the burden placed on companies through the elimination of the birth and breastfeeding leave rights. And that is done without prejudice to any of the existing rights of both parents, as the present breastfeeding term is substituted by a two-week leave period included in the general framework with full guarantees. At the same time, the current two-day birth leave eliminated in the proposed reform is far outweighed by a new 'initial parental leave'. The starting point of the reform is therefore the maintenance of the current maternity leave and its progressive equalization with the other parent's leave rights, which will be extended over a period of 5 years. A year later, a further extension of two weeks is envisaged to apply to all parents in return for the removal of the breastfeeding leave, so that the total transitory period will be of 6 years at most.

Thus, the **‘initial parental leave’** will have full impact from the entry into force of this Act, as an inalienable right of every parent from the triggering event (birth, adoption or fostering), with a length of two weeks and paid at 100% of the Regulatory Base.

The **‘upbringing parental leave’**, however, is subject to a transitory period of extension of the other parents’ leave rights until achieving their parity to the leave rights which will be enjoyed by the biological mothers once this Act enters into force. In this way, it will be applicable from the start to all biological mothers, or single adopting or fostering parents, with a duration of 14 weeks - four of which non-transferable – and paid in full at 100% of the Regulatory Base. The other parent, if any, shall be entitled to an ‘upbringing parental leave’, equally paid at 100% of the Regulatory Base, which at first, with the entry into force of this Act, will consist of four non-transferable weeks, but will be extended, gradually and automatically, by two voluntary weeks per year until completing the 4 non-transferable, and 10 voluntary, weeks. So, once the transitory period of equalization is finished, the ‘upbringing parental leave’ will be fully implemented as an individual and non-transferable right for each parent, without distinctions. Once such full parity is achieved, the possibility that the biological mother may transfer part of her maternity leave to the other parent will cease being in force, although it will continue to be in force, if only provisionally, during the transitory period. The following year, each parent’s leave will be extended by another two weeks. That is how the transitory period of the reform will be completed, shaping each parent’s leave right made up of 2 (unwaivable) weeks - the ‘initial parental leave’ right - and 16 (4 unwaivable and 12 voluntary) weeks - the ‘upbringing parental leave’ right -: and all this being fully paid by the public social security system.

The **‘breastfeeding leave’** right will be removed after completion of the equalization process between the rights of parents, and that in return for increasing each parent’s leave by 2 weeks. This last step will allow the legal system to get rid of an outdated right, without prejudice to the parents nor the newborn, and extending and matching that right to adoption and fostering cases, and further releasing companies from an obligation that at present generates them additional costs and multiple organizational and managerial problems.

6) PROBLEM AWARENESS AND EVALUATION

For the sake of greater efficiency, the Act urges the government to carry out public awareness campaigns, within the framework of its powers and in accordance with regional governments and social stakeholders, and with a special emphasis placed on the full parity between all parents’ rights and obligations.

In order to make sure that the assessment of the reform’s social impact may be done based upon objective data, the government is urged to present annually to Parliament a detailed statistical follow-up of the measures thereby introduced, as well as to regularly publish the information mentioned above and promote studies on the reform’s impact on employment, fertility, child welfare and society in general. Special emphasis is made on producing a breakdown of all data obtained by sex, in line with the mandate contained in the Constitutional Law 3/2007.

7) SYNERGY WITH OTHER MEASURES FOR THE PROTECTION OF CHILDREN AND SUPPORT FOR PARENTS: UNIVERSAL ENTITLEMENT TO A PLACE IN A NURSERY SCHOOL UPON TERMINATION OF THE PARENTAL LEAVE PERIOD

Although this Act only deals - with an imperative time frame – with the system of leave rights and benefits in cases of childbirth, adoption or fostering, it also seeks to stress that such system is just one piece, even if a fundamental one, of the necessary public mechanism set for the protection of children and to guarantee the right of everyone to find a job and to keep their normal level of earnings. Another cornerstone in the reform, closely related to the above because it must operate precisely upon termination of the leave period, is a good public system for pre-school education. That is why this act calls upon the government to submit to Parliament a plan to achieve the universal entitlement to a place in a nursery school, right from the following day after termination of the parental leave period, economically affordable to all the different levels of individual income earned by each parent and offering adequate timetables, so that no person should feel forced to resort to working reduced hours nor to ask for unpaid leave or leave paid at lower rates than the full salary.

PROPOSED DRAFT BILL (BY SECTIONS)

Section 1 – Purpose and scope

The purpose of this Act is to implement a gradual process for the reform of the existing parental leaves in cases of childbirth, adoption and fostering, until they become **equal, non-transferable and paid to each parent at a rate of return of 100% of the regulatory base**, regardless of their gender and family type.

Rights thereby established shall be applicable to all persons affiliated to any of the Social Security schemes.

Section 2 – Definitions and parental leave configuration

Two types of parental leave rights, called differently, are hereby distinguished: -

1. The first one called **‘initial parental leave’** will last (2) obligatory weeks to be enjoyed from the event giving right to the parental leave (childbirth, adoption or fostering). It shall thus be enjoyed simultaneously if there are two parents entitled to such right.
2. The second right called **“upbringing parental leave”** will consist of (16) week, (4) of which shall be of compulsory use. This parental leave is intended for the child’s upbringing, but need not be used right after the initial parental leave. It is only required that it shall be enjoyed within 18 months following the event giving right to the parental leave.

It should be noted that the former breastfeeding leave period is included in the new upbringing parental leave right. Equally, the former two-day childbirth leave right is also included in the new initial parental leave right that corresponds to the other parent.

All the leave rights are set up in the same terms as the previous maternity leave as regards rights and duties, unless otherwise stated by the sections of this Act. Hence, parents shall be entitled to the temporary suspension of their contract of employment, receiving 100% of their salary’s regulatory base, and to the protection of their job if and when asking for maternity leave. Likewise, they shall be entitled to deferrals of their leave terms in cases of multiple births, to the suspension of their leave rights if these arise whilst on holidays and to the calculation of contributions and other remaining maternity leave features, including those not specifically provided for by this Act.

Section 3. Schedule on the equalization of parental leaves

The complete renovation of the parental leaves system shall take place gradually over a maximum period of 6 consecutive years since the adoption of this Act.

Following the entry into force of this Act, the parental leaves system will be configured as follows: -

3.1. A 2-week **initial parental leave** of compulsory use which will come into force immediately and in every case for any parent.

3.2. An **upbringing parental leave** which will gradually come into force, as follows: -

a) In cases of childbirth, in two-parent families, the biological mother shall be entitled to 14 weeks of the upbringing parental leave (4 compulsory weeks and 10 voluntary weeks), from the entry into force of this Act. The second parent shall, upon the entry into force of this Act, have the right to the 4 compulsory weeks of the upbringing parental leave. This upbringing parental leave shall be increased by two weeks per year on a voluntary basis, from the year following the entry into force of this Act, over a maximum period of 5 years, until its total alignment with the leave for which the biological mother is eligible. During the equalization period, the biological mother may waive to the other parent her voluntary 10 weeks from the former maternity leave period, until the entry into force of this Act. This waiving option exercised by the biological mother shall be removed with the entry into force of the extension to 14 weeks of the upbringing parental leave corresponding to the second parent, and thus total individualization of the parental leaves system in cases of childbirth, adoption and fostering is thereby achieved.

b) In the case of adoption by two-parent families, both parents shall be eligible upon the entry into force of this Act to 4 compulsory weeks of the upbringing parental leave and 4 additional voluntary weeks. Such upbringing parental leave shall be increased by 1 week per year, from the year following the entry into force of this Act and over a period of 5 years, until it reaches 14 weeks (4 compulsory and 10 voluntary weeks), being aligned accordingly to the one enjoyed by the biological mother after the entry into force of this Act.

c) In the case of monoparental families (childbirth by a biological mother, death of the biological mother leaving the other parent a widow or a widower, adoption or fostering by a single person), such a single parent shall be entitled to the full period of the upbringing parental leave (4 compulsory and 10 voluntary weeks) since the entry into force of this Act (total alignment with the biological mothers).

d) Consecutive extensions of the upbringing parental leave period provided for in this section shall come into force on 1 January each year and shall be applicable to childbirths, adoptions and fosterings occurring after such date, without there being any need for express legislative provision as regards those extensions.

e) The breastfeeding leave shall be abolished for births occurring after 1 January on the year following completion of the full equalization and individualization process for each parental leave. In all cases of birth, adoption and fostering occurring after that date, the upbringing parental leave shall give right to two additional weeks for each parent, consequently being made up of 16 weeks (4 compulsory and 12 voluntary weeks) and hence completing the transitional period established under this Act.

f) The former childbirth parental leave (which consisted of two days paid by the company) shall hereby be abolished from the entry into force of this Act.

Section 4. Employer-employee relations and protection of workers' employment

Exercising the aforementioned parental leave rights necessarily entails the temporary suspension of the employment contract and the right to preserve such job in the same terms as with existing maternity and paternity leaves. Consequently, dismissal of a worker is forbidden from the moment of reporting the occurring event to the employer until completion of the enjoyment of such right.

Employees shall give to their employer a minimum of 8 weeks' prior written notice of the exercise of this right, unless this were impossible.

Employees have an inalienable right to enjoy the period allocated to their 'upbringing parental leave' in a full-time and continuous term, by giving prior notice to the employer with indication of their chosen dates. The taking by employees of such leave in several periods shall require employer approval. Employees may also enjoy such (paid) right on a part-time basis, with prior employer approval and with the compulsory condition that employees return to work for the non-leave part of the working day and the employer continues to pay the percentage of salary and contributions corresponding to the difference between the normal working hours and those during which the leave is enjoyed.

Temporary contracts signed to substitute employees exercising parental leave rights under this Act (those substituted employees being either self-employed, working partners, co-operative working partners or employed under any other working status interrupted as a result of the leave granted) shall give right to a rebate of 100% of the social security contributions paid by the employer, including those covering industrial injuries and occupational illnesses, as well as company contributions paying joint collection fees. Such rebate shall only apply while the permanent contract which is suspended for parental leave reasons overlap in time with the temporary contract substituting the former, and just for the working hours during which the leave is enjoyed.

The existing breastfeeding and childbirth leaves, which so far are paid by the employer, are hereby deleted under the terms and conditions outlined in Section 3, subsections e) and f), of this Act.

Section 5. Awareness-raising, monitoring and evaluation

The Spanish Government, within the framework of its powers and in accordance with regional governments and social stakeholders, shall carry out awareness campaigns in order to publicize these new rights included in the new system, with a special emphasis placed on the full parity between all parents' rights and obligations.

Especially, government shall ensure that citizen's advice services offer fathers and mothers public independent advice on their rights granted by this Act, by helping them as much as possible with their application process and removing any delays in the receipt of any applicable benefits. These public awareness campaigns shall also promote men engaging in family caretaking activities to the same extent as women. In this respect, such campaigns should give priority to the non-simultaneity of the upbringing parental leaves in two-parent households.

The government shall present annually to Parliament a statistical follow-up of the measures being introduced by this Act, in order to ascertain their social impact. This information shall include at least separate parameters for men and women on the number, average duration and cost of the parental leaves requested by them. These parameters shall be broken down by sectors and occupations and shall be published in the website of the Department for Work and Pensions, at least once every semester. All data, without exception, shall be disclosed separately for men and women, whichever their level of disaggregation might be.

The Government shall promote studies on the impact of the measures introduced by this Act on female and male employment, fertility, child welfare, gender division of labour and other consequences of gender roles and stereotypes still seen in society.

*Translation by Mónica Tarazona Ruá
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