

บรรณานุกรม

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ภาษาไทย

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ภาคผนวก



ภาคผนวก ก

1) ประกาศคณะกรรมการพลังงานปรมาณูแห่งชาติ เรื่องมาตรฐานขั้นต่ำของสภาพการจ้างในรัฐวิสาหกิจ พ.ศ. 2549

2) ระเบียบสำนักนายกรัฐมนตรีว่าด้วยการลาของข้าราชการ พ.ศ. 2535

เฉพาะที่เกี่ยวข้องกับการลาหยุดพักผ่อนประจำปี การลาเพื่ออุปสมบท การลาศึกษาต่อ การกำหนดอัตราค่าจ้างในระหว่างลาเพื่อคลอดบุตรและการลาเพื่อเลี้ยงดูบุตร

ประกาศคณะกรรมการแรงงานรัฐวิสาหกิจสัมพันธ์ เรื่อง มาตรฐานขั้นต่ำของสภาพการจ้างในรัฐวิสาหกิจ

เพื่อให้มีมาตรฐานขั้นต่ำของสภาพการจ้างสำหรับลูกจ้างรัฐวิสาหกิจเป็นมาตรฐานเดียวกันอาศัยอำนาจตามความในมาตรา 13 (1) แห่งพระราชบัญญัติแรงงานรัฐวิสาหกิจสัมพันธ์ พ.ศ. 2543 อันเป็นกฎหมายที่มีบทบัญญัติบางประการเกี่ยวกับการจำกัดสิทธิและเสรีภาพของบุคคล ซึ่งมาตรา 29 ประกอบกับมาตรา 35 และมาตรา 45 ของรัฐธรรมนูญแห่งราชอาณาจักรไทย บัญญัติให้กระทำได้โดยอาศัยอำนาจตามบทบัญญัติแห่งกฎหมาย คณะกรรมการแรงงานรัฐวิสาหกิจสัมพันธ์ โดยความเห็นชอบของคณะรัฐมนตรีออกประกาศไว้ ดังต่อไปนี้

ข้อ 1 ประกาศนี้เรียกว่า “ประกาศคณะกรรมการแรงงานรัฐวิสาหกิจสัมพันธ์ เรื่อง มาตรฐานขั้นต่ำของสภาพการจ้างในรัฐวิสาหกิจ

ข้อ 2 ประกาศนี้ให้ใช้บังคับตั้งแต่วันถัดจากวันประกาศในราชกิจจานุเบกษา เป็นต้นไป

ข้อ 3 ให้ยกเลิก

(1) ประกาศคณะกรรมการแรงงานรัฐวิสาหกิจสัมพันธ์ เรื่องมาตรฐานขั้นต่ำของสภาพการจ้างว่าด้วยข้อบังคับเกี่ยวกับการทำงาน การใช้แรงงานหญิง การหักเงินเดือนค่าจ้าง ค่าล่วงเวลา และค่าทำงานในวันหยุด และการรับเงินเพื่อตอบแทนความชอบในการทำงานลงวันที่ 13 พฤษภาคม พ.ศ. 2545

(2) ประกาศคณะกรรมการแรงงานรัฐวิสาหกิจสัมพันธ์ เรื่องมาตรฐานขั้นต่ำของสภาพการจ้างว่าด้วยอัตราค่าจ้างขั้นต่ำสำหรับลูกจ้างรัฐวิสาหกิจ ลงวันที่ 20 เมษายน พ.ศ. 2545

หมวด 2

การใช้แรงงานทั่วไป

ข้อ 17 ลูกจ้างซึ่งทำงานติดต่อกันมาแล้วครบหนึ่งปี มีสิทธิหยุดพักผ่อนประจำปีได้ ปีหนึ่งไม่น้อยกว่าหกวันทำงาน โดยให้นายจ้างเป็นผู้กำหนดวันหยุดดังกล่าวให้แก่ลูกจ้างล่วงหน้าหรือกำหนดให้ตามที่นายจ้างและลูกจ้างตกลงกัน

นายจ้างและลูกจ้างจะตกลงกันล่วงหน้าให้สะสมและเลื่อนวันหยุดพักผ่อนประจำปีที่ยังมิได้หยุดในปีนั้นรวมเข้ากับปีต่อไปได้

หมวด 3 การใช้แรงงานหญิง

ข้อ 25 ลูกจ้างซึ่งเป็นหญิงมีครรภ์มีสิทธิลาคลอดบุตร โดยได้รับค่าจ้างเท่าเวลาที่ลาตามอัตราที่ได้รับอยู่ แต่ไม่เกินเก้าสิบวัน โดยให้นับรวมวันหยุดที่มีระหว่างวันลาด้วย

การลาคลอดบุตรจะลาในวันที่คลอดก่อน หรือหลังวันที่คลอดบุตรก็ได้แต่เมื่อรวมวันลาแล้วต้องไม่เกินเก้าสิบวัน

ลูกจ้างซึ่งเป็นหญิงที่ลาคลอดบุตรตามวรรคหนึ่ง หากประสงค์จะลาเพื่อเลี้ยงดูบุตรให้มีสิทธิลาต่อเนื่องจากการลาคลอดบุตรได้ไม่เกินหนึ่งร้อยห้าสิบวันทำงาน โดยไม่มีสิทธิได้รับค่าจ้างระหว่างลา

หมวด 4

ค่าจ้าง ค่าล่วงเวลา ค่าทำงานในวันหยุด และค่าล่วงเวลาในวันหยุด

ข้อ 32 ให้นายจ้างจ่ายค่าจ้างแก่ลูกจ้างเท่ากับค่าจ้างในวันทำงานสำหรับวันหยุด ดังต่อไปนี้

- (3) วันหยุดพักผ่อนประจำปี

ระเบียบสำนักนายกรัฐมนตรี

ว่าด้วยการลาของข้าราชการ พ.ศ. 2535

โดยที่เป็นการสมควรปรับปรุงระเบียบสำนักนายกรัฐมนตรีว่าด้วยการลาของข้าราชการให้เหมาะสมยิ่งขึ้น คณะรัฐมนตรีจึงวางระเบียบไว้ ดังต่อไปนี้

ข้อ 1 ระเบียบนี้เรียกว่า “ระเบียบว่าด้วยการลาของข้าราชการ พ.ศ. 2535”

ข้อ 2 ระเบียบนี้ให้ใช้บังคับตั้งแต่วันถัดจากวันประกาศในราชกิจจานุเบกษา เป็นต้น

ข้อ 3 ให้ยกเลิก

- (1) ระเบียบสำนักนายกรัฐมนตรีว่าด้วยการลาของข้าราชการ พ.ศ. 2520
- (2) ระเบียบสำนักนายกรัฐมนตรีว่าด้วยการลาของข้าราชการ (ฉบับที่ 2) พ.ศ. 2525
- (3) ระเบียบสำนักนายกรัฐมนตรีว่าด้วยการลาของข้าราชการ (ฉบับที่ 3) พ.ศ. 2527
- (4) ระเบียบสำนักนายกรัฐมนตรีว่าด้วยการให้ข้าราชการไปปฏิบัติงานในองค์การ

ระหว่างประเทศ พ.ศ. 2529

บรรดาระเบียบ ข้อบังคับ มติของคณะรัฐมนตรีและคำสั่งอื่นใด ในส่วนที่มีกำหนดไว้แล้วในระเบียบนี้ หรือซึ่งขัดหรือแย้งกับระเบียบนี้ ให้ใช้ระเบียบนี้แทน

ข้อ 10 การนับวันลาตามระเบียบนี้ให้นับตามปีงบประมาณ

การนับวันลาเพื่อประโยชน์ในการเสนอหรือจัดส่งใบลา อนุญาตให้ลา และคำนวณวันลาให้นับต่อเนื่องกันโดยนับวันหยุดราชการที่อยู่ในระหว่างวันลาประเภทเดียวกันรวมเป็นวันลาด้วย เว้นแต่การนับเพื่อประโยชน์ในการคำนวณวันลา สำหรับวันลาป่วยที่มีใช้วันลาป่วยตามกฎหมายว่าด้วยการสงเคราะห์ข้าราชการผู้ได้รับอันตรายหรือการป่วยเจ็บเพราะเหตุปฏิบัติราชการ วันลาจิสส่วนตัวและวันลาพักผ่อนให้นับเฉพาะวันทำการ

การลาป่วย หรือลาจิสส่วนตัวซึ่งมีระยะเวลาต่อเนื่องกัน จะเป็นในปีเดียวกันหรือไม่ก็ตาม ให้นับเป็นการลาครั้งหนึ่ง ถ้าจำนวนวันลาครั้งหนึ่งรวมกันเกินอำนาจของผู้มีอำนาจอนุญาตระดับใด ให้นำใบลาเสนอขึ้นไปตามลำดับจนถึงผู้มีอำนาจอนุญาต

ข้าราชการที่ถูกเรียกกลับมาปฏิบัติราชการระหว่างการลาให้ถือว่าการลาเป็นอันหมดเขตเพียงวันก่อนวันเดินทางกลับและวันราชการเริ่มต้นตั้งแต่วันออกเดินทางกลับเป็นต้นไป

การลาครั้งวันในตอนเช้าหรือตอนบ่าย ให้นับเป็นการลาครั้งวันตามประเภทของการลานั้นๆ

ข้าราชการซึ่งได้รับอนุญาตให้ลา หากประสงค์จะยกเลิกวันลาที่ยังไม่ได้หยุดราชการให้เสนอขอถอนวันลาต่อผู้บังคับบัญชาตามลำดับจนถึงผู้มีอำนาจอนุญาตให้ลาและให้ถือว่าการลาเป็นอันหมดเขตเพียงวันที่ขอถอนวันลานั้น

ส่วนที่ 2

การลาคลอดบุตร

ข้อ 18 ข้าราชการซึ่งประสงค์จะลาคลอดบุตรให้เสนอหรือจัดส่งใบลาต่อผู้บังคับบัญชาตามลำดับจนถึงผู้มีอำนาจพิจารณาอนุญาตก่อนหรือในวันที่ลา เว้นแต่ไม่สามารถจะลงชื่อในใบลาได้ จะให้ผู้อื่นลาแทนก็ได้แต่เมื่อสามารถลงชื่อได้แล้ว ให้เสนอหรือจัดส่งใบลาโดยเร็ว และมีสิทธิลาคลอดบุตร โดยได้รับเงินเดือนครั้งหนึ่งได้ 90 วัน โดยไม่ต้องมีใบรับรองแพทย์ การลาคลอดบุตรจะลาในวันที่คลอดก่อน หรือหลังวันที่คลอดก็ได้ แต่เมื่อรวมวันลาแล้วต้องไม่เกิน 90 วัน

ข้าราชการที่ได้รับอนุญาตให้ลาคลอดบุตรและได้หยุดราชการไปแล้ว แต่ไม่ได้คลอดบุตรตามกำหนด หากประสงค์จะขอถอนวันลาคลอดบุตรที่หยุดไป ให้ผู้มีอำนาจอนุญาตให้ถอนวันลาคลอดบุตรได้ โดยให้ถือว่าวันที่ได้หยุดราชการไปแล้วเป็นวันลาจิสส่วนตัว

การลาคลอดบุตรคาบเกี่ยวกับการลาประเภทใด ซึ่งยังไม่ครบกำหนดวันลาของการลาประเภทนั้น ให้ถือว่าการลาประเภทนั้นสิ้นสุดลงและให้นับเป็นการลาคลอดบุตรตั้งแต่วันเริ่มวันลาคลอดบุตร (แก้ไขตามระเบียบว่าด้วยการลาของข้าราชการ (ฉบับที่ 2) พ.ศ. 2539)

ข้อ 22 ข้าราชการที่ลาคลอดบุตรตามข้อ 18 แล้ว หากประสงค์จะลาอีกส่วนตัวเพื่อเลี้ยงดูบุตร ให้มีสิทธิลาต่อเนื่องจากการลาคลอดบุตรได้ไม่เกิน 150 วันทำการ โดยไม่มีสิทธิได้รับเงินเดือนระหว่างลา (แก้ไขตามระเบียบว่าด้วยการลาของข้าราชการ (ฉบับที่ 2) พ.ศ. 2539)

ส่วนที่ 4

การลาพักผ่อน

ข้อ 24 ข้าราชการมีสิทธิลาพักผ่อนประจำปีในปีหนึ่งได้ 10 วันทำการ เว้นแต่ข้าราชการดังต่อไปนี้ไม่มีสิทธิลาพักผ่อนประจำปีในปีที่ได้รับการบรรจุเข้ารับราชการยังไม่ถึง 6 เดือน

- (1) ผู้ซึ่งได้รับบรรจุเข้ารับราชการเป็นข้าราชการครั้งแรก
- (2) ผู้ซึ่งลาออกจากราชการเพราะเหตุส่วนตัว แล้วต่อมาได้รับบรรจุเข้ารับราชการอีก
- (3) ผู้ซึ่งลาออกจากราชการเพื่อดำรงตำแหน่งทางการเมืองหรือเพื่อสมัครรับเลือกตั้ง แล้วต่อมาได้รับบรรจุเข้ารับราชการอีกหลัง 6 เดือน นับแต่วันออกจากราชการ

(4) ผู้ซึ่งถูกสั่งให้ออกจากราชการในกรณีอื่น นอกจากกรณีไปรับราชการทหารตามกฎหมายว่าด้วยการรับราชการทหารและกรณีไปปฏิบัติงานใดๆ ตามความประสงค์ของทางราชการ แล้วต่อมาได้รับบรรจุเข้ารับราชการอีก

ข้อ 25 ถ้าในปีใดข้าราชการผู้ใดมิได้ลาพักผ่อนประจำปี หรือลาพักผ่อนประจำปีแล้วไม่ครบ 10 วันทำการ ให้สะสมวันที่ยังมิได้ลาในปีนั้นรวมเข้ากับปีต่อ ๆ ไปได้ แต่วันลาพักผ่อนสะสมรวมกับวันลาพักผ่อนในปีปัจจุบันจะต้องไม่เกิน 20 วันทำการ

ถ้าสำหรับผู้ที่ได้รับราชการติดต่อกันมาแล้วไม่น้อยกว่า 10 ปี ให้มีสิทธินำวันลาพักผ่อนสะสมรวมกับวันลาพักผ่อนในปีปัจจุบันได้ไม่เกิน 30 วันทำการ

ข้อ 26 ข้าราชการซึ่งประสงค์จะลาพักผ่อนให้เสนอ หรือจัดส่งใบลาต่อผู้บังคับบัญชาตามลำดับจนถึงผู้มีอำนาจอนุญาตและเมื่อได้รับอนุญาตแล้วจึงจะหยุดราชการได้

ข้อ 27 การอนุญาตให้ลาพักผ่อน ผู้มีอำนาจอนุญาตให้ลาครั้งเดียว หรือหลายครั้งก็ได้ โดยมีให้เสียหายแก่ราชการ

ข้อ 28 ผู้ที่ได้รับอนุญาตให้ลาพักผ่อนซึ่งหยุดราชการไปยังไม่ครบกำหนด ถ้ามีราชการจำเป็นเกิดขึ้นผู้บังคับบัญชาหรือผู้มีอำนาจอนุญาตจะเรียกตัวมาปฏิบัติราชการก็ได้

ส่วนที่ 5

การลาอุปสมบทหรือลาไปประกอบพิธีฮัจย์

ข้อ 30 ข้าราชการซึ่งประสงค์จะลาอุปสมบทในพระพุทธศาสนา หรือข้าราชการที่นับถือศาสนาอิสลามซึ่งประสงค์จะลาไปประกอบพิธีฮัจย์ ณ เมืองเมกกะ ประเทศซาอุดีอาระเบียให้เสนอหรือจัดส่งใบลาต่อผู้บังคับบัญชาตามลำดับจนถึงผู้มีอำนาจพิจารณาหรืออนุญาตก่อนวันอุปสมบทหรือก่อนวันเดินทาง ไปประกอบพิธีฮัจย์ไม่น้อยกว่า 60 วัน

ในกรณีมีเหตุพิเศษไม่อาจเสนอ หรือจัดส่งใบลาก่อนตามวรรคหนึ่ง ให้ชี้แจงเหตุผลความจำเป็นประกอบการลาและให้อยู่ในดุลยพินิจของผู้มีอำนาจที่จะพิจารณาให้ลาหรือไม่ก็ได้

ส่วนที่ 7

การลาไปศึกษา ฝึกอบรม ดูงาน หรือปฏิบัติการวิจัย

ข้อ 34 ข้าราชการซึ่งประสงค์จะลาไปศึกษา ฝึกอบรม ดูงานหรือปฏิบัติการวิจัย ณ ต่างประเทศ ให้เสนอหรือจัดส่งใบลาต่อผู้บังคับบัญชาตามลำดับจนถึงปลัดกระทรวง หรือหัวหน้าส่วนราชการชั้นตรงเพื่อพิจารณาอนุญาต

สำหรับการลาไปศึกษา ฝึกอบรม ดูงาน หรือปฏิบัติการวิจัยในประเทศ ให้เสนอหรือจัดส่งใบลาต่อผู้บังคับบัญชาตามลำดับจนถึงหัวหน้าส่วนราชการ หรือหัวหน้าส่วนราชการชั้นตรงเพื่อพิจารณาอนุญาต เว้นแต่ข้าราชการกรุงเทพมหานครให้เสนอ หรือจัดส่งใบลาต่อปลัดกรุงเทพมหานคร

สำหรับหัวหน้าส่วนราชการให้เสนอ หรือจัดส่งใบลาต่อปลัดกระทรวง หัวหน้าส่วนราชการชั้นตรงและข้าราชการในราชบัณฑิตสถานให้เสนอ หรือจัดส่งใบลาต่อรัฐมนตรีเจ้าสังกัด ส่วนปลัดกรุงเทพมหานครให้เสนอ หรือจัดส่งใบลาต่อผู้ว่าราชการกรุงเทพมหานครเพื่อพิจารณาอนุญาต

ภาคผนวก ข

อนุสัญญาและข้อแนะนำขององค์การแรงงานระหว่างประเทศเฉพาะที่เกี่ยวข้องกับการลา
หยุดพักผ่อนประจำปี การลาเพื่ออุปสมบท การลาศึกษาต่อ การกำหนดอัตราค่าจ้างในระหว่างลาเพื่อ
คลอดบุตรและการลาเพื่อเลี้ยงดูบุตร

Convention No.52 Holidays with Pay, 1936

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twentieth Session on 4 June 1936, and Having decided upon the adoption of certain proposals with regard to annual holidays with pay, which is the second item on the agenda of the Session, and Having determined that these proposals shall take the form of an international Convention, adopts this twenty-fourth day of June of the year one thousand nine hundred and thirty-six the following Convention, which may be cited as the Holidays with Pay Convention, 1936;

Article 1

1. This Convention applies to all persons employed in any of the following undertakings or establishments, whether public or private:

(a) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding or in the generation, transformation or transmission of electricity or motive power of any kind;

(b) undertakings engaged wholly or mainly in the construction, reconstruction, maintenance, repair, alteration or demolition of any one or more of the following:

- buildings,
- railways,
- tramways,
- airports,
- harbours,
- docks,
- piers,
- works of protection against floods or coast erosion,
- canals,
- works for the purpose of inland, maritime or aerial navigation,
- roads,
- tunnels,
- bridges,
- viaducts,

sewers,
 drains,
 wells,
 irrigation or drainage works,
 telecommunication installations,
 works for the production or distribution of electricity or gas,
 pipe-lines,
 waterworks,
 and undertakings engaged in other similar work or in the preparation for or laying the foundation of any such work or structure;

(c) undertakings engaged in the transport of passengers or goods by road, rail, inland waterway or air, including the handling of goods at docks, quays, wharves, warehouses or airports;

(d) mines, quarries and other works for the extraction of minerals from the earth;

(e) commercial or trading establishments, including postal and telecommunication services;

(f) establishments and administrative services in which the persons employed are mainly engaged in clerical work;

(g) newspaper undertakings;

(h) establishments for the treatment and care of the sick, infirm, destitute or mentally unfit;

(i) hotels, restaurants, boarding-houses, clubs, cafs and other refreshment houses;

(j) theatres and places of public amusement;

(k) mixed commercial and industrial establishments not falling wholly within any of the foregoing categories.

2. The competent authority in each country shall, after consultation with the principal organisations of employers and workers concerned where such exist, define the line which separates the undertakings and establishments specified in the preceding paragraph from those to which this Convention does not apply.

3. The competent authority in each country may exempt from the application of this Convention—

(a) persons employed in undertakings or establishments in which only members of the employer's family are employed;

(b) persons employed in public services whose conditions of service entitle them to an annual holiday with pay at least equal in duration to that prescribed by this Convention.

Article 2

1. Every person to whom this Convention applies shall be entitled after one year of continuous service to an annual holiday with pay of at least six working days.

2. Persons, including apprentices, under sixteen years of age shall be entitled after one year of continuous service to an annual holiday with pay of at least twelve working days.

3. The following shall not be included in the annual holiday with pay:

(a) public and customary holidays;

(b) interruptions of attendance at work due to sickness.

4. National laws or regulations may authorise in special circumstances the division into parts of any part of the annual holiday with pay which exceeds the minimum duration prescribed by this Article.

5. The duration of the annual holiday with pay shall increase with the length of service under conditions to be prescribed by national laws or regulations.

Article 3

Every person taking a holiday in virtue of Article 2 of this Convention shall receive in respect of the full period of the holiday either—

(a) his usual remuneration, calculated in a manner which shall be prescribed by national laws or regulations, including the cash equivalent of his remuneration in kind, if any; or

(b) the remuneration determined by collective agreement.

Convention No.103 Maternity Protection (Revised), 1952

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fifth Session on 4 June 1952, and Having decided upon the adoption of certain proposals with regard to maternity protection, which is the seventh item on the agenda of the session, and Having determined that these proposals shall take the form of an international Convention, adopts

this twenty-eighth day of June of the year one thousand nine hundred and fifty-two the following Convention, which may be cited as the Maternity Protection Convention (Revised), 1952.

Article 1

1. This Convention applies to women employed in industrial undertakings and in non-industrial and agricultural occupations, including women wage earners working at home.

2. For the purpose of this Convention, the term industrial undertaking comprises public and private undertakings and any branch thereof and includes particularly—

(a) mines, quarries, and other works for the extraction of minerals from the earth;

(b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding, or in the generation, transformation or transmission of electricity or motive power of any kind;

(c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work;

(d) undertakings engaged in the transport of passengers or goods by road, rail, sea, inland waterway or air, including the handling of goods at docks, quays, wharves, warehouses or airports.

3. For the purpose of this Convention, the term non-industrial occupations includes all occupations which are carried on in or in connection with the following undertakings or services, whether public or private:

(a) commercial establishments;

(b) postal and telecommunication services;

(c) establishments and administrative services in which the persons employed are mainly engaged in clerical work;

(d) newspaper undertakings;

(e) hotels, boarding houses, restaurants, clubs, cafs and other refreshment houses;

(f) establishments for the treatment and care of the sick, infirm or destitute and of orphans;

(g) theatres and places of public entertainment;

(h) domestic work for wages in private households;

and any other non-industrial occupations to which the competent authority may decide to apply the provisions of the Convention.

4. For the purpose of this Convention, the term agricultural occupations includes all occupations carried on in agricultural undertakings, including plantations and large-scale industrialised agricultural undertakings.

5. In any case in which it is doubtful whether this Convention applies to an undertaking, branch of an undertaking or occupation, the question shall be determined by the competent authority after consultation with the representative organisations of employers and workers concerned where such exist.

6. National laws or regulations may exempt from the application of this Convention undertakings in which only members of the employer's family, as defined by national laws or regulations, are employed.

Article 2

For the purpose of this Convention, the term woman means any female person, irrespective of age, nationality, race or creed, whether married or unmarried, and the term child means any child whether born of marriage or not.

Article 3

1. A woman to whom this Convention applies shall, on the production of a medical certificate stating the presumed date of her confinement, be entitled to a period of maternity leave.

2. The period of maternity leave shall be at least twelve weeks, and shall include a period of compulsory leave after confinement.

3. The period of compulsory leave after confinement shall be prescribed by national laws or regulations, but shall in no case be less than six weeks; the remainder of the total period of maternity leave may be provided before the presumed date of confinement or following expiration of the compulsory leave period or partly before the presumed date of confinement and partly following the expiration of the compulsory leave period as may be prescribed by national laws or regulations.

4. The leave before the presumed date of confinement shall be extended by any period elapsing between the presumed date of confinement and the actual date of confinement and the period of compulsory leave to be taken after confinement shall not be reduced on that account.

5. In case of illness medically certified arising out of pregnancy, national laws or regulations shall provide for additional leave before confinement, the maximum duration of which may be fixed by the competent authority.

6. In case of illness medically certified arising out of confinement, the woman shall be entitled to an extension of the leave after confinement, the maximum duration of which may be fixed by the competent authority.

Article 4

1. While absent from work on maternity leave in accordance with the provisions of Article 3, the woman shall be entitled to receive cash and medical benefits.

2. The rates of cash benefit shall be fixed by national laws or regulations so as to ensure benefits sufficient for the full and healthy maintenance of herself and her child in accordance with a suitable standard of living.

3. Medical benefits shall include pre-natal, confinement and post-natal care by qualified midwives or medical practitioners as well as hospitalisation care where necessary; freedom of choice of doctor and freedom of choice between a public and private hospital shall be respected.

4. The cash and medical benefits shall be provided either by means of compulsory social insurance or by means of public funds; in either case they shall be provided as a matter of right to all women who comply with the prescribed conditions.

5. Women who fail to qualify for benefits provided as a matter of right shall be entitled, subject to the means test required for social assistance, to adequate benefits out of social assistance funds.

6. Where cash benefits provided under compulsory social insurance are based on previous earnings, they shall be at a rate of not less than two-thirds of the woman's previous earnings taken into account for the purpose of computing benefits.

7. Any contribution due under a compulsory social insurance scheme providing maternity benefits and any tax based upon payrolls which is raised for the purpose of providing such benefits shall, whether paid both by the employer and the employees or by the employer, be paid in respect of the total number of men and women employed by the undertakings concerned, without distinction of sex.

8. In no case shall the employer be individually liable for the cost of such benefits due to women employed by him.

Convention No.132 Annual Holidays with Pay (Revised), 1970

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-fourth Session on 3 June 1970, and Having decided upon the adoption of certain proposals with regard to holidays with pay, which is the fourth item on the agenda of the session, and Having determined that these proposals shall take the form of an international Convention, adopts this twenty-fourth day of June of the year one thousand nine hundred and seventy the following Convention, which may be cited as the Holidays with Pay Convention (Revised), 1970:

Article 2

1. This Convention applies to all employed persons, with the exception of seafarers.

Article 3

1. Every person to whom this Convention applies shall be entitled to an annual paid holiday of a specified minimum length.

3. The holiday shall in no case be less than three working weeks for one year of service.

Article 4

1. A person whose length of service in any year is less than that required for the full entitlement prescribed in the preceding Article shall be entitled in respect of that year to a holiday with pay proportionate to his length of service during that year.

2. The expression year in paragraph 1 of this Article shall mean the calendar year or any other period of the same length determined by the competent authority or through the appropriate machinery in the country concerned.

Article 5

1. A minimum period of service may be required for entitlement to any annual holiday with pay.

2. The length of any such qualifying period shall be determined by the competent authority or through the appropriate machinery in the country concerned but shall not exceed six months.

3. The manner in which length of service is calculated for the purpose of holiday entitlement shall be determined by the competent authority or through the appropriate machinery in each country. 4. Under conditions to be determined by the competent authority or through the appropriate machinery in each country, absence from work for such reasons beyond the control of the employed person concerned as illness, injury or maternity shall be counted as part of the period of service.

Article 6

1. Public and customary holidays, whether or not they fall during the annual holiday, shall not be counted as part of the minimum annual holiday with pay prescribed in Article 3, paragraph 3, of this Convention.

Article 7

1. Every person taking the holiday envisaged in this Convention shall receive in respect of the full period of that holiday at least his normal or average remuneration (including the cash equivalent of any part of that remuneration which is paid in kind and which is not a permanent benefit continuing whether or not the person concerned is on holiday), calculated in a manner to be determined by the competent authority or through the appropriate machinery in each country.

2. The amounts due in pursuance of paragraph 1 of this Article shall be paid to the person concerned in advance of the holiday, unless otherwise provided in an agreement applicable to him and the employer.

Article 10

1. The time at which the holiday is to be taken shall, unless it is fixed by regulation, collective agreement, arbitration award or other means consistent with national practice, be determined by the employer after consultation with the employed person concerned or his representatives.

2. In fixing the time at which the holiday is to be taken, work requirements and the opportunities for rest and relaxation available to the employed person shall be taken into account.

Article 11

An employed person who has completed a minimum period of service corresponding to that which may be required under Article 5, paragraph 1, of this Convention shall receive, upon

termination of employment, a holiday with pay proportionate to the length of service for which he has not received such a holiday, or compensation in lieu thereof, or the equivalent holiday credit.

Article 12

Agreements to relinquish the right to the minimum annual holiday with pay prescribed in Article 3, paragraph 3, of this Convention or to forgo such a holiday, for compensation or otherwise, shall, as appropriate to national conditions, be null and void or be prohibited.

Convention No.140 Paid Educational Leave, 1974

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-ninth Session on 5 June 1974, and Noting that Article 26 of the Universal Declaration of Human Rights affirms that everyone has the right to education, and Noting further the provisions contained in existing international labour Recommendations on vocational training and the protection of workers' representatives concerning the temporary release of workers, or the granting to them of time off, for participation in education or training programmes, and Considering that the need for continuing education and training related to scientific and technological development and the changing pattern of economic and social relations calls for adequate arrangements for leave for education and training to meet new aspirations, needs and objectives of a social, economic, technological and cultural character, and Considering that paid educational leave should be regarded as one means of meeting the real needs of individual workers in a modern society, and Considering that paid educational leave should be conceived in terms of a policy of continuing education and training to be implemented progressively and in an effective manner, and Having decided upon the adoption of certain proposals with regard to paid educational leave, which is the fourth item on the agenda of the session, and Having determined that these proposals shall take the form of an international Convention, adopts this twenty-fourth day of June of the year one thousand nine hundred and seventy-four the following Convention, which may be cited as the Paid Educational Leave Convention, 1974:

Article 1

In this Convention, the term paid educational leave means leave granted to a worker for educational purposes for a specified period during working hours, with adequate financial entitlements.

Article 2

Each Member shall formulate and apply a policy designed to promote, by methods appropriate to national conditions and practice and by stages as necessary, the granting of paid educational leave for the purpose of—

- (a) training at any level;
- (b) general, social and civic education;
- (c) trade union education.

Article 3

That policy shall be designed to contribute, on differing terms as necessary—

- (a) to the acquisition, improvement and adaptation of occupational and functional skills, and the promotion of employment and job security in conditions of scientific and technological development and economic and structural change;
- (b) to the competent and active participation of workers and their representatives in the life of the undertaking and of the community;
- (c) to the human, social and cultural advancement of workers; and
- (d) generally, to the promotion of appropriate continuing education and training, helping workers to adjust to contemporary requirements.

Article 4

The policy shall take account of the stage of development and the particular needs of the country and of different sectors of activity, and shall be co-ordinated with general policies concerning employment, education and training as well as policies concerning hours of work, with due regard as appropriate to seasonal variations of hours of work or of volume of work.

Article 5

The means by which provision is made for the granting of paid educational leave may include national laws and regulations, collective agreements, arbitration awards, and such other means as may be consistent with national practice.

Article 7

The financing of arrangements for paid educational leave shall be on a regular and adequate basis and in accordance with national practice.

Article 8

Paid educational leave shall not be denied to workers on the ground of race, colour, sex, religion, political opinion, national extraction or social origin.

Article 11

A period of paid educational leave shall be assimilated to a period of effective service for the purpose of establishing claims to social benefits and other rights deriving from the employment relation, as provided for by national laws or regulations, collective agreements, arbitration awards or such other means as may be consistent with national practice.

Convention 183 Maternity Protection (Revised), 2000

The General Conference of the International Labour Organization, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 88th Session on 30 May 2000, and Noting the need to revise the Maternity Protection Convention (Revised), 1952, and the Maternity Protection Recommendation, 1952, in order to further promote equality of all women in the workforce and the health and safety of the mother and child, and in order to recognize the diversity in economic and social development of Members, as well as the diversity of enterprises, and the development of the protection of maternity in national law and practice, and Noting the provisions of the Universal Declaration of Human Rights (1948), the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (1979), the United Nations Convention on the Rights of the Child (1989), the Beijing Declaration and Platform for Action (1995), the International Labour Organization's Declaration on Equality of Opportunity and Treatment for Women Workers (1975), the International Labour Organization's Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998), as well as the international labour Conventions and Recommendations aimed at ensuring equality of opportunity and treatment for men and women workers, in particular the Convention concerning Workers with Family Responsibilities, 1981, and Taking into account the circumstances of women workers and the need to provide protection for pregnancy, which are the shared responsibility of government and society, and Having decided upon the adoption of certain proposals with regard to the revision of the Maternity Protection Convention (Revised), 1952, and Recommendation, 1952, which is the fourth item on the agenda of the session, and Having determined that these proposals shall take the form of an international Convention; adopts this

fifteenth day of June of the year two thousand the following Convention, which may be cited as the Maternity Protection Convention, 2000.

SCOPE

Article 1

For the purposes of this Convention, the term woman applies to any female person without discrimination whatsoever and the term child applies to any child without discrimination whatsoever.

Article 2

1. This Convention applies to all employed women, including those in atypical forms of dependent work.

2. However, each Member which ratifies this Convention may, after consulting the representative organizations of employers and workers concerned, exclude wholly or partly from the scope of the Convention limited categories of workers when its application to them would raise special problems of a substantial nature.

3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organization, list the categories of workers thus excluded and the reasons for their exclusion. In its subsequent reports, the Member shall describe the measures taken with a view to progressively extending the provisions of the Convention to these categories.

MATERNITY LEAVE

Article 4

1. On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.

2. The length of the period of leave referred to above shall be specified by each Member in a declaration accompanying its ratification of this Convention.

3. Each Member may subsequently deposit with the Director-General of the International Labour Office a further declaration extending the period of maternity leave.

4. With due regard to the protection of the health of the mother and that of the child, maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.

5. The prenatal portion of maternity leave shall be extended by any period elapsing between the presumed date of childbirth and the actual date of childbirth, without reduction in any compulsory portion of postnatal leave.

LEAVE IN CASE OF ILLNESS OR COMPLICATIONS

Article 5

On production of a medical certificate, leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.

BENEFITS

Article 6

1. 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 referred to in Articles 4 or 5.

2. 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.

3. 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.

4. 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.

5. 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.



6. 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.

7. Medical benefits shall be provided for the woman and her child in accordance with national laws and regulations or in any other manner consistent with national practice. Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary.

8. 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.

Article 7

1. A Member whose economy and social security system are insufficiently developed shall be deemed to be in compliance with Article 6, paragraphs 3 and 4, if cash benefits are provided at a rate no lower than a rate payable for sickness or temporary disability in accordance with national laws and regulations.

2. A Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of this Convention under article 22 of the Constitution of the International Labour Organization, explain the reasons therefor and indicate the rate at which cash benefits are provided. In its subsequent reports, the Member shall describe the measures taken with a view to progressively raising the rate of benefits.

Recommendation No.47 Holidays with Pay, 1936

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in

its Twentieth Session on 4 June 1936, and Having decided upon the adoption of certain proposals with regard to annual holidays with pay, which is the second item on the agenda of the Session, and Having determined that these proposals shall take the form of a Recommendation, adopts this twenty-fourth day of June of the year one thousand nine hundred thirty-six, the following Recommendation, which may be cited as the Holidays with Pay Recommendation, 1936: The Conference, Having adopted a Convention concerning annual holidays with pay for employed persons, Considering that the purpose of such holidays is to secure to employed persons opportunities for rest, recreation and the development of their faculties, Considering that the conditions laid down by the Convention constitute the minimum standard to which any system of holidays with pay should conform, Considering that it is desirable to deal in greater detail with the methods of applying the system, Recommends that each Member should take the following suggestions into consideration:

1.

(1) The continuity of service required in order to become entitled to a holiday should not be affected by interruptions occasioned by sickness or accident, family events, military service, the exercise of civic rights, changes in the management of the undertaking in which the employed person is employed, or intermittent involuntarily unemployment if the duration of the unemployment does not exceed a prescribed limit and if the person concerned resumes employment.

(2) In employments in which work is not carried on regularly throughout the year the condition of continuity of employment should be regarded as satisfied by the working of a prescribed number of days during a prescribed period.

(3) The holiday should be earned after one year's work, regardless whether this period has been spent in the employment of the same or of several employers. Each Government should take effective steps to ensure that the cost arising from the granting of the holidays shall not fall entirely upon the last employer.

3. It would be desirable that the increase in the length of the holiday with the duration of service should begin to operate as soon as possible and should be effected by regular stages so that a prescribed minimum will be attained after a prescribed number of years, for example, twelve working days after seven years of service.

Recommendation No.95 Maternity Protection , 1952

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fifth Session on 4 June 1952, and Having decided upon the adoption of certain proposals with regard to maternity protection, which is the seventh item on the agenda of the session, and Having determined that these proposals shall take the form of a Recommendation supplementing the Maternity Protection Convention (Revised), 1952, adopts this twenty-eighth day of June of the year one thousand nine hundred and fifty-two, the following Recommendation, which may be cited as the Maternity Protection Recommendation, 1952.

I. Maternity Leave

1.

(1) Where necessary to the health of the woman and wherever practicable, the maternity leave provided for in Article 3, paragraph 2, of the Maternity Protection Convention (Revised), 1952, should be extended to a total period of 14 weeks.

(2) The supervisory bodies should have power to prescribe in individual cases, on the basis of a medical certificate, a further extension of the ante-natal and post-natal leave provided for in paragraphs 4, 5 and 6 of Article 3 of the Maternity Protection Convention (Revised), 1952, if such an extension seems necessary for safeguarding the health of the mother and the child, and, in particular, in the event of actual or threatening abnormal conditions, such as miscarriage and other ante-natal and post-natal complications.

II. Maternity Benefits

2.

(1) Wherever practicable the cash benefits to be granted in conformity with Article 4 of the Maternity Protection Convention (Revised), 1952, should be fixed at a higher rate than the minimum standard provided in the Convention, equalling, where practicable, 100 per cent. of the woman's previous earnings taken into account for the purpose of computing benefits.

(2) Wherever practicable the medical benefits to be granted in conformity with Article 4 of the said Convention should comprise general practitioner and specialist out-patient and in-patient care, including domiciliary visiting; dental care; the care given by qualified midwives and other maternity services at home or in hospital; nursing care at home or in hospital or other medical institutions; maintenance in hospitals or other medical institutions; pharmaceu

tical, dental or other medical or surgical supplies; and the care furnished under appropriate medical supervision by members of such other profession as may at any time be legally recognised as competent to furnish services associated with maternity care.

(4) The institutions or government departments administering the medical benefit should encourage the women protected, by such means as may be deemed appropriate, to avail themselves of the general health services placed at their disposal by the public authorities or by other bodies recognised by the public authorities.

Recommendation No.148 Paid Educational Leave, 1974

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-ninth Session on 5 June 1974, and Noting that Article 26 of the Universal Declaration of Human Rights affirms that everyone has the right to education, and Noting further the provisions contained in existing international labour Recommendations on vocational training and the protection of workers' representatives concerning the temporary release of workers, or the granting to them of time off, for participation in education or training programmes, and Considering that the need for continuing education and training related to scientific and technological development and the changing pattern of economic and social relations calls for adequate arrangements for leave for education and training to meet new aspirations, needs and objectives of a social, economic, technological and cultural character, and Considering that paid educational leave should be regarded as one means of meeting the real needs of individual workers in a modern society, and Considering that paid educational leave should be conceived in terms of a policy of continuing education and training to be implemented progressively and in an effective manner, and Having decided upon the adoption of certain proposals with regard to paid educational leave, which is the fourth item on the agenda of the session, and Having determined that these proposals shall take the form of a Recommendation, adopts this twenty-fourth day of June of the year one thousand nine hundred and seventy-four, the following Recommendation, which may be cited as the Paid Educational Leave Recommendation, 1974:

I. Definition

1. In this Recommendation, the term paid educational leave means leave granted to a worker for educational purposes for a specified period during working hours, with adequate financial entitlements.

II. Formulation of Policy and Methods of Implementation

3. That policy should be designed to contribute, on differing terms as necessary—

(a) to the acquisition, improvement and adaptation of occupational and functional skills, and the promotion of employment and job security in conditions of scientific and technological development and economic and structural change;

(b) to the competent and active participation of workers and their representatives in the life of the undertaking and of the community;

(c) to the human, social and cultural advancement of workers; and

(d) generally, to the promotion of appropriate continuing education and training, helping workers to adjust to contemporary requirements.

Recommendation No.191 Maternity Protection, 2000

The General Conference of the International Labour Organization, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 88th Session on 30 May 2000, and Having decided upon the adoption of certain proposals with regard to maternity protection, which is the fourth item on the agenda of the session, and Having determined that these proposals shall take the form of a Recommendation supplementing the Maternity Protection Convention, 2000 (hereinafter referred to as "the Convention"), adopts this fifteenth day of June of the year two thousand the following Recommendation, which may be cited as the Maternity Protection Recommendation, 2000. □

Maternity leave

1.

(1) Members should endeavour to extend the period of maternity leave referred to in Article 4 of the Convention to at least 18 weeks.

(2) Provision should be made for an extension of the maternity leave in the event of multiple births. (3) To the extent possible, measures should be taken to ensure that the woman is

entitled to choose freely the time at which she takes any non-compulsory portion of her maternity leave, before or after childbirth.

Benefits

2. 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.

3. To the extent possible, the medical benefits provided for in Article 6, paragraph 7, of the Convention should include:

- (a) care given in a doctor's office, at home or in a hospital or other medical establishment by a general practitioner or a specialist;
- (b) maternity care given by a qualified midwife or by another maternity service at home or in a hospital or other medical establishment;
- (c) maintenance in a hospital or other medical establishment;
- (d) any necessary pharmaceutical and medical supplies, examinations and tests prescribed by a medical practitioner or other qualified person; and
- (e) dental and surgical care.

Financing of benefits

4. Any contribution due under compulsory social insurance providing maternity benefits and any tax based upon payrolls which is raised for the purpose of providing such benefits, whether paid by both the employer and the employees or by the employer, should be paid in respect of the total number of men and women employed, without distinction of sex.

Employment protection and non-discrimination

Related types of leave

10.

(1) In the case of the death of the mother before the expiry of postnatal leave, the employed father of the child should be entitled to take leave of a duration equal to the unexpired portion of the postnatal maternity leave.

(2) In the case of sickness or hospitalization of the mother after childbirth and before the expiry of postnatal leave, and where the mother cannot look after the child, the

employed father of the child should be entitled to leave of a duration equal to the unexpired portion of the postnatal maternity leave, in accordance with national law and practice, to look after the child.

(3) The employed mother or the employed father of the child should be entitled to parental leave during a period following the expiry of maternity leave.

(4) The period during which parental leave might be granted, the length of the leave and other modalities, including the payment of parental benefits and the use and distribution of parental leave between the employed parents, should be determined by national laws or regulations or in any manner consistent with national practice.

ภาคผนวก ก

- 1) Labour Law 1 August 2007
- 2) Labour Law 27 September 2005
- 3) Labour Code 1 February 1999
- 4) Labour Code 4 June 2002
- 5) Law on Sickness And Maternity Social Insurance 2000.
- 6) Law on State Social Insurance 1991.

เฉพาะที่เกี่ยวข้องกับการลาหยุดพักผ่อนประจำปี การลาเพื่ออุปสมบท การลาศึกษาต่อ การกำหนดอัตราค่าจ้างในระหว่างลาเพื่อคลอดบุตรและการลาเพื่อเลี้ยงดูบุตร

LABOUR LAW

1 August 2007

Subsection III

Protection of maternity and paternity

Article 11

(Special rights of female employees)

1. During the period of pregnancy and after childbirth, female employees shall be guaranteed the following rights:

a) without loss of remuneration, not to perform work that is clinically inadvisable in her condition;

6. A female employee's absence from work for up to thirty days each year, to take care of her minor children in cases of accident or illness, shall be considered justified absence and shall not result in any loss of rights, except as regards remuneration.

Article 12

(Maternity and paternity leave)

1. In addition to normal holidays, female employees shall be entitled to maternity leave of sixty consecutive days, which may commence twenty days prior to the expected delivery date and which may be enjoyed consecutively.

5. The father shall be entitled to paternity leave for one day, every two years, and this day shall be taken on the day immediately following the birth.

Subsection III**Student employees**

Article 29

(Student employees)

1. Student employees are employees who work under the authority and direction of an employer, and have permission from their employer to attend a course at an educational establishment to develop and improve their skills, particularly their technical and occupational skills.

3. Student employees have the right not to attend work during examination periods, without loss of remuneration, provided they shall give their employer advance notice of least seven days.

Article 99

(Duration of annual holidays)

1. Employees shall be entitled to the following periods of paid annual holidays:
 - a) one day for every month of actual service, during the first year of service;
 - b) two days for every month of actual service, during the second year of service;
 - c) thirty days for every year of actual service, from the third year onwards.

3. Persons employed for a fixed term of more than three months but less than one year shall be entitled to holidays of one day for every month of actual service.

Article 101

(Advance, postponement and accumulation of holidays)

1. The employer may postpone all or part of an employee's holidays until the holiday period in the following year, for compelling reasons connected with the enterprise, or to meet the essential and indispensable needs of society or national economic interests, provided that the employee, the trade union body and the minister who oversees the area of labour have been notified beforehand.

2. The employer and the employee may agree, in writing, to the accumulation of up to fifteen days of holidays for every twelve months of actual service, provided that the accumulated holidays shall be taken during the year following that in which the limit stipulated in the following paragraph has been reached.

3. No more than thirty days of holidays may be taken in advance and no more than sixty days of holidays may be accumulated in any one year, under pain of forfeiture.

Labour Law

27 September 2005

Section Four: Leaves

Article 109

1. A worker shall be entitled to a prepaid annual leave of not less than twenty one days, to be increased to a period of not less than thirty days if the worker spends five consecutive years in the service of the employer.

Article 110

1. A worker may, with the employer's approval, postpone his annual leave or days thereof to the following year.

2. An employer may postpone, for a period of not more than ninety days, the worker's leave after the end of the year it is due if required by work conditions. If work conditions require extension of the postponement, the worker's consent must be obtained in writing. Such postponement shall not, however, exceed the end of the year following the year the leave is due.

Article 114

A worker shall be entitled to a paid leave of not less than ten days and not more than fifteen days, including Eid Al-Adha holiday, to perform Hajj only once during his service if he has not performed it before. To be eligible for this leave, the worker must have spent at least two consecutive years of service with the employer. The employer may determine the number of workers who shall be given this leave annually in accordance with work requirements.

Article 115

A worker enrolled in an educational institution shall have the right to a fully paid leave to sit for an examination of an unrepeated year. Days of leave shall be based on the actual number of the examination days.

However, for the examinations of a repeated year, the worker shall be entitled to unpaid leave to sit for the examinations. The employer may require the worker to submit documents in support of the leave application as well as proof of having taken the examination. The worker shall apply for the leave at least fifteen days ahead of the due date. Without prejudice to disciplinary action, the worker shall be denied the wage if it is proven that he had not taken the examination.

Chapter IX: Employment of Women**Article 151**

A female worker shall be entitled to a maternity leave for the four weeks immediately preceding the expected date of delivery and the subsequent six weeks. The probable date of delivery shall be determined by the physician of the firm or pursuant to a medical report certified by a health authority. A woman may not work during the six weeks immediately following delivery.

Article 152

During the maternity leave, an employer shall pay the female worker half her wage if she has been in his service for one year or more, and a full wage if she has served for three years or more as of the date of commencement of such leave. A female worker shall not be paid any wages during her regular annual leave if she has enjoyed in the same year a maternity leave with full wage. She shall be paid half her wage during the annual leave if she has enjoyed in the same year a maternity leave at half wage.

Labour Code

1 February 1999

Division Seventeen- Duration of Vacation

Section 114. Base Vacation and its Duration

1. Base vacation shall be defined as vacation whose minimum duration is established by 2 and 3 of this Section on the basis of the occupation (position) of the employee as stated in his employment contract.

2. At least 21 calendar days of paid base vacation must be granted to employees.

3. The employees listed below shall be eligible for 30 calendar days of paid base vacation per year.

a) agricultural employees;

b) public officials, managers and experts holding responsible positions (responsibility for said positions shall be determined by the employer, taking into account the particulars of the work) at institutions;

c) administrators and administrative support personnel, as well as managers of out-of-school institutions not engaged in teaching, except for educational institutions governed by special regulations;

d) methodologists, senior foremen, workshop foremen, instructors, librarians, Laboratory technicians, cleaning women, attendants, and art directors at educational institutions;

e) scientific personnel without academic degrees;

f) doctors, mid-level medical personnel, and pharmacists.

4. Part-time employees (working a partial day or partial week) shall be granted vacation of unrestricted duration depending on the work they perform or the position they hold.

Section 115. Additional Vacation Time Based on Working Conditions and Job Description Characteristics

1. Employees engaged in underground work or in hazardous or arduous occupations and those whose occupations involve increased sensitivity, excitement, or mental and physical

stress shall be eligible for additional vacation time. Depending on the nature of the working conditions and duties, additional vacation time must be no less than 6 calendar days.

2. The list of hazardous and arduous industries, workplaces, occupations and positions, types of employment and employee categories granted additional vacation time according to working conditions and duties shall be approved by the relevant authority and the duration of additional vacation time shall be indicated therein.

Section 116. Duration of Additional Vacation Time for Seniority and Procedures for Granting Additional Vacation Time

1. Depending on their seniority, employees shall be eligible for the following amounts of additional vacation time:

- seniority of five to ten years - 2 additional calendar days;
- seniority often to fifteen years - 4 additional calendar days;
- seniority of over fifteen years - 6 additional calendar days.

2. The duration of additional vacation time according to length of service shall be determined on the basis of the time period within which an employee signs an employment contract with the employer at an enterprise and begins to actually work. Along with the time period which an employee has actually worked under an employment contract, the time periods within-which an employee has become temporarily disabled and his job and average salary have been retained as provided in Section 179 hereof shall be included in the employee's said length of service.

3. Additional vacation time based on length of service (as well as working conditions) shall not be granted to those employees indicated in Sections 118, 119, 120 and 121 hereof.

Section 118. Duration of Vacations for Educators and Researchers

1. The following employees shall be eligible to a vacation of 56 calendar days per year:

a) administrative support personnel at educational institutions carrying at least one-third of a normal teaching load,educators,instructors,group and music leaders, concertmasters, accompanists, choirmasters and other employees working in the musical field;

b) all teachers of all subjects and professions (except training teachers);

c) children's association leaders holding masters degrees, psychologists, speech therapists, instructors for the deaf and mute;

d) educators at teaching institutions (except at boarding-schools), instructors at audio studios, circle instructors, military instructors, gym coaches;

e) employees directly involved in pedagogical activity at social security agencies and medical institutions;

f) employees with Doctor of Science degrees, directors and their research assistants, academic secretaries at research institutes, and the research departments of higher educational institutions;

g) scientific personnel engaged in independent research as authorized by an appropriate academic council.

2. The following employees shall be eligible to vacation of 42 calendar days per year:

a) administrators of orphanages and preschools, teachers, group leaders, and music directors of educational institutions, psychologists.

b) leaders, methodologists and instructors at educational methods offices and centres;

c) boarding school teachers;

d) circle leaders and employees of non-school children's' institutions;

e) training teachers;

f) employees with academic degrees of candidates of science, directors, and their research assistants, academic secretaries of research institutes, and there search departments of higher educational institutions.

Section 119. Vacations for Physiological Reasons

1. Employees under the age of 16 shall be eligible for 42 calendar days of vacation per year; employees aged 16 to 18 shall be eligible for 35 calendar days.

2. All disabled employees, regardless of the category, reason, or length of disability, shall be eligible for a base vacation of at least 42 calendar days.

Section 121. Vacation for Certain Categories of Employees of Theatrical, Entertainment, and Other Establishments

Artistic directors and actors at theatrical and entertainment establishments, and artistic directors and actors on TV, the radio, and at movie establishments shall be granted 42 calendar days of vacation; stagehands shall be granted 35 calendar days of base vacation.

Division Eighteen- Research Leaves and Their Duration**Section 123. Paid Educational Leaves**

1. Employees who are pursuing their education while continuing to work shall be eligible for the following paid leaves:

- a) for Laboratory research, tests, and examinations during semesters;
- b) for national examinations;
- c) for writing and defending their graduation projects (theses).

2. During paid educational leave, average salaries paid to the employee shall be determined in the manner stipulated in Section 177 hereof.

Section 124. Duration of Educational Leaves

1. Students attending evening classes at higher educational institutions shall be granted 20 days' leave during their first and second years for Laboratory research, tests, and examinations, and 30 days of leave for the same purpose during their remaining courses.

2. Students attending evening classes at special secondary educational institutions shall be granted 10 days of leave during their first and second years for Laboratory research, tests, and examinations and 20 days of leave for the same purpose during their remaining courses.

3. Employees taking correspondence courses from higher educational institutions shall be granted 30 calendar days of leave during their first and second years for Laboratory research, tests, and examinations and 40 calendar days of leave for the same purpose during their third and fourth years. Employees taking correspondence courses from special secondary educational institutions shall be granted 20 calendar days of leave during their first and second years and 30 calendar days of leave during the other courses.

4. Students taking evening and correspondence courses from higher and special secondary educational institutions shall be granted 30 calendar days of leave when taking national examinations.

5. Students taking evening and correspondence courses from higher educational institutions shall be granted up to 4 calendar months of leave to prepare and defend their graduation projects (theses); students taking evening and correspondence courses at special secondary educational institutions shall be granted up to two calendar months of leave for this purpose.

6. Employees attending vocational schools and lyceums while continuing to work shall be eligible for 30 calendar days per year of leave to study for and take their examinations.

Employees taking evening and correspondence classes from general secondary schools shall be eligible for 20 calendar days of leave to take examinations in the eleventh grade.

8. These leaves may be used during the periods specified in class schedules on the basis of a letter from the educational institution.

Division Nineteen- Social Leave

Section 125. Pregnancy, Maternal, and Child Care Leave

1. Woman shall be granted pregnancy and maternity leave of 126 days, starting seventy (70) calendar days prior to childbirth and ending fifty-six (56) calendar days after childbirth. In the event of abnormal or multiple births, women shall be granted seventy days leave after childbirth.

2. Women working in industry shall be granted the following pregnancy and maternity leave.

a) 140 calendar days for normal childbirth (70 days before birth, 70 days after birth):

b) 156 calendar days in the event of abnormal birth (70 calendar days before birth, 86 days after birth);

c) 180 calendar days in the event of multiple births (70 days before birth, 110 calendar days after birth).

Section 127. Right to Partially-Paid Leave and Rules for Exercising It

1. A single parent or another family who is directly caring for a child until it is three years old, shall be eligible for partially-paid social leave in the amount determined by Legislation.
2. An employee caring for a child may use partially paid social leave completely or in part at his discretion.

Division Twenty-One- Procedure/or Exercising Vacation Rights

Section 131. Procedure for Authorizing Vacations

1. An employee shall be eligible for vacation after six months of employment following the signing of the employment contract with his employer.
2. After an employee has worked six months at an establishment, the employee may be granted vacation prior to the expiration of his first year of employment on the basis of his application within a time period coordinated with his employer.
3. Vacation in the second and subsequent years of employment may be granted at an appropriate time during the work year based on the order of preference for vacation.
4. The following individuals shall be eligible to take vacation during their first year of employment regardless of when they were hired:
 - a) pregnant women and new mothers may use their vacation time immediately before or after their pregnancy and maternity leaves;
 - b) employees who have not reached the age of eighteen;
 - c) employees hired less than three months after their discharge from conscript military service;
 - d) employees holding multiple jobs and taking vacation from their primary places of employment;
 - e) the wives (husbands) of military personnel;
 - f) persons attending educational institutions during their term projects or examinations or defence of their undergraduate theses;
 - g) disabled persons.

Section 134. Conditions and Procedures for Deferring Vacations

1. Vacation may be deferred for valid reasons at the initiative of either the employer or the employee only by their agreement.
2. Vacation deferral shall be defined as the postponement of vacation as provided in the order of preference schedule from one month of the current year to the next or from the current to the next year of employment or next calendar year.
3. At the employee's initiative, vacation may be deferred in the following cases:
 - a) temporary disability;
 - b) concurrence of vacation and leave;
 - c) when on a business trip in another place to carry out an employer's tasks.
4. Vacation may be deferred at the employer's initiative whenever granting an employee vacation at the time indicated by the normal order of preference would disrupt normal operations.
5. By mutual agreement of the parties, any unused vacation time may be added to the vacation granted in the next year of employment.

Labour code**4 June 2002****Article 166. Minimum Annual Leave**

1. The minimum annual leave shall be a period of 28 calendar days.
2. Annual 35-calendar-day leave shall be granted to:
 - 1) the employees under 18 years of age;
 - 2) the employees who, as single parents, are raising a child before he has reached the age of fourteen or a disabled child before he has reached the age of sixteen;
 - 3) disabled persons;
 - 4) other persons provided for by law.
3. Annual leave shall not be shortened for part-time employees.

Article 167. Extended Annual Leave

Extended annual leave up to 58 calendar days shall be granted to certain categories of employees whose work involves greater nervous, emotional and intellectual strain and professional risk, as well as to those employees who work in specific working conditions. The Government shall approve a list of categories of employees who are entitled to the extended leave and shall define therein the specific duration of the extended leave for each category of employees.

Article 168. Additional Annual Leave

1. Additional annual leave may be granted:

1) to the employees for the conditions of work which are not in conformity with the normal work conditions;

2) for a long uninterrupted employment at the same work place;

3) for a special character of work.

2. The duration of additional annual leave, the terms and conditions as well as the procedure for providing it shall be determined by the Government. A contract of employment, a collective agreement or internal work regulations may define a longer additional annual leave or additional annual leave of types other than those specified in this Article.

Article 169. Procedure of Granting Annual Leave

1. Annual leave for each working year shall be granted in the same working year.

2. Annual leave for the first working year shall be granted, as a rule, after six months of uninterrupted work at the enterprise. For the second and subsequent working years annual leave shall be granted at any time of the working year in accordance with the schedule of granting annual leave. The procedure of making the schedule shall be stipulated in a collective agreement and, where such an agreement is not made, the schedule of annual leave shall be made by agreement of the parties.

3. Where there are less than six months of uninterrupted work, annual leave shall be granted at the request of an employee in the following cases:

1) to women before a maternity leave or after it;

2) in other cases laid down by laws and collective agreements.

4. The following persons shall be entitled to choose the time of annual leave after six months of uninterrupted work at an enterprise:

1) under 18 years of age;

2) pregnant women and employees raising, as single parents, a child before he has reached the age of fourteen or a child with disabilities before he has reached the age of sixteen.

5. Men shall be granted their annual leave at request during the maternity leave of their wives.

6. During the first year of employment, the teaching staff of educational institutions shall be granted annual leave during the summer holiday of school children and students, irrespective of the date when the staff began to work at the appropriate institution.

7. Annual leave for the persons, who are studying without interruption of their employment, shall be adjusted, at their request, with the time of their examinations, tests, work on the graduation thesis, laboratory work and consultations.

8. Persons who are taking care of sick or disabled persons at home as well as persons who are suffering from chronic diseases which become more acute depending on the atmospheric conditions shall be granted their annual leave at the time of their choice subject to a recommendation of a health institution.

Article 176. Pay for Annual Leave

2. The pay for annual leave shall be paid at least three calendar days before the commencement of annual leave.

Article 179. Maternity Leave

1. Women shall be entitled to maternity leave: 70 calendar days before the child birth and 56 calendar days after the child birth (in the event of complicated confinement or birth of two or more children-70 calendar days). This leave shall be added up and granted to the woman as a single period, regardless of the days used prior to the confinement.

3. An allowance provided for in the Law on Social Insurance of Sickness and Maternity shall be paid for the period of leave specified in paragraphs 1 and 2 of this Article.

Article 180. Parental Leave before the Child Has Reached the Age of Three

1. Parental leave before the child has reached the age of three shall be granted, at the choice of the family, to the mother/adoptive mother, the father/adoptive father, the grandmother, the grandfather or any other relatives who are actually raising the child also to the employee who has been recognised the guardian of the child. The leave may be taken as a single period or be distributed in portions. The employees entitled to this leave may take it in turn.

Article 181. Educational Leave

1. Employees shall be entitled to educational leave in order to prepare for and take entrance examinations to colleges and higher education institutions-three days for each examination.

2. The employees who are studying at schools of general education or at colleges and higher educational institutions registered in the prescribed manner shall be entitled to educational leave subject to a certificate of the above institutions:

- 1) to prepare for and take ordinary examinations-three days for each examination;
- 2) to prepare for and take credit tests - two days for each credit test;
- 3) for laboratory work and consultations - as many days as are set out on the syllabi and time-tables;
- 4) to complete and present the graduation thesis (Bachelor's, Master's) - 30 calendar days;
- 5) to prepare for and take state (final) examinations - six days for each examination.

3. Travel time shall not be included in the period of educational leave.

Article 184. Unpaid Leave

1. Unpaid leave shall be provided at the employer's request

3) during a maternity leave and parental leave before the child has reached the age of three years to the father at his request (to the mother - during parental leave before the child has reached the age of three years); the aggregate duration of the above leaves may not be longer than three months;

Article 210. Conditions of Pay for Educational Leave

1. The employees specified in Article 181 of this Code, who are studying, taking entrance examinations to colleges and higher educational institutions under study contracts with their enterprise, shall be entitled to a paid educational leave, with the pay at the rate of at least the average wage.

Law on Sickness And Maternity Social Insurance 2000

21 December 2000 No IX-110

As amended by 20 December 2007 No X-1400

Vilnius

CHAPTER III**MATERNITY, PATERNITY AND MATERNITY (PATERNITY) ALLOWANCES****Article 16. Entitlement to Maternity Allowance over the Duration of Maternity Leave**

1. Persons insured in accordance with the procedure established in paragraph 1 of Article 4 of this Law who were granted pregnancy and child-birth leave shall be entitled to receive maternity allowance during pregnancy and child-birth leave if by the first day of pregnancy and child-birth leave they have sickness and maternity social insurance record of not less than 3 months during the last 12 months or not less than 6 months during the last 24 months, except the cases provided for in paragraphs 2 and 3 of this Article.

2. The insured persons under 26 years of age shall be entitled to receive maternity allowance during pregnancy and child-birth leave if by the beginning of the pregnancy and child-birth leave they have not acquired the record set in paragraph 1 of this Article because during the specified periods they were full time students of higher educational establishments, vocational schools and schools of general education, registered according to the established procedure, and the interval after the completion of studies (according to the document testifying to completion of studies), when they became insured persons, does not exceed 3 months.

3. Entitled to receive maternity allowance during pregnancy and child-birth leave shall also be the insured persons if by the first day of pregnancy and child-birth leave they have not acquired the record set in paragraph 1 of this Article because during the specified periods they

were insured as persons listed in subparagraphs 1 or 2 of paragraph 2 of Article 4 of the Law on State Social Insurance and the interval after the change of their status does not exceed 3 months.

Article 17. Duration of Maternity Allowance Payment during Pregnancy and Child-Birth Leave Period

1. Maternity allowance shall be paid to women for 126 calendar days after 30 or more weeks of pregnancy. In the case of complicated childbirth and if more than one child was born, the allowance shall be paid for extra 14 calendar days. Women who have not used the right to pregnancy and child-birth leave before the date of childbirth shall be maternity allowance for 56 calendar days after the childbirth.

2. Women who have not used the right to pregnancy and child-birth leave before the date of childbirth (30 or more weeks of pregnancy), in case of complicated childbirth and if more than one child was born the maternity allowance shall be paid for 70 calendar days after the childbirth.

3. Maternity allowance shall be payable to women who gave birth in the 28th-30th week of pregnancy for 28 calendar days after the childbirth. If the baby survives for 28 days or more, the allowance shall be payable for 126 calendar days after the childbirth. The women who gave birth to a stillborn baby in the 28th-30th week of pregnancy shall be paid maternity allowance for 28 calendar days after the childbirth.

4. Maternity allowance shall be payable for extra 14 calendar days to women who gave birth in the 28th-30th week of pregnancy, in the case of complicated childbirth and if more than one child was born.

Article 18. Amount of Maternity Allowance Paid during Pregnancy and Child-Birth Leave Period

1. The amount of maternity allowance during the pregnancy and child-birth leave period shall make 100 per cent of the allowance beneficiary's reimbursed remuneration. The amount of the allowance per month though shall not be lower than one-third of the current year's insured income valid for the beginning month of the pregnancy and child-birth leave had been granted. If more than one child is born, the maternity allowance shall be increased taking into

account the number of children born at the same time (twice, if twins are born, three times, in case triplets are born, etc.)

2. Maternity allowance shall be calculated and paid in accordance with procedures established by the Regulations of Sickness and Maternity Social Insurance Allowances approved by the Government.

Article 18¹. Entitlement to Paternity Allowance

1. Entitled to paternity allowance shall be the parent who:

1) has been insured in accordance with provisions of paragraph 1 of Article 4 of this Law;

2) has been granted a child care leave before the child is 1 month old;

3) over the last 24 months before the first day of child care leave had not less than 7 months of sickness and maternity social insurance record;

2. Entitled to paternity allowance during paternity leave shall be insured persons under 26 years of age if by the beginning of paternity leave they have not acquired the record set in subparagraph 3 of paragraph 1 of this Article because during the specified periods they were full time students of higher educational establishments, vocational schools and schools of general education, registered according to the established procedure, and the interval after the completion of studies (according to the document testifying completion of studies), when they became insured persons, does not exceed 3 months.

3. Entitled to paternity allowance during the paternity leave period shall also be the insured persons if by the beginning of paternity leave period they have not acquired the said record as during the specified periods they were insured as persons listed in subparagraphs 1 or 2 of paragraph 2 of Article 4 of the Law on State Social Insurance and the interval after the change of their status does not exceed 3 months.

Article 18². Duration of Paternity Allowance Payment

Paternity allowance shall be paid for the period of paternity leave from the day of childbirth until the child is 1 month old.

Article 18³. The Amount of Paternity Allowance

The amount of paternity allowance shall make 100 per cent of the allowance beneficiary's reimbursed remuneration. The allowance shall not be lower per month than one-third of the current year's insured income valid for the month of the granting of paternity leave. The allowance shall be calculated and paid in accordance with the procedure established by the Regulations of Sickness and Maternity Social Insurance Allowances approved by the Government.

Law on State Social Insurance 1991**CHAPTER I****General Provisions****Article 4. Persons Insured by the State Social Insurance**

State Social Insurance shall be obligatory for:

- 1) persons working under employment;
- 2) deputies who are paid for work in their respective councils;
- 3) persons who work for organizations of a military nature (firefighters, rescuers, signalers, etc.) if they are not eligible for special social provisions under other laws;
- 4) members of partnerships including agricultural partnerships receiving in them income from work;
- 5) shareholders who receive income for their work in a stock corporation ;
- 6) members of the College of Barristers;
- 7) sole proprietors;
- 8) farmers and members of their families who are over 18 years of age and who work on the farm.



ประวัติผู้เขียน

ชื่อ-นามสกุล
ประวัติการศึกษา

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รุ่นที่ 1

ประกาศนียบัตรหลักสูตรวิชาว่าความ สำนักฝึกอบรม
วิชาว่าความแห่งสหภาพนายความ รุ่นที่ 17

เนติบัณฑิตไทย สำนักอบรมศึกษากฎหมายแห่ง
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ปริญญาโท นิติศาสตรมหาบัณฑิต มหาวิทยาลัยธุรกิจ
บัณฑิตย์ รุ่นที่ 25

ตำแหน่งและสถานที่ทำงานปัจจุบัน

นิติกรปฏิบัติการ กรมพัฒนาสังคมและสวัสดิการ
กระทรวงการพัฒนาสังคมและความมั่นคงของมนุษย์

