



SIXTH ITEM ON THE AGENDA

**Form for reports on the application of  
ratified Conventions (article 22 of the  
Constitution): the Maternity Protection  
Convention, 2000 (No. 183)**

1. In accordance with the usual practice the Committee is requested to examine the draft form to be used as a basis for the reports on the above instrument which the governments of ratifying States will be required to submit under article 22 of the Constitution of the ILO. The draft form is appended.
2. The text of the Maternity Protection Recommendation, 2000 (No. 191), will be appended to the report form, which includes an explanatory note.
3. *The Committee is invited to decide on the report form for the Maternity Protection Convention, 2000 (No. 183), and to submit it to the Governing Body for approval.*

Geneva, 26 September 2000.

*Point for decision:* Paragraph 3.

## Appendix

Appl. 22.183  
183. Maternity Protection, 2000

INTERNATIONAL LABOUR OFFICE GENEVA

### REPORT FORM

FOR THE

### MATERNITY PROTECTION CONVENTION, 2000 (No. 183)

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

The Government may deem it useful to consult the appended text of the Maternity Protection Recommendation, 2000 (No. 191), the provisions of which supplement the present Convention and can contribute to a better understanding of its requirements and facilitate its application.

---

### PRACTICAL GUIDANCE FOR DRAWING UP REPORTS

---

#### *First reports*

If this is your Government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

#### *Subsequent reports*

In subsequent reports, information need normally be given only:

- (a) on any new legislative or other measures affecting the application of the Convention;
- (b) in reply to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;
- (c) **in reply to comments by the supervisory bodies:** the report must contain replies to any comments regarding the application of the Convention in your country which have been made by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.

## Article 22 of the Constitution of the ILO

Report for the period ..... to .....  
made by the Government of .....  
on the

### **MATERNITY PROTECTION CONVENTION, 2000 (No. 183)**

(ratification registered on .....)

- I. Please give a list of the laws and regulations which apply the provisions of the Convention. Where this has not already been done, please forward copies of these texts to the International Labour Office.**

**Please indicate whether there exist other means which are relevant to the implementation of the Convention, such as collective agreements, arbitration awards or court decisions (see Article 12 of the Convention). If so, please provide the texts of sample agreements or awards and of leading court decisions.**

**Please give any available information concerning the extent to which the laws and regulations have been enacted or modified to permit ratification or as a result of ratification.**

- II. Please indicate in detail for each of the following Articles of the Convention the provisions of the abovementioned laws and regulations or the other means, under which each Article is applied. Please also give the information specifically requested below under each Article.**

**If in your country ratification of the Convention gives the force of national law to its terms, please indicate by virtue of what constitutional provisions the ratification has had this effect. Please also specify what action has been taken to make effective those provisions of the Convention which require a national authority to take certain specific measures.**

**If the Committee of Experts or the Conference Committee on the Application of Standards has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information asked for or indicate the action taken by your Government to settle the points in question.**

#### 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.

*Please provide statistics on the total number of employed women including the number of those in atypical forms of dependent work (e.g. home work, telework, temporary work, etc.). Please state whether specific legislative or other measures have been taken or are contemplated in respect of women in any such atypical form of dependent work (paragraph 1).*

*In so far as exclusions have been made under paragraph 2, please provide detailed information on the consultations held with the representative organizations of employers and workers concerned and the decisions taken thereafter.*

## HEALTH PROTECTION

### Article 3

Each Member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

*Please indicate the consultations held and the legislative or practical measures that have been taken to give effect to this Article, specifying in particular:*

- (a) the work which has been determined by the competent authority to be prejudicial to the health of the mother and child;*
- (b) the procedure for carrying out an assessment of the health risks involved and of making the results thereof available to the woman concerned;*
- (c) the measures empowering the woman to decide not to perform work referred to in this Article (see Paragraph 6, subparagraph 2, of Recommendation No.191);*
- (d) the authority or authorities responsible for adopting the measures called for in this Article.*

## 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.

*Please indicate the length of maternity leave before and after childbirth and the forms of certification for maternity leave recognized in national law and practice (paragraph 1).*

*Please indicate the length of compulsory leave after childbirth and, if less than six weeks, the manner in which it has been determined (paragraph 4).*

#### 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.

*Please state the nature and the maximum duration of the leave referred to in this Article, if such have been specified.*

#### 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.

*Please indicate whether the benefits referred to in this Article are provided by any of the following means or a combination thereof (paragraphs 6 and 8):*

- *compulsory social insurance;*
- *public funds;*
- *the employer;*
- *social assistance funds;*
- *other means as determined by national law and practice.*

*Please indicate, for each of the means used, the conditions to qualify for cash benefits, the categories and the number of employed women to which the conditions apply, as well as the total number of women who have been receiving cash benefits from each of the abovementioned sources in the period under review (paragraphs 1 and 5).*

*Please indicate the methods used to determine the cash benefits and the rates payable calculated as a percentage of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits (paragraph 3), or, if paragraph 4 is applicable, as a percentage of the average earnings in the country, the region, or the occupation concerned, as appropriate.*

*Please indicate the measures taken to ensure that cash benefits are maintained at the level prescribed in paragraph 2.*

*Please describe the medical benefits provided for in laws and regulations or in accordance with national practice, indicating the types of care (paragraph 7).*

*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.

EMPLOYMENT PROTECTION AND NON-DISCRIMINATION

*Article 8*

1. It shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave referred to in Articles 4 or 5 or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing. The burden of proving that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences or nursing shall rest on the employer.

2. A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

*Please state the duration of the period following a woman's return to work which has been prescribed by national laws or regulations in accordance with paragraph 1.*

*Please indicate the measures of the legal and procedural nature which give effect to paragraph 1, including remedies afforded in case of unjust dismissal.*

*Please indicate how effect is given to paragraph 2.*

*Article 9*

1. Each Member shall adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including – notwithstanding Article 2, paragraph 1 – access to employment.

2. Measures referred to in the preceding paragraph shall include a prohibition from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, except where required by national laws or regulations in respect of work that is:

- (a) prohibited or restricted for pregnant or nursing women under national laws or regulations; or
- (b) where there is a recognized or significant risk to the health of the woman and child.

*Please detail the measures adopted to give effect to the provisions of this Article, including such remedies and sanctions as may be deemed appropriate.*

## BREASTFEEDING MOTHERS

*Article 10*

1. A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

2. The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.

*Please describe in detail the daily arrangement of working time determined by national law and practice in order to permit a woman to breastfeed her child.*

## PERIODIC REVIEW

*Article 11*

Each Member shall examine periodically, in consultation with the representative organizations of employers and workers, the appropriateness of extending the period of leave referred to in Article 4 or of increasing the amount or the rate of the cash benefits referred to in Article 6.

*Please indicate when periodic examinations provided for in this Article have taken place and specify the representative organizations of employers and workers consulted and the decisions taken.*

## IMPLEMENTATION

*Article 12*

This Convention shall be implemented by means of laws or regulations, except in so far as effect is given to it by other means such as collective agreements, arbitration awards, court decisions, or in any other manner consistent with national practice.

*Please indicate the provisions of national laws or regulations or, where appropriate, collective agreements, arbitration awards, or court decisions which implement the provisions of the Convention and, in particular, those which determine the status of female persons and children for the purposes of this Convention.*

- III. Please state to what authority or authorities the application of the abovementioned laws and regulations is entrusted, and by what methods such application is supervised and enforced.**
- IV. If this information has not already been given in reply to earlier questions, please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.**
- V. Please provide general information on the manner in which the Convention is applied in your country including, for instance, extracts from official reports, information regarding the number and the nature of contraventions reported and any other particulars on practical difficulties encountered in the implementation of the Convention.**

- VI. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.<sup>1</sup> If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explain the procedure followed.**
- VII. Please indicate whether you have received from the organizations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention. If so, please communicate a copy of the observations received, together with any comments that you consider useful.**

**MATERNITY PROTECTION  
RECOMMENDATION, 2000 (No. 191)**

[Text not reproduced here]

<sup>1</sup> Article 23, paragraph 2, of the Constitution reads as follows: "Each Member shall communicate to the representative organizations recognized for the purpose of article 3, copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."