

5.6.3: Maternity and paternity rights policies

5.6.3.1: Policies that promote women's participation and provide maternity and paternity rights

- Answer to the question: Yes
- Textual information of the evidence:

<https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=21500&MevzuatTur=9&MevzuatTertip=5>

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PUBLIC PERSONNEL GENERAL NOTICE (Series No: 6)

Following the amendments made to the Civil Servants Law No. 657 by the Law on Amendments to the Income Tax Law and Certain Other Laws, dated 29/1/2016 and numbered 6663, published in the Official Gazette dated 10/2/2016 and numbered 29620, it has been deemed necessary to make the following explanations in order to ensure uniform application among public institutions and organizations regarding the use of leave granted for birth and adoption.

1. LEAVE GRANTED FOR BIRTH

A) Maternity Leave

Paragraph (A) of Article 104 of Law No. 657, amended by Law No. 6663 dated 29/1/2016, states: "Female civil servants shall be granted maternity leave for a total of sixteen weeks, consisting of eight weeks before and eight weeks after childbirth. In the case of multiple pregnancies, two weeks shall be added to the eight-week maternity leave period before childbirth. However, if a female civil servant can prove with a doctor's report that her health condition is suitable for work up to eight weeks before the expected date of childbirth, she may work at her institution for up to three weeks before childbirth if she so desires. In this case, the actual period worked before the birth based on this report is added to the postnatal maternity leave period. If the birth occurs early, the unused portion of the prenatal maternity leave is also added to the postnatal maternity leave period. In cases where the birth occurs before the date on which the pre-birth maternity leave should begin, the period between the date of birth and the date on which the maternity leave should begin is added to the post-birth maternity leave. In the event of the mother's death during or after the use of maternity

leave, the father, if he is a civil servant, is granted leave for the same period as that provided for the mother, upon request.

Explanations regarding the application of maternity leave to be granted under paragraph (A) of Article 104 of Law No. 657, as amended, are provided below:

1) Duration of maternity leave

a) Civil servants shall be granted a total of sixteen weeks of maternity leave, consisting of eight weeks before the expected date of birth and eight weeks after giving birth.

b) In cases of multiple pregnancies (twins, triplets, etc.), an additional two weeks shall be added to the eight-week pre-birth maternity leave period. Thus, in cases of multiple pregnancies, the pre-birth maternity leave period is ten weeks.

2) Use of maternity leave

a) Except in the event of the mother's death, only female civil servants are entitled to maternity leave.

b) Maternity leave must be taken consecutively and cannot be taken in separate periods.

3) Periods that may be added to postnatal maternity leave

a) Upon request, the employee may continue to work at the Institution for up to three weeks prior to the expected date of delivery, provided that she submits a medical report certifying that her health condition is suitable for work.

b) A civil servant who wishes to continue working at their institution for up to three weeks prior to the expected date of birth must submit a medical report confirming that their health condition is suitable for work to the institution at the beginning of the pre-birth maternity leave period.

c) The medical report certifying that the employee's health condition is suitable for work up to three weeks before the expected date of birth may be obtained from a healthcare provider contracted or not contracted with the Social Security Institution.

ç) Only the periods during which the employee actually worked at the Institution prior to the birth based solely on the medical report (maximum five weeks for single pregnancies, maximum seven weeks for multiple pregnancies) will be added to the post-birth maternity leave period. The periods during which the employee continues to work at the Institution without documenting that their health condition is suitable for work with a medical report will not be added to the postnatal maternity leave period.

d) An employee who has been approved by a doctor's report to work at the Institution up to three weeks before the expected date of birth may use their statutory leave (sick leave, leave of absence, annual leave, etc.) during this period. However, these statutory leave periods will not be added to the postnatal maternity leave period.

e) Under no circumstances may the employee work at the Institution during the three weeks prior to the expected date of birth.

4) Maternity leave in case of premature birth

a) For an employee who gives birth before the expected date of delivery, the period of prenatal maternity leave that could not be used prior to delivery shall be added to the postnatal maternity leave period.

aa) For a public servant who has taken eight weeks of maternity leave (ten weeks in the case of multiple pregnancies) before the expected date of birth and gives birth prematurely during this period, the period of prenatal maternity leave that could not be used due to the premature birth shall be added to the postnatal maternity leave period.

ab) If a female employee who has been actively working at the Institution for up to three weeks prior to the expected date of birth gives birth prematurely during the last three weeks of her pre-birth maternity leave, the period of maternity leave she was unable to use before birth shall be added to her post-birth maternity leave, together with the periods she spent actively working at the Institution.

ac) If a female employee who continues to work at her institution by obtaining a doctor's report stating that her health condition is suitable for work, without taking prenatal maternity leave (ten weeks of maternity leave in cases of multiple pregnancies) eight weeks before the expected date of birth, gives birth prematurely during this period, the period of prenatal maternity leave that could not be used due to the early birth, together with the periods spent actually working at the institution, shall be added to the postnatal maternity leave period.

aç) In cases of birth occurring before the date on which prenatal maternity leave should commence (the 32nd week in single pregnancies and the 30th week in multiple pregnancies), the eight-week period of prenatal maternity leave that could not be used due to the premature birth, along with the period from the date of birth to the date when prenatal maternity leave should have started, will be added to the postnatal maternity leave period.

Example: If a single pregnant employee gives birth in the 29th week, the three-week period up to the 32nd week, when prenatal maternity leave should begin, will be added to the postnatal maternity leave period, along with the eight weeks of prenatal maternity leave that could not be used due to premature birth. Thus, the employee's postnatal maternity leave period will be 19 weeks.

b) For employees who give birth before the date on which their prenatal maternity leave should begin and who are covered by Article 104 of Law No. 657, as amended by Law No. 6663 dated 29/1/2016, (A) of Article 104 of Law No. 657, as amended by Law No. 6663 dated 29/1/2016, on 10/2/2016, the period between the date of birth and the date on which the pre-birth maternity leave began shall be added to the post-birth maternity leave period.

5) Maternity leave in case of late birth

a) If the birth occurs after the expected date, the additional period shall not be deducted from the postnatal maternity leave period.

6) Maternity leave in case of stillbirth

a) A public servant who has a stillbirth shall be entitled to the same prenatal and postnatal maternity leave as a public servant who has a live birth.

b) The decision will be made based on the report issued by the physician regarding whether the employee had a miscarriage or a stillbirth.

7) Leave granted to the father in the event of the mother's death

a) In the event of the mother's death during childbirth or while using maternity leave after childbirth, the father, if he is a civil servant, will be granted leave for the same period as that provided for the mother, upon request.

8) Maternity leave for civil servants who give birth while on unpaid leave

a) In accordance with the relevant legislation, a pregnant civil servant who is on unpaid leave shall be granted pre- and post-natal maternity leave, upon request, without the requirement to return to work, by terminating her unpaid leave.

9) Maternity leave to be granted in the event of appointment to civil service within the eight weeks before and after childbirth

a) A person appointed to civil service within the eight-week period preceding the expected date of birth (ten weeks in the case of multiple pregnancies) shall be granted the remaining portion of the pre-birth maternity leave period and post-birth maternity leave, provided that they commence their duties.

b) A person appointed to civil service within the eight-week period after birth shall be granted only the remaining portion of the eight-week postnatal maternity leave period, provided that they commence their duties.

10) Maternity leave granted to teachers

a) For teachers who give birth before the expected date of birth during the summer vacation, the pre-birth maternity leave period that could not be used due to early birth shall be added to the post-birth maternity leave period.

b) The five-week (seven weeks in the case of multiple pregnancies) pre-birth maternity leave period, which coincides with the summer vacation and can be added to the post-birth maternity leave period if the teacher actually works, will not be added to the post-birth maternity leave period.

B) Breastfeeding Leave

Article 104(D) of Law No. 657 states, "Female civil servants shall be granted breastfeeding leave for three hours per day during the first six months and one and a half hours per day during the second six months following the end of postnatal maternity leave to breastfeed their children. The hours during which breastfeeding leave is taken and the number of times per day are determined by the female employee's preference." On the other hand, paragraph (F) of the same article states that female employees who have given birth are entitled to

1) Request for breastfeeding leave

a) The employee shall notify the institution where she works in writing whether she wishes to take advantage of the half-day leave entitlement or breastfeeding leave after the end of the postnatal maternity leave period.

2) Duration of breastfeeding leave

a) A public servant shall be granted three hours of breastfeeding leave per day for the first six months and one and a half hours per day for the second six months, starting from the end date of the postnatal maternity leave period.

b) The duration of breastfeeding leave is the same in cases of multiple births.

3) Use of breastfeeding leave

a) Only female employees are entitled to breastfeeding leave.

b) The employee determines the hours and number of times per day that breastfeeding leave is used.

c) An employee cannot simultaneously use breastfeeding leave and the half-day leave entitlement provided for in Article 104(F) of Law No. 657.

c) Since breastfeeding leave is a leave entitlement that the employee must use daily to breastfeed their child, this leave cannot be combined and used on subsequent days.

d) If the child dies while the employee is using breastfeeding leave, the employee cannot use the remaining period of this leave.

4) Transition from half-day leave entitlement to breastfeeding leave

a) An employee who chooses to use half-day leave after the end of postnatal maternity leave and requests to stop using the half-day leave entitlement and use breastfeeding leave instead shall be entitled to the remaining portion of the breastfeeding leave period.

b) An employee who requests to use the half-day leave entitlement after the end of the postnatal maternity leave period and whose entitlement period has expired shall be entitled to the remaining portion of the breastfeeding leave.

5) Breastfeeding leave for female civil servants who gave birth before being appointed to civil service

a) A civil servant who gave birth before being appointed to civil service shall be entitled to the remaining portion of the breastfeeding leave period following the completion of the eight-week period after childbirth.

C) Half-Day Leave

Paragraph (F) added to Article 104 of Law No. 657 by Law No. 6663 dated 29/1/2016 states:

"At the end of the postnatal maternity leave period, female civil servants may, upon request and provided that the child is alive, work for half of the daily working hours for two months after the first birth, four months for the second birth, and six months for subsequent births, working half of the daily working hours. In cases of multiple births, one month is added to these periods. In cases where the child is born with a disability or the child's disability is determined within twelve months after birth, these periods shall be applied as twelve months... The periods during which the employee will work shall be determined by the relevant institution."

Explanations regarding the application of half-day leave that can be taken after the end of the postnatal maternity leave period, as regulated in paragraph (F) of Article 104 of Law No. 657, are provided below:

1) Request for half-day leave

a) The use of half-day leave after the end of the postnatal maternity leave period is subject to the employee submitting a written request. The request shall be granted by the institution provided that the child is alive.

2) Half-day leave period

a) The civil servant's half-day leave period shall be two months for the first birth, four months for the second birth, and six months for subsequent births, starting from the end of postnatal maternity leave.

b) The half-day leave period shall be determined based on the employee's delivery, and this period shall not be determined according to the number of the employee's living children.

Example: If an employee has a stillbirth followed by the birth of a child and the child is alive on the date of the half-day leave request, the employee's half-day leave period shall be four months.

3) Use of half-day leave

a) Only female employees are entitled to half-day leave.

b) Employees who take advantage of half-day leave will not be granted additional breastfeeding leave.

c) If the child dies while the employee is using their half-day leave entitlement, the employee cannot use the remaining period of this leave.

ç) The start and end times of the periods during which the employee will work will be determined by the institution.

d) The daily working hours of an employee benefiting from half-day leave entitlement shall be half of the daily working hours determined in accordance with Article 100 of Law No. 657.

e) The working pattern of an employee benefiting from half-day leave entitlement who performs services that require 24-hour continuity shall be arranged by the institutions by taking into account the weekly 20-hour working period. 4) Transition from half-day leave entitlement to breastfeeding leave

a) An employee who chooses to use half-day leave after the end of postnatal maternity leave and requests to stop using the half-day leave entitlement and use breastfeeding leave instead shall be entitled to the remaining portion of the breastfeeding leave period.

4) Half-day leave period in multiple births

a) In multiple births (twins, triplets, etc.), one month shall be added to the half-day leave period.

Example: If the employee has twins in the first birth, the half-day leave period is three months. If the same employee has twins again in the second birth, the half-day leave period is five months.

5) Half-day leave period in case of a child's disability

a) If the child is born with a disability, the half-day leave period is twelve months from the end of the postnatal maternity leave period.

b) If the child's disability is determined within twelve months after birth, the employee's half-day leave period is the remaining part of the twelve-month period from the end of the postnatal maternity leave period.

6) Transition from breastfeeding leave to half-day leave entitlement

a) An employee who chooses to use breastfeeding leave after the end of the postnatal maternity leave period and requests half-day leave entitlement by discontinuing breastfeeding leave shall be entitled to this leave entitlement for the remaining portion of the half-day leave period.

7) Half-day leave for civil servants who gave birth before being appointed to civil service

a) A person who gave birth and was appointed to civil service after giving birth may request half-day leave, provided that the child is alive. However, the half-day leave period for this civil servant shall be the remaining part of the two-month period for the first birth, the four-month period for the second birth, and the six-month period for subsequent births, starting from the end of the eight-week period after the birth.

8) Half-day leave for civil servants who gave birth before February 10, 2016

a) An employee who was using maternity leave on February 10, 2016, when paragraph (A) of Article 104 of Law No. 657, amended by Law No. 6663 dated January 29, 2016, came into effect, is entitled to request half-day leave at the end of the postnatal maternity leave period.

b) Civil servants whose maternity leave period had ended before the effective date of Article 104(A) of Law No. 657, as amended by Law No. 6663 dated 29/1/2016, and who were using their breastfeeding leave as of the effective date, shall be entitled to half-day leave for the remaining portion of the two-month period for the first birth, four months for the second

birth, and six months for subsequent births, upon request, starting from the end of the maternity leave period.

C) Leave Without Pay Granted Due to Childbirth

Article 108(B) of Law No. 657, amended by Law No. 6663 dated January 29, 2016, states:

"Upon the expiration of the postnatal maternity leave granted to a female employee who has given birth pursuant to Article 104 or the leave granted pursuant to paragraph (F) of the same article; and to a public servant whose spouse has given birth, unpaid leave of up to twenty-four months shall be granted upon request, starting from the date of birth."

Explanations regarding unpaid leave to be granted due to childbirth, as stipulated in paragraph (B) of Article 108 of Law No. 657, are provided below:

1) Duration of unpaid leave

a) Unpaid leave of up to twenty-four months shall be granted upon request to female civil servants who have given birth and to male civil servants whose spouses have given birth.

2) Use of unpaid leave

a) The start date of unpaid leave granted to the civil servant who gave birth shall be the end of the postnatal maternity leave period or, if applicable, the end of the leave period granted in accordance with Article 104(F) of Law No. 657; the start date of unpaid leave granted to the spouse of the civil servant who gave birth shall be the date of birth.

b) A public servant whose spouse has given birth shall be granted unpaid leave for up to twenty-four months upon request, regardless of whether their spouse is a public servant.

c) If both spouses are public servants, the unpaid leave granted due to childbirth may be used by both spouses during the same period or consecutively within the specified timeframes.

ç) Unpaid leave granted due to childbirth may be taken in installments, provided that the twenty-four-month period is not exceeded.

3) Granting unpaid leave due to childbirth to civil servants who give birth or whose spouse gives birth while on unpaid leave

a) In accordance with the relevant legislation, an employee who gives birth while on unpaid leave shall be granted unpaid leave for the period requested, without exceeding the twenty-four-month period, starting from the end of the post-birth maternity leave if she uses her maternity leave, or from the end of the eight-week period following the birth if she does not use her maternity leave. without requiring a return to duty, for as long as requested.

b) In accordance with the relevant legislation, a public servant whose spouse gives birth while on unpaid leave shall be granted unpaid leave for up to twenty-four months from the date of birth, upon request, without requiring a return to duty.

4) Unpaid leave in case of stillbirth

a) Unpaid leave granted for childbirth shall not be granted to civil servants who have had a stillbirth or to civil servants whose spouse has had a stillbirth.

5) Unpaid leave for civil servants who gave birth or whose spouse gave birth before being appointed to civil service

a) A person who gave birth and was subsequently appointed to civil service shall be granted unpaid leave, upon request and subject to commencement of duty, for a period not exceeding twenty-four months from the end of the eight-week post-birth period or, if applicable, the end of the half-day leave period.

b) A public servant whose spouse gave birth before their appointment to public service shall be granted unpaid leave for up to twenty-four months from the date of birth, upon request.

6) Unpaid leave for civil servants who gave birth before February 10, 2016

a) For female civil servants who gave birth before February 10, 2016, the effective date of paragraph (B) of Article 108 of Law No. 657, as amended by Law No. 6663 dated January 29, 2016, if they avail themselves of the remaining portion of their half-day leave entitlement, the starting date of the twenty-four-month unpaid leave shall be determined as the end date of the half-day leave period.

II- LEAVE TO BE GRANTED IN THE CASE OF ADOPTION

A) Common Provisions

1) Employees eligible for leave rights granted due to adoption

a) The following public servants shall be entitled to leave granted for adoption:

- Public servants who adopt a child under the age of three together with their spouse,
- Single or married public servants who adopt a child under the age of three individually,
- Public servants whose spouse, who is not a public servant, adopts a child under the age of three individually.

b) No distinction shall be made between female and male civil servants in benefiting from leave entitlements due to adoption.

B) Eight Weeks of Leave Granted Due to Adoption

Paragraph (A) of Article 104 of Law No. 657, amended by Law No. 6663 dated 29/1/2016, states, "... Public servants who adopt a child under the age of three with their spouse or individually, and public servants whose non-public servant spouse adopts a child individually, shall be granted eight weeks of leave from the date the child is handed over. This leave shall also apply in cases where the child is actually handed over before the adoption decision is made."

Explanations regarding the eight weeks of leave to be granted for adoption, as stipulated in paragraph (A) of Article 104 of Law No. 657, are provided below:

1) Use of the eight weeks of leave

a) The start date of this leave is the date the child is handed over. However, if the child was actually handed over before the adoption decision was made, the start date of the leave is the date the child was actually handed over.

b) If both spouses are civil servants and they jointly adopt a child under the age of three, both spouses shall be entitled to this leave.

2) Eight weeks of leave to be granted in the event of adoption prior to appointment to civil service

a) A person appointed to civil service within eight weeks of the date of delivery of the adopted child shall be granted leave for the remaining portion of the eight-week leave period, provided that they commence their duties.

3) Eight weeks of leave for civil servants in cases of adoption occurring before February 10, 2016

a) For adoptions occurring before the effective date of paragraph (A) of Article 104 of Law No. 657, as amended by Law No. 6663 dated January 29, 2016, (A) of Article 104 of Law No. 657, as amended by Law No. 6663 dated 29/1/2016, the employee shall be granted leave for the remaining portion of the eight-week period starting from the date the adopted child is handed over.

C) Half-Day Leave

Paragraph (F) added to Article 104 of Law No. 657 by Law No. 6663 dated 29/1/2016 states: "... Public servants who adopt a child under the age of three with their spouse or individually, as well as public servants whose non-public servant spouse adopts a child individually, shall, upon request, benefit from this right under the same principles from the end of the eight-

week leave granted in accordance with paragraph (A). The periods during which the civil servant will work shall be determined by the relevant institution."

Explanations regarding half-day leave due to adoption, as regulated in paragraph (F) of Article 104 of Law No. 657, are provided below:

1) Request for half-day leave

a) In cases of adoption, the use of half-day leave after the end of the eight-week leave period granted in accordance with paragraph (A) of Article 104 of Law No. 657 is subject to the civil servant submitting a written request. The relevant request shall be granted by the institution provided that the child is alive.

2) Use of half-day leave

a) Public servants requesting half-day leave due to adoption shall benefit from this right in accordance with the principles governing the use of half-day leave by public servants who have given birth.

b) If both spouses are public servants and they jointly adopt a child under the age of three, both spouses shall be entitled to half-day leave upon request.

c) The duration of half-day leave shall be determined by taking into account the number of children the adopter already has. No distinction shall be made between biological and adopted children when determining the number of children.

Example: If a civil servant with one biological child has a stillbirth and subsequently adopts a child, and the adopted child is alive at the time of the request, the civil servant's half-day leave period shall be six months.

3) Half-day leave for civil servants in cases of adoptions occurring before February 10, 2016

a) In cases of adoptions occurring before the entry into force of paragraph (F) of Article 104 of Law No. 657, as amended by Law No. 6663 dated January 29, 2016 (F) of Article 104 of Law No. 657, as amended by Law No. 6663 dated 29/1/2016, the public servant covered by this provision shall be entitled to the remaining portion of the half-day leave period starting from the end of the eight-week period following the date of delivery of the child.

C) Unpaid Leave Granted Due to Adoption

Paragraph (C) of Article 108 of Law No. 657, amended by Law No. 6663 dated 29/1/2016, states that "Civil servants who adopt a child under the age of three with their spouse or individually, and civil servants whose non-civil servant spouse adopts a child individually, shall be granted shall be granted unpaid leave for up to twenty-four months upon their request,

following the expiration of the eight-week leave granted pursuant to Article 104(A) or, if leave is taken pursuant to Article 104(F), following the expiration of such leave. If both spouses are civil servants, this period may be granted to the spouses in two consecutive parts, not exceeding a total of twenty-four months, upon their request.

Explanations regarding unpaid leave to be granted for adoption, as regulated in paragraph (C) of Article 108 of Law No. 657, are provided below:

1) Duration of unpaid leave

a) In cases of adoption, unpaid leave of up to twenty-four months shall be granted to civil servants upon their request.

2) Use of unpaid leave

a) The starting date of unpaid leave granted for adoptions shall be the end of the eight-week leave granted in accordance with Article 104(A) of Law No. 657 or, if leave is taken in accordance with paragraph (F) of the same article, the end of that leave.

b) Unpaid leave granted for adoption may be used in installments, provided that the twenty-four-month period is not exceeded.

c) If both spouses are civil servants and adopt a child under the age of three together, the unpaid leave period may be granted to the spouses in two consecutive installments, upon their request, provided that the twenty-four-month period is not exceeded.

3) Unpaid leave to be granted in the event of adoption prior to appointment to civil service

a) If the adoption takes place prior to appointment to civil service, the civil servant concerned may, upon request, exercise their right to unpaid leave granted for the reason of adoption. The starting date of this leave shall be the end of the eight-week period from the date the child is handed over or, if applicable, the end of the half-day leave period.

4) Leave without pay for civil servants in cases of adoption occurring before February 10, 2016

a) In cases of adoption occurring before the effective date of paragraph (C) of Article 108 of Law No. 657, as amended by Law No. 6663 dated January 29, 2016, If the adoption took place before February 10, 2016, when paragraph (C) of Article 108 of Law No. 657, as amended by Law No. 6663 dated January 29, 2016, entered into force, the starting date of the twenty-four-month unpaid leave period for the public servant covered by this provision shall be determined as the end date of the eight-week leave if the remaining period of the leave is

used, or as the end date of the half-day leave period if the remaining period of the half-day leave entitlement is used.

III- REPEALED NOTIFICATION

A) Section (A) titled “Leave Granted to Civil Servants for Childbirth” of the General Public Personnel Notification No. 2, published in the Official Gazette dated April 15, 2011, and numbered 27906, is hereby repealed.