



Recent employment law updates in Cyprus

2017 has seen the adoption of new employment related laws, such as the long-awaited Law on the Protection of Paternity and the introduction of the concept of surrogacy. These recent updates are welcomed as they align the area with modern employment-friendly standards. In addition, there have been amendments to the redundancy law and law relating to smoking in the work place.

Below is a short description of the key changes.

- **The Protection of Paternity Law of 2017 (Law 117(I)/2017)**

The key points of the new Paternity Law are the following:

Right to Paternity Leave

An Employee has the right to paternity leave if:

- his wife gave birth to a child; or
- he and his wife had a child through a surrogate mother; or
- he and his wife adopted a child aged up to 12 years old.

Timing and Length of Paternity Leave

- Paternity leave is taken for two (2) consecutive weeks.
- Paternity leave shall be taken any time within the period that starts from the week of childbirth or adoption and ends sixteen (16) weeks later.

Notification of Paternity Leave

The employee wishing to exercise his right to paternity leave must notify his employer in writing, two (2) weeks prior to the commencement of the paternity leave.

Prohibition of Termination of Employment

With certain exceptions which are set out in the Law, the employee who provides his employer with a written notice for paternity leave is protected against dismissal by the employer. The protective period commences on the day that the written notice is given to the employer and ends on the expiry date of the paternity leave, i.e. at the end of the two (2) consecutive weeks.

Rights During and After Paternity Leave

The employee who has exercised his right to paternity leave must not be subjected to a disadvantage or unfair treatment and is entitled to:

- return to the same or other suitable alternative job he held prior to the commencement of the paternity leave with the same salary and benefits, except for payment commissions that are calculated based on the quantity and/or value of produced work;
- return to the same terms and conditions of employment.

- **The Social Insurance Law of 2010 (Law 59(I)/2010)**

The Social Insurance (Amendment) Law of 2017 (115(I)/2017) introduced the paternity benefit.

Right to Paternity Benefit

- An employee whose wife gave birth to a child or he and his wife had a child through a surrogate mother or he and his wife adopted a child aged up to 12 years old has the right to paternity benefit provided he satisfies the relevant social insurance requirements.
- An employee does not have the right to paternity benefit for any period during which he receives his basic salary from his employer. If he receives only part of his salary, then the paternity benefit is reduced so that the total amount of the paternity benefit and his salary together does not exceed the amount of his basic salary.

Amount, Timing and Length of Paternity Benefit

- Paternity benefit is equal to 72% of the employee's weekly salary.
- Paternity benefit is paid for two (2) consecutive weeks within the period that starts from the week of childbirth or adoption and ends sixteen (16) weeks later.
- In cases where the maternity leave and the maternity benefit of the employee's wife are extended due to multiple gestation and/or early childbirth, the employee's two (2) weeks of paternity benefit can be paid within the period that starts from the week of childbirth and ceases at the end of the period during which the wife receives the maternity benefit – in cases where the employee's wife does not qualify for maternity benefit, by the end of the period during which the wife would have received the maternity benefit had she qualified.

Loss of the right to Paternity Benefit

A beneficiary to paternity benefit loses the right to receive it for the whole period during which he worked, either as an employee or self-employed, and provided that the period he worked falls within the period within which he was eligible to receive paternity benefit.

- **The Protection of Maternity Law of 1997 (Law 100(1)/1997)**

The Protection of Maternity (Amendment) Law of 2017 (116(I)/2017) introduced the concept of surrogacy as follows:

Surrogate Mother

A female employee who, on behalf of a couple who wishes to have a child but is unable to have one due to medical reasons, becomes pregnant and gives birth, following IVF and transfer of embryos with the use of foreign genetic material to the employed woman in accordance with the Medically Assisted Human Reproduction Law of 2015.

Surrogacy and Right to Maternity Leave

A female employee who, in order to have a child, used a surrogate mother has the right to maternity leave provided she gives her employer:

- a Court order declaring that she will have a child through a surrogate mother; and
- a medical certificate from a registered doctor declaring the onset of pregnancy.

In such a case, maternity leave lasts for eighteen (18) consecutive weeks, from which the eleven (11) weeks must be taken during the period that starts two (2) weeks prior to the week of the expected childbirth or the week of the actual childbirth, whichever she chooses.

Right to Maternity Leave of a Surrogate Mother

A surrogate mother has the right to maternity leave. In such a case, maternity leave:

- must be taken two (2) weeks prior to the week of the expected childbirth; and
- lasts for fourteen (14) consecutive weeks.

If the childbirth does not take place within the expected week, the period of maternity leave which is to be taken prior to the childbirth is extended to the period that intervenes between the week of the expected childbirth and the week during which the childbirth takes place, without prejudice to the length of the eight (8) weeks period which must be taken following childbirth.

If the child birth takes place prior to the initial expected week of childbirth, the rest of the maternity leave is provided following the childbirth, so that a period of fourteen (14) weeks is completed.

Breast-feeding and Increased Care

For a period of (9) months following childbirth, a female employee, can: take a one-hour break during working hours; or commence work one hour later from the specified time; or leave her work one hour earlier from the specified time, for the purposes of breast-feeding and the increased care required for the upbringing of her child.

A surrogate mother loses the above right since the baby is transferred to the mother who used surrogacy in order to have a child.

Prohibition of Termination of Employment

With certain exceptions which are set out in the Law, a female employee who adduces a Court order declaring that she will have a child through a surrogate mother and a medical certificate from a registered doctor declaring the onset of pregnancy, is protected against dismissal from her employer. The protective period commences on the day that the required documentation is adduced to the employer and ends three (3) months following the expiry of the maternity leave.

- **The Social Insurance Law of 2010 (Law 59(I)/2010)**

The Social Insurance (Amendment) Law of 2017 (115(I)/2017) afforded maternity benefit to women who have used a surrogate mother in order to have a child.

Surrogacy and Right to Maternity Benefit

- A female employee who had a child through a surrogate mother in accordance with Medically Assisted Human Reproduction Law of 2015, has the right to maternity benefit provided she satisfies the relevant social insurance requirements.
- A female employee does not have the right to maternity benefit for any period during which she receives her basic salary from her employer. If she receives only part of her salary, then the maternity benefit is reduced so that the total amount of the maternity benefit and her salary together does not exceed the amount of her basic salary.

Timing and Length of Maternity Benefit

- In the case of a female employee who had a child through a surrogate mother, maternity benefit is paid for eighteen (18) consecutive weeks within the period that starts two (2) weeks prior to the week of the expected childbirth or the week of the actual childbirth, whichever she chooses.
- In the case of a surrogate mother, maternity benefit is paid for fourteen (14) consecutive weeks and can start two (2) weeks prior to the expected childbirth.

- Maternity Benefit for more than one child

The Social Insurance (Amendment) Law of 2015 (176(I)/2015) increased the maternity benefit in cases of birth of more than one child. In such cases, the period of eighteen (18) consecutive weeks of payment of maternity benefit is increased by four (4) weeks for each child additional child e.g. 18 weeks for one child, 22 weeks for twins, 26 weeks for triplets. The Social Insurance (Amendment) Law of 2017 (115(I)/2017) has also afforded this right to a woman who has had a child through a surrogate mother.

- **The Termination of Employment (Redundancy Fund) Regulations 1977-1996**

The Regulations have been amended and now article 12(3) states that where the applicant for redundancy payment proves that there was a reasonable cause for failing to submit his application on time, the deadline for submitting is extended for as long as this cause exists but no longer than twenty-four (24) months (from twelve (12) months that was before).

- **The Health Protection (Control of Smoking) Law of 2017 (Law 24(I)/2017)**

The Health Protection (Control of Smoking) Law of 2017 was published in the Official Gazette on 13 March 2017 and abolished the Health Protection (Control of Smoking) Law of 2002.

This new Law poses important obligations on tobacco products, manufacturers and sellers in relation to packaging, advertising, licensing etc. It explicitly prohibits workers from smoking in work premises.

Nadia Tryfonidou
Associate Partner- Head of Employment & Pensions
George Z. Georgiou & Associates LLC

This update does not constitute legal advice. George Z. Georgiou & Associates LLC is ready to provide you with more detailed information and clarifications with respect to the updates. Please contact us at admin@gzg.com should you wish to discuss the updates further.