



CHECKLIST FOR ENTERPRISES

BIRTH LEAVE

This checklist compiles the legal obligations, but also additional actions you can take (see “tips”) to make your organisation more family-friendly. Obviously, you start by reviewing what is necessary and possible at your company. This checklist is not exhaustive but a first tool to get started.

✓ **Congratulate your employee!**

✓ Find out about the **legal obligations** regarding paternity or birth leave.

Who is eligible for birth leave?

- Either the father
- Or the co-parent (the married or cohabiting (legally cohabiting, or in a permanent and affective manner for three years) partner of the mother)

✓ Ask your employee to **inform you in writing** of the birth leave.

This is important in connection with the protection against dismissal (see below).

✓ **Talk to the employee and plan the birth leave.**

Discuss his/her possible replacement (especially when birth leave is supplemented by parental leave (consult [checklist no. 7](#) in this regard) or, if an adoption procedure has been started, by adoption leave (consult the [special situations](#) in this regard)).

Inform your employee about his/her right to **birth leave**. Many co-parents and fathers do not know about this, or not enough.




TIP Give the father/co-parent **free time for prenatal examinations**.

The father or co-parent cannot invoke a medical reason to be present at these examinations. Nonetheless, these moments are crucial for their emotional attachment (e.g. ultrasound scans showing the baby and its health).


You can grant **separate leave** in this regard (such as circumstantial leave). In addition, you can give your employee permission to **work at home** on the day of the prenatal examination. That way he/she loses less time travelling (to your advantage) and it is easier for him/her to combine work and private life.

As a father or co-parent, the employee is entitled to **20 days of leave**, the first 3 of which are paid for by you as the employer, and the remaining 17 by the employee's health insurance fund. Your employee can take these days at once or spread them out for the 4 months after the birth.


More information on this can be found on the website of the [National Institute for Health and Disability Insurance](#).

 Add **important dates** to the agenda, relating to settling **administrative matters**.

- **Before the birth**, the employee must inform you about the birth and the delivery date. Only then is he/she entitled to his/her pay during the first 3 days of the birth leave.
- **For the remaining 17 days of birth leave**, the employee must first submit a request to his/her health insurance fund. He/she must fill in the 'beneficiary' section and ask you to fill in the 'employer' section of the [online information sheet](#) provided to them by the health insurance fund.

 Make **agreements** with the employee regarding **communication during the birth leave**.

It is important to **limit** contact during birth leave. This is a special period in which the family needs to adapt to the new situation in peace and quiet and fully enjoy the new family member.

 **Do not dismiss your employee** on account of their taking birth leave!

The right to dismiss an employee is restricted as soon as you, as the employer, have been informed (in writing) that they will take birth leave (no later than the first day of leave for the birth of a child) up to 5 months from the date of the birth (see Labour Law).



TIP 20 days of birth leave is not much, certainly not for such a major event. As such, consider extending the **birth leave**. However, the extra days of leave are paid for by you as the employer.



TIP Provide a **wage supplement** for the 17 days that your employee receives a benefit from the health insurance fund.

When taking the birth leave, the employee loses part of his/her pay (the benefit for the 17 days paid by the health insurance fund amounts to 82% of the capped gross wage). For many families, this means a considerable reduction in their family budget, precisely when a new family member arrives. Therefore, a wage supplement for these 17 days will definitely be appreciated.



During this protected period, you can only dismiss your employee for reasons that are unrelated to their taking birth leave. You must provide written proof of the reasons you invoke to justify the dismissal.

The same protection applies when you decide not to renew the employment contract. In this case too, you must provide written proof that this decision is independent of the right to leave for the birth of a child.

 **Do not discriminate on account of paternity or co-parent-hood.**

Fatherhood and joint parenthood constitute the protected criteria of “family responsibilities” under the Gender Act of 10 May 2007. This means that employees cannot be treated unfavourably on account of their being fathers or co-parents.

Discrimination in the workplace can take **various forms**, including difference in treatment, harassment, ineligibility for a promotion, not hiring someone because they are a father, firing someone because they take birth leave, etc. You can inform your employees preventively and also learn to recognise prejudice and discrimination.