

FOREWORD

This brochure is published by Legal Advice to Women (JURK). JURK provides free legal advice nationwide to all women living in Norway.

JURK draws the reader's attention to that the brochure deals with the main principles. Many details have been omitted. Reservation is made in case of changes in regulations after publication.

Our thanks for all the helpful input from our colleagues in JURK.

Oslo, January 2009.

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1.0 DURING PREGNANCY

1.1 The obligation to provide information

Employees do not have a mandatory duty to inform employers immediately when she becomes aware that she is pregnant. One should however show loyalty to one's employer and notify the company at an early stage in the pregnancy. Job applicants are not obliged to inform potential employers of pregnancy, neither do potential employers have the right to take pregnancy into account when engaging new employees.

1.2 Notice to employers

Notice

In connection with maternity leave, care leave, maternity leave in connection with childbirth and parental leave, the employer must be notified at the earliest possible opportunity. Absence in excess of two weeks must be notified at the latest one week prior to the first day of absence, absence in excess of twelve weeks must be notified at the latest four weeks in advance and absence in excess of one year must be notified at the latest twelve weeks prior to the commencement of leave. This will allow the employer to plan work in good time ahead.

1.3 Parental leave during pregnancy

Twelve weeks leave of absence

A pregnant employee has the right to parental leave for up to twelve weeks during pregnancy. The employer has no mandatory obligation to pay the employee during such leave, but the leave of absence is combined with the

right to social security benefits. There may also be regulations in collective and individual agreements. Should the employee wish to take such leave of absence, she must notify the employer as soon as possible and no later than one week in advance if the leave is to be of more than two weeks.

1.4 The work environment during pregnancy

Adaptation

The Working Environment Act ensures a safe and proper work environment for all employees. The workplace should, therefore, as far as possible be arranged so that pregnant workers are able to work without harm coming to the child. The Safety Delegate and the Labour Inspectorate shall ensure that the work environment is safe. If an employee is dissatisfied with the work environment, one of these should be contacted.

1.5 Protection against heavy work

Suitable work

Some types of work may be unsuitable for pregnant workers. In such cases, the employer is obliged to find a different task for the employee where this is possible.

1.6 The right to time off for prenatal examinations

A pregnant employee has the right to time off with pay in connection with prenatal examinations when it is difficult to arrange for such examinations outside working hours.

1.7 Pregnancy and other benefits

Legislation and regulations

In certain cases an employee may have the right to pregnancy or other benefits. As an example, one may be eligible for pregnancy benefits if the work is likely to cause damage to the foster and it is not possible to relocate the employee or adapt the work in a suitable manner.

Conditions

If an employee is to qualify for pregnancy benefits her income must be at least 50 % of the basic pension amount (B. a), which as of 01.05.08 is NOK 70 256. The employee must have been in work for a minimum of 4 weeks immediately prior to the order to cease work being issued.

Pregnancy benefit is calculated on the basis of the rules governing sick pay, i.e. the benefit is calculated on the average weekly income for the previous 4 weeks. For most employees this will usually be 100 % of gross income. The social security system has an upper limit for payment of pregnancy benefit equal to 6 B. a. Pregnancy benefit is paid from the point in time the employee is ordered to cease work, and up to 3 weeks prior to the birth of the child. After this date the employee receives parent benefits, providing the rights to this have been accrued.

1.8 Protection against dismissal

Legislation and regulations

A pregnant employee is protected against dismissal on the grounds of pregnancy. This does not however mean that she is protected against dismissal as a result of normal reductions in operations or circumstances on the

employee's side. If an employee is dismissed while pregnant, the employer must prove that the dismissal is the result of other circumstances than pregnancy.

If the dismissal is due to pregnancy, it is deemed to be unlawful.

If an employee is dismissed during maternity leave, the period of notice will not commence until the employee is back at work. If for example an employee dismissed on 1st October is on leave until the end of November, the period of notice commence from the first day of the following month, in this case from 1st December.

1.9 Sick pay during pregnancy

Complications during pregnancy are deemed to be illness, and will therefore give the employee the right to sick pay. Moderate pregnancy ailments will not however give the right to sick pay. The dividing line here will be subject to individual assessment and will to a high degree depend on expert medical opinion.

1.10 Home births

In the case of birth outside an institution, for example home birth, a single grant is given. As of 01.11.08 this is NOK 1765. A grant may also be given for midwife costs.

2.0 AFTER THE BIRTH

2.1 Parent benefits

2.1.1 Who is entitled to parent benefits

Conditions

Both the mother and father are entitled to parent benefits providing they fulfil the requirements of the law. The starting point is that it is a pre-requisite that the person receiving the benefit is taking care of the child and is not in work. In the case of graded call-off of parent benefits it is nonetheless a requirement that one is at work for part of the time.

Employment requirements

For the mother to have the right to receive parent benefits it is a precondition that she has been engaged in pension-earning employment for at least six of the previous ten months prior to the commencement of the benefits period. The same applies for the father to be eligible to receive parent benefits.

The period when daily unemployment benefit, sick pay and pregnancy benefit and similar has been paid is equal to the employment requirements described above.

Income

Pension-earning income must be equal to a minimum of the B. a on an annual basis. No parent benefits are paid for the part of the income that exceeds 6 B. a.

2.1.2 What is the duration of the parent benefits period?

The total period, prior to and after the birth, is 44 weeks at 100 % wages or 54 weeks at 80 % wages. The benefits period after birth is 41 weeks at 100 % wages or

51 weeks at 80 % wages. The option selected shall apply to the whole period.

Mandatory weeks

The child's mother is required to take leave three weeks prior to full term and six weeks after the birth. This is mandatory leave. Exceptions can be made if the mother can document by a medical certificate that it is better for her to work. If the mother so wishes she take leave from twelve weeks prior to full term. This will be calculated in the total leave so that the period of leave after the birth will be reduced accordingly. The remainder of the period can be split between the parents.

Six weeks is reserved for the father, see father's quota under section 2.2. It is expected that this quota will be increased to ten weeks in 2009.

Multiple births

In the case of multiple births the benefit period will be increased by seven weeks for each child if the reduced rate is chosen. If the full rate is chosen the increase will be five weeks. The parents are free to decide how they will split the extended period, and ungraded benefits can be paid to both parents simultaneously.

2.1.3 How are parent benefits calculated?

Parent benefits are calculated on the income of the parent who takes the leave. Benefits normally equate to the full annual wage upwardly limited to 6 B. a.

2.1.4 Drawing parent benefits

When both the mother and the father have accrued rights to parent benefits, the benefit period can be split

between the parents.

If only the father has accrued the right to parent benefits, the benefit period is up to 29 weeks at 100 % wages or 39 weeks at 80 % wages, providing certain conditions are met with.

Conditions

The mother must resume or commence full time work or an officially approved study when the father takes leave. The mother can also take out parent benefits of up to 50 % of the chosen rate, while the father takes the father's quota. The father's parent benefits will in such case be reduced proportionally.

2.2 Father's quota

Six of the leave weeks are reserved for the father providing that the mother has worked at least 50 % of full time during the accrual period. The right to take out the quota applies regardless of whether the father has the right to parent benefits. If the father does not take out leave during these weeks, the right to benefits is usually annulled.

2.3 Deferment of the parent benefit period

The basic rule is that the parent benefit period runs sequentially. The period can nonetheless be postponed in the case of illness, holidays or certain other causes.

2.3.1 Illness

After the birth the benefit period can be postponed if the parent receiving parent benefits or the child is admitted to a health institution.

The benefit period can also be postponed in special cases when the parent receiving the benefit is too ill to take care of the child.

The requirement must be documented by a doctor's certificate.

2.3.2 Holidays

The benefit period can be postponed when the parent receiving the parent benefits takes statutory holidays. On completion of the holiday the remaining part of the benefit period must be taken immediately.

Employers cannot demand that the employee takes holidays during the parent leave period.

2.4 Graded call-off of parent benefits

Graded call-off of parent benefits means that the employee can combine partial call-off parental permission with a partial return to work. The period of parent benefits will thus be extended over time. The more the employee works, the longer he/she can take out parent benefits.

2.4.1 Periods that cannot be included in graded call-off of parent benefits

Parents can take out graded parent benefits simultaneously, with the exception of the following weeks:

- The three final weeks prior to full term, which are reserved for the mother.
- The first six after the birth are reserved for the mother.
- The six weeks that are reserved for father (the father quota).

2.4.2 Procedure

Agreements Employees' use of graded call-off of parent benefits must be based on a written agreement with the employer. In the case of self-employed persons and freelancers the extended period of call-off is based on an agreement on payments with NAV.

Agreement form An agreement on a so-called time-account shall be entered into in writing. An agreement form is available from NAV or the Norwegian Labour Inspection Authority. The employee and employer must jointly complete the form, which must be sent to NAV.

Both the mother and the father can elect to opt for graded call-off of parent benefits. This is preconditioned by that both have signed an agreement on graded call-off and at that the call-off for the parents remains within a period of three years. Graded call-off of pregnancy benefits can be taken out by the parents at the same time or in sequence. If the parents take out graded pregnancy benefits at the same time, they must both choose the

same rate.

2.4.3 Complaints

Disagreements/disputes If the employer and employee cannot reach agreement on graded call-off, they can bring the dispute before the Disputes Board. This is done by sending a complaint to the Norwegian Labour Inspection Authority.

2.5 The right to parent benefits if the mother dies

If the mother dies, the father has the right to receive parent benefits for the remaining part of the benefit period.

2.6 The right to parent benefits if the child dies

If the child dies during the benefit period, parent benefits are paid for up to six weeks of the remainder of the benefit period.

2.7 Single grant on birth of the child

Women who do not have the right to parent benefits receive a single grant on the birth of the child. As of 01.11.08 this is NOK 33 254.

2.8 Child maintenance contribution

2.8.1 What is a child maintenance contribution?

Both parents have a mandatory obligation to support their child in accordance with their ability. This also applies if the parents are not living together. The parent that is not living with the child fulfils this obligation by paying child maintenance.

Paternity

Child maintenance is only awarded where paternity has been established. If the parents are married or living together when the child is born, it is automatically assumed that the spouse or partner is the father of the child. If the mother is unmarried or has no partner (co-habitant partner) at the time the child is born, child maintenance can only be ordered against the father if paternity has been accepted or stipulated in accordance with the provisions of the Children's Act. Paternity can for example be established by acceptance by the father in the notice of birth (registration of birth).

2.8.2 Stipulation of maintenance contribution

Agreement

The general rule is that the stipulation of the maintenance contribution is a private matter that does not require public intervention. The parents can agree between themselves on the amount of maintenance to be paid. The agreement should be made in writing. NAV has a special form for such agreements.

Even if the parents have not been living together after the child was born, they can still enter into a private agreement. If no maintenance contribution has been

agreed, NAV can take the initiative to ensure that the contribution is fixed and recovered through the Norwegian Labour and Welfare Administration's Collection Agency.

Maintenance Enforcement Agency If the parents cannot agree, either can request that the maintenance enforcement agency stipulates the amount of the maintenance. In most cases NAV is the maintenance enforcement agency. It is this body that rules on all claims concerning child maintenance contributions and special grants.

If the parents agree on a contribution that is lower than the child support advance, the maintenance enforcement agency may take up the case on its own initiative and fix the amount of the contribution. The contribution cannot be fixed at an amount higher than the amount to which the state has the right of refund.

The courts It is also possible to demand that the contribution is fixed in the ordinary courts in a case concerning parental care and visitation rights.

2.8.3 Calculation of the contribution

The child maintenance contribution is stipulated on the basis of the cost of bringing up a child. This increases as the child grows older, and is split into three age groups: 0-5 years, 6-11 years and from 12 years and above, and the amounts will therefore vary. One also takes into account the ability of the contributor to pay and the contact between the contributor and the child.

The cost of caring for a child is stipulated in accordance with rates stipulated by the National Institute for

Consumer Research (SIFO). The mandatory support comprises consumer expenses, housing costs and any costs incurred in care with a deduction for child welfare support (family/child allowance).

Proportional shares The cost of maintaining/caring for the child shall be fixed proportionally between the parents in accordance with their respective incomes. Income is defined here as personal income and any income for the child. Public support such as additional child support (welfare grants), cash benefits for the child and the advantage of the Tax Class 2 deduction is added to the income of the recipient of the maintenance contribution. The maintenance contributor's share of the maintenance contribution is rounded off to the nearest sixth part.

Assessment The income of a party is fixed by assessment if the party if the party in question does not produce the required documentation and there is reason to believe that the said party is concealing information of import to the assessment. Income can also be stipulated by assessment if the party does not have due and valid reason to have a considerably lower income than that he/she could achieve, or not having any income.

Ability to contribute When the contribution is assessed, the contributor shall retain a certain minimum part of his/her income for his/her own maintenance and the maintenance of other children if applicable. It is a requirement that the contributor has the economic ability to bear the burden of child maintenance contributions. An assessment of the contributor's financial situation shall be carried out. The starting point for this is the contributor's income. From this deductions are made for tax, social security payments, and any maintenance costs for the contributor's own children in his/her own household. Basic costs, for example maintaining a household are deducted in accordance with a fixed scale. The result

may be that the contribution is nullified or reduced. In cases where the child has its own income this may result in a reduction of or that the maintenance contribution is nullified. If for example Per, age 16 is earning NOK 150 000 per annum, the maintenance contribution will be nullified. In the case of a contribution stipulated under public rules, the contributor shall not pay more than 25 % of his/her income in maintenance contributions.

Visitation

Pursuant to the Children's Act, a child has the right to associate with both parents, even when these live apart. Visitation has an influence on the amount of the contribution the contributor shall pay. If the contributor has visitation rights an average of at least twice monthly, this results in that the contribution will be reduced. It is the contributor that bears the costs of providing care during visits, not the recipient.

Written agreement

NAV requires written visitation agreements in order to use the visitations as a basis for calculation. In cases where the parents do not agree on a visitation agreement, or fail to agree on changes to a current agreement, the matter can be put before the ordinary courts.

Disagreement on visitation

If there is an agreement on visitation but the parties cannot agree on the number of visits that have taken place, the contributor must prove that he/she has had visitations as documented. The last does not apply in cases where the Regional Commissioner or a court of law has stipulated visitation. The recipient must then prove the scope of visitation.

Breach of agreement

Problems may arise if the contributor fails to adhere to the visitation arrangements, typically by having the child for less than the agreed period/time. The rules premise that this shall have no effect if such occurrences are only sporadic. If on the other hand the contributor systematically fails to carry out her/his obligations

pursuant to the visitation agreement, the recipient may be granted approval for the establishment of a new agreement.

Visitation classes

NAV operates with three classes for visitations:

- 2-3 nights per month, alternatively two or more days
- 4-8 nights per month
- 9-13 nights per month
- 14-15 nights per month

The amount of the deduction from the contribution against the level of visitation is assessed in relation to the age of the child.

Shared abode

A shared fixed abode does not necessarily mean the same period of time with each parent, but that both parents have the same degree of authority in decision making, for example in connection with moving dwellings and other major decisions in day-to-day life. If no fixed abode has been agreed and the child spends equal time with both parents, then extended visitation rights exist.

In the case of a shared fixed dwelling the parents are deemed to have equal daily expenses for the child. If the contributor and recipient are in the same financial position, the contribution will as a general rule be fixed at zero. If there is a major difference in income between the parents, the result can be that a net contribution is fixed.

High income

In the case of a very high income in the case of the contributor, an additional contribution can be fixed, providing that the recipient claims this, and the contributor has an income that exceeds 550 times the full

child support advance.

Assessment In certain cases NAV will stipulate the contribution by assessment instead of on the basis of the cost model. This applies when at least one of the following criteria below is met with:

- One of the partners works and pays tax in a country where living expenses vary greatly compared to Norway.
- The contribution has been stipulated under a temporary order.
- The child is supported by others or gets married.
- The child is in an institution.

2.8.4 Changes to the contribution

Agreement The parents can alter the agreed or stipulated contribution by mutual agreement by signing a new written agreement.

NAV Either parent can apply to NAV to have a previously agreed or stipulated contribution changed. The change must be higher than 10 % of the amount in question if NAV is to stipulate a new contribution. If there are strong enough grounds, the parents can apply for a change with retrospective effect, or for remission of contribution debt. In certain cases NAV can take the initiative to a change in the contribution. This applies if a contributor with several children lacks the economic ability to pay the contribution or if total contributions exceed a certain percentage of the contributor's income.

2.8.5 Mandatory contribution period

Until the child reaches 18 The mandatory obligation to pay contributions ceases in the month after the child reaches the age of 18. Agreement can be reached on the payment of contributions after the child has reached the age of 18.

Extended contribution period If the parties cannot agree on extended contributions, either parent can apply to NAV for this. The child will then become a party, replacing the recipient of the contribution. Standard practice is that contributions are upheld until the child finishes ordinary schooling, for example college or further education. The cost model forms the basis for stipulating the amount of the contribution.

Contributions are not extended if economic/financial circumstances would mean that it would be an unreasonable burden for the contributor. One example of this is that the contributor has a very poor economic/financial footing.

2.8.6 Extraordinary costs

Agreement Parents can agree that a special additional payment shall be made in connection with special occasions/events involving once-only costs. Typical examples of these are confirmations, dental work, summer school and expensive leisure time interests. Costs must be reasonable or necessary and outside the scope of that covered by the regular contributions.

NAV If the parties fail to agree, they can request that NAV rules on whether a special additional payment shall be

ordered. Claims must be lodged within one year after the costs were incurred.

Special additional payments shall be fixed on the basis of the actual costs that can be documented by the contribution recipient. Special additional payments can only be ordered when the contributor is capable of meeting the amount of the contribution. Special additional payments can be ordered for children over the age of 18, providing that the conditions for fixing contributions above this age are met with.

2.8.7 Fees

If contributions are stipulated or changed by a public authority each parent must pay a fee equal to one court fee.

As of 01.11.08 the court fee is NOK 860.

Parents may apply for exemption from court fees. If personal income is less than 110 times the child support advance, exemption is usually granted.

2.8.8 Advance of contribution

The recipient can apply to NAV for a child support advance. This is a practical arrangement if the contribution is not paid on time where the contribution is less than the advance. This ensures that the child is ensured a minimum monthly sum for its maintenance.

The child support advance is administered by the NAV Collection Agency. Child support advance is subject to a means test. This means that income, the number of

children and whether one is married, living as a cohabitant or single all influence the amount of the advance.

Child support advance can be paid at 50 %, 75 % or 100 % of the full amount of the child support advance. As a general rule the recipient loses the right to the advance if he/she earns more than 320 times the full child support advance. If the child lives alone or together with other carers than parents, or paternity has not been established, full child support advance is provided even in cases where the recipient earns more than this amount. The child contribution is regulated annually in accordance with an index.

2.8.9 How is collection organised?

NAV The Collection Agency

If the recipient believes that payment will not be executed through a private agreement, he or she can at any time lodge a demand that the NAV Collection Agency shall collect the contribution. This is a free service. A recipient has the mandatory right to demand collection of the contribution by a government agency. If this is done, all contributions are paid to the Collection Agency, and all child support advance payments and paid in contributions are expedited there from.

2.8.10 Who pays travel expenses between the parents?

Travel expenses are a civil law matter with full rights for parents to reach agreement. The main rule is that the parents have an obligation to share the costs of

visitations with the child, unless the parents have agreed on an alternative arrangement. Expenses shall be split proportionally between the parents in accordance with income. Travel expenses are not part of the child maintenance contribution.

2.9 Child welfare benefit

Children under the age of 18

Child welfare benefit is a grant made to parents with children under the age of 18 years.

The child must be domiciled in Norway for the mother or the father to receive child welfare benefit unless the child is domiciled in an EEA country and the EU regulations apply. If the child stays abroad for more than twelve months, child welfare benefits will normally cease.

The requirement that the child must be domiciled in Norway can under certain circumstances be dropped. This applies when for example the carer is studying at an educational institution abroad or is working for a humanitarian organisation abroad. You must notify NAV if you commence or cease work in a different EEA country.

Who has the right to receive the benefits?

Child welfare benefit is to be used to maintain the child. It is the parent providing daily care for the child that receives the benefit. The parent with whom the child resides is deemed to be the carer. If both parents share the provision of care for the child, the benefit is usually paid to the mother.

Reporting

The child's parents are obliged to report to NAV on any circumstances that may affect the right to receive child welfare benefit. If one fails to provide information or

provides incorrect information to NAV, child welfare benefit may be stopped or withheld.

Payment

Child welfare benefit is paid from and including the month after the child is born, and up to and including the month after the child reaches the age of 18.

If the child was born in Norway, the carer will receive child welfare benefit automatically. In some cases however the carer will be required to complete a form in order to receive child welfare benefit. This will be done when at least one of the following circumstances shown below are met with:

- The child's mother is not domiciled in Norway.
- The child was older than six months when first domiciled in Norway.
- The carer has the right to extended benefits.
- The right to child welfare benefit results from EEA regulations or social security agreements with other countries.

Child welfare benefit is paid monthly by NAV. The rates are fixed by Stortinget (The Norwegian Parliament) annually. Child welfare benefit varies with amongst other factors the number of children in the family. As of 01.01.09 the rate is NOK 970 per barn per month.

2.9.1 Extended child welfare benefit for single parents

Amount

Extended child welfare benefit as of 01.01.09 is NOK 970 and is paid in addition to the ordinary child welfare benefit.

Extended child welfare benefit applies in cases where parents are not single, divorced or separated and do not live together in a joint household. Extended child welfare benefits can also be awarded to a surviving spouse. Extended child welfare benefit is not granted if the applicant is living in the dwelling unit as the other parent of the child.

Extended child welfare benefit can nonetheless be granted if the parents are married, if the person who lodges the claim proves one of the circumstances shown below:

- There has not been marital cohabitation between the parents for at least six months (actual separation).
- One of the parents has been absent (missing) for at least six months. The same applies for cohabitants or partners that are absent (missing).
- Spouses that are temporarily separated by a ruling made with authority in the Marriage Act § 92.

There is no right to extended child welfare benefit in cases where the child's/children's parents usually live together but are separated temporarily due to work, education or similar.

2.9.2 Additional payments under the child welfare benefit arrangement

Infants increment

single parents that meet with the requirements for the right to extended grants pursuant to the Act on Child Welfare Benefit and full transitional benefits pursuant to the Social Services Act, and who have children in the age group 0–3 years, have the right to an additional infants grant of NOK 7 920 per annum. This is a grant per single parent regardless of the number of children

between the ages of 0–3 years the parent is actually providing care for.

Finnmark increment

For grant recipients domiciled in Finnmark and Nord-Troms (Karlsøy, Kvænangen, Kåfjord, Lyngen, Nordreisa, Skjervøy and Storfjord) an additional grant to standard child welfare benefit of NOK 3 840 per barn per annum is made, the so-called Finnmark grant. The Finnmark grant is also given for children placed in foster homes or child welfare institutions in the same municipalities.

The earlier infants grant under the child welfare benefit scheme was discontinued on 31.07.03 in connection with the financing of the day care centre expansion.

2.10 Cash benefits (for parents of infants)

2.10.1 What is a cash benefit?

An arrangement was introduced in 1998 for cash benefits to the parents of infants. The grant is in the form of a cash transfer to parents with children between one and three years that do not have a place in a day care centre with government grants. Cash benefits are paid regardless of the parents' income and assets.

2.10.2 Who can receive a cash benefit?

Parents that have the care of a child/children between the ages of one and three years may have the right to a cash

benefit. It is a premise that the child does not have a full day place in a child day care centre with the right to government grants.

Day care centres

One example of this is municipal day care centres (sic: kindergartens). If the child has a part-day place, the parents may have the right to a reduced grant.

It is also a requirement that the child *does not* only *partially* utilise the place that has a *government* operating grant. This is the key factor in the right to a cash benefit. This applies whether or not the parents are in employment, and the arrangement is not subject to means testing against the parents' incomes. The time spent in the child day care centre is the decisive factor for the amount of cash benefit paid. The law does not impose a condition that one of the parents is at home and caring for the child. Neither does the law impose conditions on the use of the cash benefit.

Home child minder

If for example the child for example has a home child minder or if the child is in a child day care centre that does not receive government grants, the parents have the right to the unabridged cash benefit. The same applies if the carer (parent) is at home looking after the child.

Fixed domicile

The cash benefit is paid to the parent with whom the child is permanently domiciled. The parent with visitation rights only does not have the right to a cash benefit.

Domiciled in Norway

Both the child and recipient must be domiciled in Norway in order to receive the cash benefit. The EU social security legislation has precedence also here, so that cash benefits are paid for children domiciled within the EEA area if the conditions are otherwise met with.

No cash benefit is paid for children living in a foster home or child welfare institution. There are also a number of other exceptions from the arrangement. Details of these are available from NAV.

Applications In order to receive the cash benefit one must submit a written application to NAV. The parent with whom the child is living can apply for the benefit. If the child lives with both parents, only one parent can apply for the benefit.

2.10.3 The amount of the cash benefit

Per child The cash benefit is given per child and is the same whether the child lives with both parents or one parent. The benefit is paid at the earliest from and including one month after the child reaches the age of one year and up to and including the month the child reaches the age of three years.

Amounts Cash benefits are paid at the rate Stortinget stipulates. This amount can change from year to year. As of 01.11.08 the full cash benefit is NOK 3 303 per month.

Rates A full grant is made for children that do not have a place in a child day care centre that receives a government grant. If the child only utilises the place for part of the time, the grant may be reduced. The full rate is paid if the offer of a day care place is not taken up, or a percentage of the rate on the basis of time spent in the centre.

The recipient has the right to 80 % of the full cash benefit when time in the child day care centre has been agreed of up to 8 hours per week, 60 % in the case of from and including 16 hours per week, 40 % in the case

of 17 to 24 hours per week, and 20 % in the case of from 25 to 32 hours per week. No cash benefit is paid if the agreed time is 33 hours or more per week.

Payment

In assessing the case the information submitted by the applicant is compared with the information the municipality is obliged to supply on all recipients of offers of child day care centre places with government support. Cash benefits are paid monthly by NAV.

Joint dwelling

If the parents live together and both apply for a cash benefit, the monies are paid to the mother, as is the case with the child welfare benefit. If parents do not live together and they have entered into a written agreement with joint dwelling, the parents can each receive half of the cash benefit. This is preconditioned by that they agree on such a split. It is not however possible to split a partial (reduced) cash benefit. In such cases the cash benefit is paid to one parent.

2.11 Transitional benefits

Transitional benefits

Transitional benefits are social security grants that under certain circumstances are provided to a single parent. This is a temporary provision of funds for day-to-day sustenance. Transitional benefits are paid for the period of time the recipient is unable to provide for him/herself and the child/children.

One may qualify for a transitional benefit arrangement in two ways. Firstly, that the necessary care of the child prevents the parent from taking paid employment. Secondly, that the single parent is prevented from obtaining employment until completion of an educational or retraining period.

The following preconditions also apply to qualify for transitional benefits.

Member for three years

The applicant must have been a member of the social security scheme for the three years previous to the date of application for a transitional benefit.

Single parentage

The benefit recipient must have sole care of the child, i.e. clearly the largest share of daily care than the other parent. This arrangement must also be permanent. If the child lives with the parents alternately for equal periods, neither parent will be deemed to be a sole provider. The minimum period a child must live with one parent is six months for transitional benefits to be applicable.

Single, separated or divorced

The grant recipient must be unmarried, separated or divorced. As a general rule it is a requirement that separation or divorce has been granted. If one is in fact separated but no separation grant has been received, the right to benefits will be severely restricted. More detailed information is available from NAV.

One is not deemed to be a single parent if one fulfils one of the following conditions:

- Entry into marriage.
- Have cohabited for at least 12 of the last 18 months.
- Lives with the child's father.

Term

The starting point is that transitional benefits can be granted until the youngest child is eight years old, but not for more than a total of three years or after the youngest child is born. Benefits can also be paid for up to two months before the birth.

Children over the age of three

In order for a single provider to keep the benefit after the youngest child has reached the age of three, there is a requirement for activities aimed at income earning. The grant recipient must either be in employment or undergoing education, be registered as a genuine job seeker, or working as a job seeker mentor with NAV for those receiving transitional benefits.

Apart from the rule that transitional benefits are not granted for more than a total of three years after the youngest child was born, transitional benefits can be granted in the following cases:

- Transitional benefits can be granted for a period of two months prior to the birth, providing that it is certain that the applicant will on giving birth satisfy the criteria for classification as a single parent.
- The benefit period can be extended by up to two years until the child reaches the age of eight when the single parent is taking necessary education and meets with the criteria for educational grants. The education must be a minimum of full time education. In addition, transitional benefits can be granted to support contacts, i.e. single parents that have the function of resource persons in following up activities with others.
- After divorce, separation or a break up of the relationship between unmarried parents, transitional benefits can be granted for up to one year until the youngest child reaches the age of ten.
- Transitional benefits can be granted until the child reaches the age of ten if the single parent or the child has a temporary illness that prevents him/her from working.

- When the provider has a child that requires special care and attention due to disability, illness or major social problems, transitional benefit can be granted until the child reaches the age of 18 years.

Amount Transitional benefits are calculated on the basis of the social security basic amount (B. a).

Annual transitional benefits are currently 1.85 B. a.

Reduced benefits The benefit is an alternative to earned income. This means that if a single parent has or can be expected to earn income, the benefit will be reduced. The benefit will not be reduced if the provider cannot be expected to earn more than ½ B. a annually. The same applies to pregnancy benefits and adoption benefits, unemployment benefits, all of which are calculated as income. For each krone a single parent earns in excess of ½ B. a the transitional benefit will be reduced by 40 øre.

Obligation to provide information The recipient of transitional benefits has a mandatory obligation to notify NAV as soon as he/she leaves or commences work, or when income changes. If the omission to do so results in that excess benefits are received, NAV can demand repayment of the excess. In certain cases such omission may be punished by fines. The same applies if the recipient gives incorrect information.

2.12 Educational grants

When can grants be Single parents that are engaged in education necessary to be in a position to provide for themselves through

given?

income earning employment may have the right to educational grants. The right to an educational grant is preconditioned by that the single parent has the right to transitional benefits. It is also a precondition that the single parent needs education in order to be self-sufficient. It is not usual to give educational grants once professional competence has been achieved.

Suitability

If an educational grant is to be applied for, the applicant must have an objective or plan showing to what purpose the education will be used. If possible, the plan should be developed in co-operation with a careers/job advisor who can assist in identifying the educational channels best suited to achieve the desired paid employment.

An assessment shall always be made as to whether the desired education for which the grant is applied for is suitable. As an example a course at folk high school in the arts will not in most cases be sufficient basis on which an educational grant can be approved.

Likewise, educational grants cannot be approved for courses that do not result in an improvement of the applicant's chances of employment, or if the course is not an essential step in the educational plan.

Which costs?

The grant shall cover the cost of school materials, necessary travelling expenses in connection with the education, moving expenses any school fees upwardly limited to the rates stipulated in *Statens lånekasse for utdanning* (The Norwegian State Educational Loan Fund). Grants may also be given to assist in covering dwelling expenses, but only for additional expenses that are a necessary result of the education, for example change of address.

Cost incurred in connection with education can only be covered to the necessary degree, i.e. the cheapest possible alternative.

The provision of grants etc under the social security scheme in connection with the applicant's educational situation will result in a reduction in loans and grants from The Norwegian State Educational Loan Fund for Education. You can contact the fund for further information.

Educational grants cannot be given in excess of that necessary to ensure self-sufficiency. Education abroad is not deemed necessary in achieving self-sufficiency.

Period

If the applicant has no professional/trade/skills education, the general rule is that educational grants can be given for up to three years' full time education. It is not usual for grants to be given after the point in time when professional competence is achieved. Grants for general education can be given when this is a necessary part of a specialist educational plan.

Educational grants cease if the grant recipient is no longer deemed to be a single provider, or is no longer engaged in education.

2.13 Grants for child-minding

Education or work

Single parents may have the right to benefits for a child minder if the provider must leave necessary care and attention of the child to others due to educational or work commitments outside the home. This is subject to confirmation by the employer or educational establishment. The same applies if the provider is registered with NAV as a genuine job seeker. It is of no

consequence who is responsible for the care of the child, even if this is for example a close relative. Grants are not however given if the child's carer is the other parent.

It is a pre-condition that the education is of import to future potential of gaining employment.

Illness

If the parent having sole responsibility for the care of the child becomes temporarily ill, and is thus hindered in working or attending education, the recipient can retain the benefit for up to one year. During this period it is a pre-condition that the child minder arrangement is not discontinued.

Discontinuation of the benefit

The child minder benefit will be discontinued when the child has completed the fourth school year. Grants may, in some circumstances, be granted after this time.

In order to receive a grant the costs incurred in child minding must be documented. The benefit represents 64 % of the costs.

Stortinget stipulates the maximum rates.

Rates

As of 01.10.08 the rates per month are:

1 child	NOK 3 085
2 children	NOK 4 025
3 or more children	NOK 4 562

Single parents with incomes of more than 6 B. a do not have the right to a grant.

2.14 Moving expenses

Single parents may have the right to a grant in connection with moving caused by work.

Necessary moves If the provider is unable to find suitable work in her/his area, grants may be given to cover the cost of moving as necessary to work in a different area. Costs incurred in moving must be documented.

In order for grants to cover moving costs can be given, it must be clarified in advance that the applicant is unable to procure work locally or that the applicant cannot work locally due to the lack of available child care.

Concrete offers of work Further, there must be a concrete offer of work at the place to which the applicant intends to move. It is a precondition that the position is of a certain degree of permanence. If the position is of a temporary nature, there must be a possibility of further work at the destination.

If there is a need for child care, arrangements must be clarified at the destination.

Right to transitional grants It is also a precondition that the single parent has moved during a period he or she has the right to receive transitional benefits, or within six months after transitional benefits have ceased.

2.15 Pension and carer points

Pension points Previous income forms the basis for (for example) seniority points. These are converted to pension points, and it is amongst other factors the value of your pension points that affects the amount of the pensions you will receive. It is also possible to earn pension points through care work. Another factor in the calculation is the number of years in which pension points have been accrued, i.e. the number of points earning years.

A person who has been responsible for the daily care of a child/children under the age of seven is credited with three pension points for this. This applies to parents that have parental responsibility for the child/children and has had the child/children living permanently with them. An agreement on shared domicile does not prevent one of the parents having pension points credited.

Caring for a child/children

Pension points can be credited for each calendar year one is responsible for infants/young children. As mentioned above, three pension points are credited for each year up to and including the child's sixth year. This is equal to an income of 4 B. a.

If the provider has a higher income than this, pension points are earned on the basis of the earned income.

As a general rule pension points are credited to the parent receiving child welfare benefit for the child. Refer to section 2.9 for details of who receives child welfare benefit.

The arrangement was introduced in 1992. Care points cannot therefore be credited for the years prior to 1992.

2.16 Obligation to report

The grant recipient who is a single parent/provider must complete a self-declaration form annually.

The applicant must provide details of the relationship to the other parent. The information shall include details of income, and whether there is cohabitation.

2.17 How to apply for benefits

Applications In order to receive benefits a form must be completed and sent to the local NAV office. Claims forms are available from the local NAV office. The form includes information about the benefits and terms and conditions. If the applicant is granted the benefits applied for, details will be provided by NAV on the obligations incumbent of the grant recipient.

Complaints/ appeals If the applicant feels that the decision is incorrect and the due benefits are not being paid, a complaint or appeal can be lodged. This shall be sent to NAV within six weeks from receipt of notice of the ruling.

Right of insight All persons have the right to insight into documents pertaining to their case. This also applies after the case has been ruled on.

NAV NAV can assist the applicant with:

- Submitting an application or lodging a complaint/appeal.
- Advice and guidance.
- Information about other grants/benefits.

NAV has the obligation to provide information and guidance.

NAV also arranges contact with the employment office, office of social security and other public bodies/organs.

3.0 BACK TO WORK

3.1 Right to the same position and adaptation

The same position

An employee who commences work after having been on leave has the right to the same position she held prior to becoming pregnant. If for example the employee was engaged as a secretary, she has the right to continue as a secretary, but not necessarily for the same superior as before or in the same department. As long as the position is still secretarial work, the employer can normally place the employee as required with authority in the employer's general right to manage. Read more about the employer's right to manage in JURK's brochure "Termination, dismissal and laying off", available by request.

Protection against dismissal

An employee cannot be dismissed on the grounds that he or she was absent due to leave of absence or childbirth. An employee that is on leave of absence after childbirth cannot be dismissed with effect during the period of leave of absence. If an employee is lawfully dismissed during leave of absence, the period of notice will not commence until the period of leave of absence has expired. This rule only applies to the first year after childbirth.

Notice handed in by the employee

An employee can nonetheless hand in his or her notice throughout the period of leave of absence with the period of notice that applies to the employment arrangements. The period of notice may be governed by either the Working Environment Act or the employment contract.

3.2 Right to reduced working hours

The employee can have a reduction in working hours if he/she needs this due to health, social or other vital welfare grounds. These may be caring for infants. A condition for granting reduced working hours is that the arrangement will not seriously disadvantage the company. The employer must accept “disadvantage” - only “serious disadvantage” is due reason to deny granting reduced working hours.

Reduced working hours can be taken out as time off work.

Notification Employees wishing to commence reduced working hours must give written notice of this to the employer at the earliest opportunity, and at the latest four weeks prior to the commencement of the period of reduced working hours. The notification shall include the working hours arrangements desired, the reason why the reduction is desired and the period for which the arrangement is required.

Discussions The employer shall discuss the matter with the employee’s elected representative, unless the employee opposes this. Both the employer and employee can engage advisors in such discussions. If a dispute arises in connection with a reduction in working hours, the Disputes Board may adjudicate on the matter. When the grounds on which reduced working hours were granted no longer exist, the employer has the right and obligation to return to the previous position/arrangement.

3.3 Exemption from overtime due to care commitments

Employers are obliged to exempt an employee from working overtime or taking on additional work if the employee requests this on the grounds of ill health or pressing social grounds. The same applies if an employee requests this for personal reasons and the work can be postponed or done by others without detriment to the company. The employee must put forward a request for such an arrangement. The employer is not required to take the initiative to such exemption.

Pressing social grounds can for example include child care, participation in important family gatherings or picking up a child/children from a day care centre where there is no other option.

3.4 Time off for breastfeeding

In connection with breastfeeding the employee has the right to a reduction in working hours of 1 hour daily or two breaks of at least 30 minutes per day. Time off for breastfeeding is unpaid unless otherwise contractually agreed.

3.5 The right to time off in connection with a child's or child-minder's illness

An employee who has the care of a child has the right to leave of absence in order to provide the necessary care for the sick child. This also applies when the child minder is sick. The right to leave of absence applies from and including to the calendar year the child reaches

the age of twelve. The right to leave of absence is limited to ten days per calendar year per employee, but to 15 days if the employee is caring for more than two children.

If the child is acutely ill or suffering from a functional disability and illness or disability results in that there is an increased possibility that the parent's absence from work will continue, the right to leave of absence applies to and including the calendar year the child reaches 18. The right to leave of absence is restricted in both cases to 20 days per calendar year.

An employee who is alone in providing care has the right to leave of absence for 20 days per calendar year and 30 days if he/she is caring for more than two children.

If the employee has sole care of a child that is acutely ill or suffering from a disability, he/she has the right to leave of absence for up to 40 days per calendar year.

4.0 OTHER

4.1 Foster children

Compassionate leave of absence If an employee accepts a foster child referred to by the Child Welfare Service, the main rule is that the same rules on compassionate leave (child care leave) apply, but the rules on parent benefits do not. The foster parents therefore only have the right to unpaid leave. The Child Welfare Service will however pay some remuneration to the foster parents.

4.2 Pupils and students with loans from *Statens lånekasse for utdanning* - The Norwegian State Educational Loan Fund for Education

Childbirth grant Women who give birth while studying are not usually entitled to parent benefits. They may however qualify for a grant from the State Educational Loan Fund. The grant is given for the three weeks immediately prior to the birth and the first 39 weeks after the birth. This also applies in cases of adoption. The amount of the grant is equal to the maximum grant the Loan Fund can award to the mother. If part of the 42 weeks coincides with the summer break, the grant can also be given for this period.

Conditions In order to have the right to receive the grant the following conditions must have been fulfilled:

- The right to a grant or loan during the six months prior to the birth or adoption.
- That the applicant lives with the child, and
- The spouse or cohabitant is not receiving parent

benefits from NAV. There is an exception to this rule where the other party is receiving graded call-off parent benefits.

Both women and men can receive a childbirth grant if the conditions are met with, but both parents cannot receive a grant simultaneously. Three weeks prior to and six weeks after the birth are regardless reserved for the mother.

Leave from educational studies You can receive a childbirth grant even if you are on leave from your allotted study place.

Deferred repayment It is also possible to have a more deferred repayment arrangement of your loan and exemption from interest for up to one year in the case of pregnancy, childbirth and adoption. Exemption from interest payments is preconditioned by that you have a low income.

Care for children under the age of ten If one has the care of children under the age of ten and in addition a low income, the loan repayments to the Loan Fund may be postponed.

Exemption from interest can also be granted. The income earned by the spouse or cohabitant is the decisive factor for exemption of interest.

Single parents that only receive benefits from the social security system can, by application have payments deferred until the child reaches the age of ten.

You must apply for grants or deferment of payment. It is important to note that there are deadlines for such applications. Contact the State Educational Loan Fund for details.

Single If you receive a childbirth grant from the Loan Fund

grants and are not receiving parent benefits from NAV, you also have the right to a single grant. See section 2.7.

4.3 Social services

Municipalities have a mandatory obligation to provide various forms of social services to persons who are unable to provide for themselves.

Terms and conditions The premise for having the right to receive financial grants is that the recipient is unable to provide for him/her self through income generating work or by invoking rights to financial support through benefits. This may for example encompass the right to certain benefits under the social security scheme.

The causality of the need for help is of no consequence to the right to receive grants, but may influence the amount of the grant or grants.

Subsidiary grants Social grants are subsidiary in that prior to any grant being made the recipient must first have attempted to support her/himself through paid work. The applicant shall also have applied for other financial rights prior to receiving social grants.

If the applicant has funds in a bank it can be demanded that these are exhausted prior to any social assistance being granted. Further, the municipality can demand that major assets, for example a vehicle or boat is/are sold if these are not necessary items.

Which expenses? In the first instance grants are made to cover the costs of running a home, food and clothing of a reasonable standard that are covered by social security benefits. In addition to these items grants may also be made to

cover amongst other things toiletries and cleansing articles, power for the preparation of meals and for heat, necessary furnishings and household articles, house and contents insurance, a TV licence, costs of normal communications and costs incurred for medical services (family doctor etc) and dental work.

Reduction A person who has other regular income, for example child maintenance contributions, social security benefits and income through employment, will receive proportionally reduced grants.

Case processing Applications are dealt with on an individual basis by the Municipality's social services. This requires a precise overview of the applicant's financial situation and the total costs incurred in maintaining a reasonable standard of living. The assessment shall take into account amongst other things the burden of care and running living expenses.

4.4 The Child Welfare Service

Protection for children The job and duty of the Child Welfare Service is to protect children against the lack of due care and to protect children from exposure to physical and mental abuse. If the Child Welfare Service becomes aware of any such situation, it has a mandatory obligation to immediately investigate the child's situation and instigate any measures necessary.

The Child Welfare Service's job is to both provide support and exercise its inspectorate tasks. Help and support shall be provided in order to ensure that the home manages to fulfil its obligation to provide care, but there is also a mandatory obligation to take action if

the help provided is to no avail.

Preventive measures

As a general rule it is better if a child can grow up in its own home. The Child Welfare Service must therefore assess whether it is possible to help the family to function better. This can be done by implementing preventive measures, for example providing the family with advice and guidance and appointing a family advisor. Other measures may include financial support for the child so that the child can participate in leisure time activities and similar, relief through a home help arrangement or a place in a child day care centre, after-school arrangement, child support contact or a visiting home.

Placement outside the home

It is only if such preventive measures fail that it is an option to place the child outside the home. If the Child Welfare Service and the parents agree that the child may be placed outside the home for a period, this can be done without the Child Welfare Service assuming formal care of the child.

4.5 Contacts

NAV office

Your local NAV office can provide more details concerning the services you may have a right to. NAV has a mandatory obligation to provide information and guidance.

The Norwegian Labour inspection Authority

Norwegian Labour Inspection Authority's task is to ensure that enterprises adhere to the Working Environment Act.

Trade Unions If you are a member of a labour or trade union you may seek advice and help from the organisation.

The Norwegian State Educational Loan Fund for Education The Norwegian State Educational Loan Fund for Education - Statens lånekasse for utdanning – will provide you with information about educational loans and grants.

The Free Legal Advice Office If you live in Oslo or Akershus, you can contact the Free Legal Advice Office – *Kontoret for fri rettshjelp*. The address is Storgata 19, 0184 Oslo. Tel: 22 42 52 60.

Free legal advice There is free legal advice from a lawyer available in the majority of municipalities. Under this arrangement a lawyer will provide legal advice on most matters of law in a free 30-minute consultation.

Student-run free legal aid services You can contact the student-run free legal aid services by telephone or letter for free legal aid and advice. As the name implies, the services are organised and run by law students.

JURK

Abinsgt. 7 0253 Oslo

Tel: 22 84 29 50.

www.jurk.no

Juss-Buss (The legal aid bus)

Arbinsgt. 7, 0253 Oslo. Tel: 22 84 29 00

www.jus.uio.no/jussbuss/

Jussformidlingen i Bergen (Student-run free legal aid in Bergen)

Sydneshaugen 10, 5007 Bergen

Tel. 55 58 96 00

www.jussformidlingen.no

Jusshjelpa i Nord-Norge (Legal aid in Northern Norway, student-run service)

Universitetet i Tromsø, Breivika senter, 9037 Tromsø.

Tel: 77 64 49 95.

www.studentjusshjelpa.org

Jushjelpa i Midt-Norge (Legal aid in Central Norway, student-run service)

v/HIST avd teknologi, Sverresgt. 12

Postboks 312, 7400 Trondheim Tel: 73 51 52 50.

www.jushjelpa.no

Legislation Check out the Internet pages: www.lovdatab.no.



JURIDISK RÅDGI VNING FOR KVINNER
LEGAL ADVICE FOR WOMEN
Arbinsgt. 7, 0253 Oslo

Case reception hours:

Monday and Wednesday 09:00-15:00
and Tuesday 17:00-20:00 on telephone No. 22 84 29 50
Personal attendance: Tuesday 17:00-20:00 and Wednesday 12:00-
15:00

www.jurk.no