

Birth Leave Regulations

TU/e

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Birth Leave Regulations

Within the framework of the Extra Parental Leave Act (WIEG), the Cabinet has decided to extend the leave of employees whose partner has given birth. As of January 1, 2019, employees are entitled to a maximum of one working week of paid birth leave instead of two days of paid paternity leave. As of July 1, 2020, employees are also entitled to five working weeks of additional birth leave. In total, the employee whose partner has given birth is therefore entitled to six working weeks of birth leave.

Birth leave

In the case of birth leave, the employee whose partner has given birth is entitled to one working week of paid leave. Does the employee work five working days per week? In that case, the employee is entitled to five days of paid birth leave. Does the employee work one working day per week? Then the employee is entitled to one day of paid birth leave. Birth leave has no effect on the accrual of leave hours. The employee must take the birth leave within four weeks, starting from the day after the partner gives birth.

Additional birth leave

As of 1 July 2020, employees whose partner has given birth can also take additional birth leave. The additional birth leave amounts to a minimum of one week and a maximum of five times the weekly working hours. If the employee wishes to use the right to additional birth leave, the days of leave must be taken within a period of six months after the day of childbirth. The leave days do not have to be consecutive; the employee can spread the leave days or take them in several parts.

Taking additional birth leave

Despite the fact that additional birth leave is unpaid leave, taking additional birth leave has no effect on the accrual of vacation hours. However, taking additional birth leave does have an effect on the gross monthly salary. This is because the employee does not receive remuneration for the part that the employee takes additional birth leave. Although it concerns unpaid leave, the UWV provides compensation in the form of a benefit of 70% of the (maximum) daily wage in the event of taking additional birth leave. TU/e applies for this benefit at the UWV on behalf of the employee. The UWV pays the benefit directly to the employee. The UWV pays the benefit once every four weeks afterwards. How much the UWV pays per period depends on the date on which the additional birth leave begins.

The gross monthly salary is decreased or will be decreased at the moment of taking additional birth leave. However, this does not affect the amount of any social security benefit at the end of the unpaid leave. A period of more than 18 months of unpaid, full-time leave may have an effect though, such as on the right to a benefit and the duration of this. The reduced gross monthly salary may affect the entitlement to income-related benefits such as childcare allowance, care allowance or rent allowance. Such changes must be reported by the employee to the tax authorities.

What are the conditions for taking additional birth leave? (cumulative)

- The employee has an employment contract with TU/e; and
- The employee is the partner of the child's mother and one of the following situations applies:
 - The employee is the spouse or registered partner of the child's mother.
 - The employee has acknowledged the child.
 - The employee lives unmarried with the mother of the child.
- The child is born on or after 1 July 2020; and
- The employee has first taken the standard birth leave.

How to apply for additional birth leave?

If the employee whose partner has given birth wishes to apply for additional birth leave, this request can be submitted via TU/e InSite. The application for additional birth leave is possible from the birth of the child onwards (conditional).

What is needed to apply for additional birth leave?

In order to be able to apply for additional birth leave, the child's date of birth must be known. This means that the application can be submitted from the day the child is born. In addition, the employee must have applied for the standard birth leave via TU/e InSite before the employee can submit the application for additional birth leave.

On the application form, the employee must indicate how many hours of additional birth leave he/she wishes to take per month. For the conversion of hours per week to hours per month, the following formula can be used: *number of hours of additional birth leave per week times 13 weeks divided by 3 months* (read: number of hours of additional birth leave * 13 weeks / 3 months).

The calculation of the reduction to the gross monthly salary takes into account the working pattern registered in the HRM system as well as the employee's selection of flexible working hours.

Summary and Q&A

On the next page you'll find a summary of the regulations surrounding birth and parenthood. Then you'll find key questions and answers about the birth leave regulations on pages 5-7.

This information has been updated on August 1, 2022.

TU/e Birth Leave Regulations Summarized ¹

Overall, employees whose partner has given birth are by virtue of the Work and Care Act entitled to the following leave:



¹ No rights can be derived from the above overview. This is a summary of various TU/e regulations for personnel. The complete TU/e regulations can be consulted on the Intranet and on the Conditions of Employment webpage (Working at TU/e webpage).

Q&A

1. As a partner, how many (un)paid days do I have free after the birth of my child?

By virtue of the Work and Care Act (*in Dutch: Wet Arbeid en Zorg, WAZO*) you are entitled to calamities and other short non-attendance leave:

- Short non-attendance leave (also known as calamities leave) – on the day(s) on which your partner gives birth and the day on which you register the birth with the civil registry, provided that these are working days. You are entitled to two days of short-term non-attendance leave (or calamities leave) with full pay per year.
- Birth leave – one working week of fully paid birth leave. Do you work five working days per week? In that case, you are entitled to five days of paid birth leave. Do you work one working day per week? Then you are entitled to one day of paid birth leave. You have to take the birth leave within four weeks, starting from the day after your partner gives birth. Additional birth leave – amounts to a minimum of one week and a maximum of five times the weekly working hours. If you want to make use of the right to additional birth leave, the days of leave must be taken within a period of six months after the day of childbirth. During the period of the additional birth leave, you are not entitled to a salary. By virtue of the Work and Care Act you are entitled to a WAZO benefit of 70% of the (maximum) daily wage. TU/e will apply for the WAZO benefit for you at the UWV. The UWV will then pay the WAZO benefit to the employee. The UWV subsequently pays the WAZO benefit once every four weeks. How much the UWV pays per period depends on the date on which the additional birth leave begins.

Please note:

- As an employee, you pay both the employee's and the employer's share of the pension contribution for what you take as additional birth leave. The payment of both parts of the pension contribution is offset against your gross monthly salary.
- The payment by the UWV and the deduction with your gross monthly salary are not synchronized.

2. When do I have to apply for (additional) birth leave and how do I do that?

You need to apply for additional birth leave via TU/e InSite. The application for additional birth leave is possible from the birth of the child onward (conditional). This means that the application can be submitted from the day the child is born. Your application for additional birth leave will be processed as soon as the form has been submitted to the payroll administration (fully and correctly filled out and signed). Please note you can only apply for the additional birth leave **after** you have applied for the standard birth leave via TU/e InSite.

To make it possible for you to take the standard birth leave and the additional birth leave consecutively, the TU/e disconnects the legal application period of the WAZO benefit from the application period of the additional birth leave.

This means that the statutory provision of the application period (which lasts from four weeks before the first day on which the additional birth leave is taken to four weeks after the last day on which that leave is taken) is applied for the purpose of applying for a WAZO benefit. With the consequence that it may happen that the application for the WAZO benefit is only submitted later by the payroll administration, than that you actually benefit from additional birth leave. Therefore, it may happen that the reduction on your gross monthly salary is already applied, while the UWV has not yet granted and/or paid you the WAZO benefit.

3. I do not have social insurance in the Netherlands. Can I still apply for additional birth leave?

No, you cannot. The Work and Care Act (WAZO) is part of the Dutch social security system and no insurance means no entitlement to a WAZO benefit.

4. Is the employer allowed to refuse the leave?

The employer may not refuse (additional) birth leave. However, the employer may refuse to spread the days of leave if there is a compelling reason.

5. Do I have to apply for a benefit when I take additional birth leave?

No, the payroll administration will do that for you. As soon as you have submitted your application for additional birth leave, the payroll administration can apply to the UWV for the WAZO benefit; this takes into account the statutory provision of the application period, which is from four weeks before the first day on which the additional birth leave is taken to four weeks after the last day on which that leave is taken.

6. What about the continued payment of wages and the accrual of vacation hours during the birth leave?

Neither birth leave nor additional birth leave has any effect on the accrual of your leave hours over the hours of leave. See Q&A 1 for more information on the continued payment of wages when you take (additional) birth leave.

7. Does taking additional birth leave affect the size of my allowances?

Yes, there will be a reduction to your gross remuneration. Both your gross monthly salary and any fixed allowances are part of this. One-off allowances (such as a bonus for a service anniversary or jubilee or a one-off collective agreement benefit) are not affected by taking leave.

8. Does taking additional birth leave affect pension accrual? And what is the division of the pension contributions?

No, it does not affect pension accrual. During the additional birth leave period pension accrual continues fully. However, the distribution of pension premiums will change to 100% employee and 0% employer during the additional birth leave period. The distribution of your pension contribution will therefore change from 30% to 100% during the additional birth leave period and will be deducted from your gross monthly salary.

9. My partner gave birth during the weekend. When does my birth leave start?

If your partner gave birth during the weekend, the birth leave only begins on your first working day after the weekend.

10. My partner gave birth to twins or more. What does this mean for the size of the benefit or the duration of the additional birth leave?

In the event of the birth of twins or more, the additional birth leave benefit is as much as the WAZO benefit for the birth of one child, i.e. 70% of the (maximum) daily wage. The duration of the additional birth leave is also the same, i.e. at least one working week and a maximum of five working weeks.

11. My employment contract ends during the additional birth leave. What does this mean for my remaining additional birth leave?

You retain the right to the remaining additional birth leave.

If you work for a new employer, you can still take the additional birth leave with your new employer. You can discuss the use of the remaining additional birth leave with your new employer yourself.

12. Can I apply for an extension of my employment contract due to the fact that I am going to take/have taken (additional) birth leave?

You are always free to submit a request for an extension of your employment contract to the (managing) director of the management unit. Please note that according to the CAO-NU 'taking (additional) birth leave' is not a valid reason to extend your employment contract.

13. Is it possible to apply for additional birth leave with retroactive effect?

No, this is not possible. As of 1 July 2020, the Extra Parental Leave Act (WIEG) is in force. Additional birth leave can be applied for children born on or after 1 July 2020.

14. Is it possible to prematurely (or retroactively) terminate my additional birth leave?

No, this is not possible. The reduction to your gross salary will be applied in accordance with the application form for additional birth leave which you submitted earlier. In addition, the WAZO benefit will have been granted to you by the UWV and most likely will already have been paid to you (in part). In that context, it is not possible to terminate the additional birth leave prematurely or retroactively. The salary reduction will 'simply' be implemented according to the submitted application form.

15. What is needed to apply for additional birth leave?

In order to be able to apply for additional birth leave, the child's date of birth must be known. This means that the application can be submitted from the day the child is born. In addition, you must have applied for the standard birth leave via TU/e InSite before you can submit the application for additional birth leave.

On the application form, you must indicate how many hours of additional birth leave you wish to take per month. For the conversion of hours per week to hours per month, the following formula can be used: *number of hours of additional birth leave per week times 13 weeks divided by 3 months* (read: number of hours of additional birth leave * 13 weeks / 3 months).

The calculation of the reduction to the gross monthly salary takes into account the working pattern registered in the HRM system as well as your selection of flexible working hours.