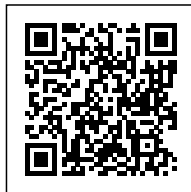


EQUALITY IN EMPLOYMENT

Posted on 25/06/2008



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The incorporation of women into the Spanish labour market has occurred in a massive way in the last fifteen years, such that the level of female employment, while still below the European average, is now above 50% of the possible total. Even so, family responsibilities mean that women often still abandon careers or switch to parttime, lower paid, jobs to balance their domestic situation and wageearning needs.

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Ana María Pérez Castillo, abogada del bufete Sagardoy, explica en su artículo varios aspectos relacionados con la Ley Orgánica de Igualdad de Mujeres y Hombres (LOIMH), ya conocida como la Ley de Igualdad, que entró en vigor en 2007. Una de las novedades más destacadas es la suspensión del contrato laboral en caso de paternidad con derecho a la correspondiente prestación económica de la Seguridad Social. La LOIMH dispone en su articulado que el titular del derecho podrá disfrutar del mismo en cualquier momento, desde el nacimiento, adopción o acogimiento del bebé, hasta finalizado el periodo de suspensión por maternidad. La ley contempla el compromiso

de ampliar los trece días de permiso por paternidad a cuatro semanas en los próximos años.

To try and encourage a more balanced society, the Spanish Government introduced Organic Law 3/2007, of 22 March, known as the Law of Equality. It implemented two European Union directives on equal treatment for the sexes, one of which, Directive 2002/73/EC deals with equality in employment.

One of the most important changes is that which deals with paternity leave. Prior to the enactment of the new law, paternity leave was restricted to just two days at the expense of the employer, but not as paid paternity leave. Under the new legislation, an additional thirteen continuous days leave is available paid for by Social Security at 100% of the regulated base (corresponding to the temporary disability benefit for common contingencies). If the employer agrees, the leave can be taken on a part-time basis with a minimum of 50% normal time worked. In the case of multiple births, two extra days are added for each additional child born.

In language that seems to reflect the political correctness of the Anglo-Saxons, the new Law speaks not of father and mother, but of progenitors, thus allowing for the different situations that the Spanish legislation takes into account when referring to married couples and common law partners. The Law gives the specific right to the "nonchild bearing progenitor" to have his labour contract temporarily suspended while he attends to his family duties.

However, in the case of adoption or the fostering of children, only one of the progenitors has this entitlement and it is left to individuals to decide who it should be. Only in the case of maternity leave having been fully enjoyed by one of the two progenitors would the other individual have the right to paternity leave.

Within this basic framework are other combinations of maternity and paternity leave that might be approved, although they are more complicated since the progenitors can either have their labour contracts suspended at the same time or one can immediately follow the other. However, unlike maternity leave, paternity leave is not transferable.

In the spirit of the regulation of protecting the child, in the case of there being only one progenitor, there is extensive interpretation of what the single adult is entitled to. A straightforward example is the situation when the mother has died following birth; in that case the father would be entitled to her full maternity leave as well as paternity leave. In less severe cases, for instance where the mother is hospitalised, this is unlikely to be the case.

When the new law was introduced, the Government indicated that its medium-term aim was to extend paternity leave to a full four weeks. By the time that is achieved, it should be possible to determine whether there has been clear progress in reconciling the current divide in Spain between work and family duties.

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