



MC No. 5, s. 2021

## MEMORANDUM CIRCULAR

- TO** : ALL HEADS OF CONSTITUTIONAL BODIES; DEPARTMENTS, BUREAUS, AND AGENCIES OF THE NATIONAL GOVERNMENT; LOCAL GOVERNMENT UNITS; GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS WITH ORIGINAL CHARTERS; AND STATE UNIVERSITIES AND COLLEGES
- SUBJECT** : Amendment to Omnibus Rules on Leave (CSC MC No. 41, s. 1998, as amended)

Pursuant to **CSC Resolution No. 2100020** promulgated on **07 January 2021**, the Commission amended Items (p), 8 to 10 and 15 to 25, Rule I and Sections 11 to 20, Rule XVI of the Omnibus Rules Implementing Book V of Executive Order (E.O.) No. 292, also known as the Omnibus Rules on Leave (CSC MC No. 41, s. 1998, as amended), which cover the provisions of the civil service rules on maternity leave<sup>1</sup>, paternity leave<sup>2</sup> and adoption leave<sup>3</sup> and prescribed the use of the revised Application for Leave<sup>4</sup> (CS Form No. 6, Revised 2020) and the Notice of Allocation of Maternity Leave<sup>5</sup> (CS Form No. 6a, s. 2020), as follows:

### **“RULE I<sup>6</sup>** **“COVERAGE AND DEFINITION OF TERMS**

*“(p.) The following terms used in Rule XVI shall be construed as follows:*

X X X

- “8. **Pregnancy** refers to the period from the conception up to the time before actual delivery or birth of a child, miscarriage or emergency termination of pregnancy.
- “9. **Maternity leave** refers to the leave of absence for pregnant female government employees for one hundred five (105) days with full pay, to provide them with ample transition time to regain health and

<sup>1</sup> Pursuant to RA No. 11210 or the 105-Day Expanded Maternity Leave Law.

<sup>2</sup> Pursuant to RA No. 8187 or the Paternity Leave Act Of 1996.

<sup>3</sup> Pursuant to RA No. 8552 or the Domestic Adoption Act of 1998.

<sup>4</sup> Annex A

<sup>5</sup> Annex B

<sup>6</sup>An erratum was published in the Daily Tribune on 22 April 2021: “Due to error in transcription, the numbering on pages 3 (items 17 to 25) and 4 (items 17 to 21), Rule I (Coverage and Definition of Terms), CSC Resolution No. 2100020 dated 7 January 2021 (Amendment to the Omnibus Rules on Leave [CSC MC No. 41, s. 1998, as amended]) should have read as items 15 to 25 and items 15 to 19 respectively.”

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overall wellness as well as assume maternal roles before resuming paid work.<sup>7</sup>

“10. **Paternity Leave** refers to the leave of absence for married male government employees for seven (7) days with full pay, to enable them to lend care and support to their legal spouses before, during and after childbirth as the case may be and assist in rearing of the newborn child.

X X X

“15. **Additional maternity leave benefits** refers to the additional maternity leave benefit of 15 days with full pay on top of the 105-day maternity leave benefit for a female employee who qualifies as solo parent under the Solo Parents' Welfare Act of 2000.

“16. **Extended maternity leave** refers to the additional maternity leave of up to thirty (30) days without pay, or with pay charged against sick or vacation leave credits, which the female employee may avail of in case of live childbirth to extend the one hundred five (105)-day expanded maternity leave, provided that a written notice is submitted to the agency head at least forty-five (45) days before the end of maternity leave.

“17. **Allocation of maternity leave credits** refers to the option of female employee to allocate a maximum of seven (7) days of the one hundred five (105)-day expanded maternity leave to the child's father or, in case of his death, absence or incapacity, to an alternate caregiver.

“18. **Pre-natal care** refers to the portion of the maternity leave of not more than forty-five (45) calendar days prior to delivery when female worker may be placed on full bed rest or bed rest throughout most of their pregnancy if they have a high-risk pregnancy.<sup>8</sup>

“19. **Post-natal care** refers to the portion of the maternity leave of not less than sixty (60) calendar days after delivery to allow the female worker to rest and recuperate from child delivery as well as to provide her an opportunity to breastfeed and bond with her newborn child.

“20. **Permanent incapacity** refers to complete physical, mental or psychological deficiency, disability or illness which renders a parent incapable of complying with parental obligations, as certified by a competent medical practitioner.

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<sup>7</sup> Maternity leave of sixty (60) days, with full pay, shall be granted for miscarriage or emergency termination of pregnancy.

<sup>8</sup> <https://americanpregnancy.org/pregnancy-complications/bed-rest/>

- “21. **Adoption leave** refers to leave of absence granted to a government employee (adoptive parent) to provide an opportunity to develop bonding with the adoptee who is below seven (7) years of age.
- “22. **Adoptive parent/adopter** refers to a male or female government employee who is qualified to adopt under Section 7 of the Domestic Adoption Act of 1998, who shall undergo supervised trial custody and/or has obtained a decree of adoption from the court.
- “23. **Pre-Adoptive Placement Authority (PAPA)** refers to the notice of approval from the Regional Director of the Department of Social Welfare and Development (DSWD) on the placement of the adoptee to the prospective adoptive parents from which the supervised trial custody shall commence. (Sections 22 and 23, Article V, IRR of R.A. No. 8552)
- “24. **Government employee** refers to a person in government service who, in accordance with existing laws, rules and regulations, hold public office by virtue of an appointment issued by the proper appointing officer/authority or by way of election in National Government Agencies (NGAs), Local Government Units (LGUs), Government-Owned or -Controlled Corporations (GOCCs) with original charters, State Universities and Colleges (SUCs), or Local Universities and Colleges (LUCs).
- “25. **Employment status** refers to the status of appointment. It may be permanent, temporary, provisional, coterminous, fixed term, substitute, casual or contractual.

x x x

**“RULE XVI**  
**“LEAVE OF ABSENCE**

x x x

**“Sec. 11. Grant of Maternity Leave.** - Every female employee in the government service, regardless of her civil status, employment status, length of service and legitimacy of the child, in addition to her vacation and sick leave credits earned, shall be granted one hundred five (105) days maternity leave with full pay for live childbirth regardless of the mode of delivery, whether normal or caesarian.

“For cases of miscarriage or emergency termination of pregnancy, maternity leave of sixty (60) days with full pay shall be granted.

“The female employee shall give prior notice to the authorized officer of her agency of her pregnancy and her av ailment of maternity leave at least

*thirty (30) days in advance, whenever possible, specifying the effectivity of the leave. Civil Service (CS) Form No. 6, Revised 2020, shall be used in filing maternity leave application with medical certificate.*

*“In case the female employee qualifies as a solo parent under R.A. No. 8972 or the “Solo Parents’ Welfare Act of 2000”, she shall be granted an additional maternity leave of fifteen (15) days with full pay.*

*“Female teachers may also avail of the maternity leave benefits even during long vacations, i.e., summer and Christmas vacations, in which case, both the maternity leave benefits and the proportional vacation pay (PVP) shall be granted.*

*“Maternity leave shall be non-cumulative and non-commutative (non-convertible to cash). The enjoyment of maternity leave cannot be deferred but part of it may be availed of on or before the actual date of delivery in a continuous and uninterrupted manner.*

**“Sec. 12. Extended Maternity Leave.** – *In case of live childbirth, the female worker has the option to extend her maternity leave for an additional thirty (30) days without pay, or use her earned sick leave credits for extended leave with pay. In case the sick leave credits are exhausted, the vacation leave credits may be used.*

*“Due notice must be in writing and must be submitted to the authorized officer of her agency or the authorized official at least forty-five (45) days before the end of the female worker’s maternity leave. However, no prior notice shall be necessary in the event of a medical emergency but subsequent notice shall be given to the authorized official.*

*“The above period of extended maternity leave without pay shall not be considered as gap in the service.*

**“Sec. 13. Frequency of the Grant of Maternity Leave.** - *Maternity leave shall be granted to a female employee in every instance of pregnancy, regardless of frequency.*

*“In case of overlapping benefit claims, the female employee shall be granted maternity benefits for the two contingencies in a consecutive manner.*

*“The female employee shall be paid only one maternity leave benefit, regardless of the number offspring, per childbirth/delivery.*

**“Sec. 14. Tenure of Female Employee Availing the Expanded Maternity Leave.** - *The availment of maternity leave shall not be used as basis for the diminution or reduction in rank, status or salary of the female employee or termination of her employment.*

**“Sec. 15. Maternity Leave After Termination of Employment. –** Maternity leave with full pay shall be granted even if the childbirth, miscarriage or emergency termination of pregnancy occurs not more than fifteen (15) calendar days after the termination of employee’s service as her right thereto has already accrued.

“However, in case of illegal termination of employment, the prescriptive period of fifteen (15) calendar days shall not apply and the female employee shall be paid, based on her salary, the full amount of the one hundred five (105) days maternity leave for live childbirth or sixty (60) days for miscarriage or emergency termination of pregnancy, as the case may be.

**“Sec. 16. Maternity Leave of Employee with Pending Administrative Case. –** Maternity leave benefits shall be enjoyed by the female employee even if she has a pending administrative case.

“Pending administrative case refers to a period while the case is pending investigation and resolution. It includes the period of preventive suspension and pending appeal with the Civil Service Commission.

“In case the female employee delivers a child while under preventive suspension or serving the penalty of suspension, she will be allowed to enjoy the maternity leave from the date of delivery, miscarriage or emergency termination of pregnancy until the full enjoyment of the said leave. In such case, she shall be required to serve the unexpired portion of her suspension.

“However, a female employee who delivers a child after a decision in an administrative case, finding her guilty with a penalty of dismissal from the service, became final and executory shall not be entitled to maternity leave.

**“Sec. 17. Allocation of Maternity Leave Credits. –** A female employee may avail of the option to allocate up to seven (7) days of her maternity leave to the child’s father, whether or not she is married to him. The allocated leave is over and above the seven (7)-day paternity leave benefit under R.A. No. 8187 or the “Paternity Leave Act of 1996”.

“In case of death, absence or incapacity of the child’s father, the female employee may allocate to an alternate caregiver who may be a relative within the fourth degree of consanguinity or current partner sharing the same household, taking into account the best interest of the child.

“The allocated leave may be enjoyed by the child’s father or the alternate caregiver either in a continuous or in an intermittent manner not later than the period of the maternity leave availed of.

“The allocation of maternity leave shall only be available to the child’s father or alternate caregiver who are employed either in the public or private sector.

*“The option to allocate is not applicable to maternity leave in cases of miscarriage and emergency termination of pregnancy.*

*“Civil Service (CS) Form No. 6a, s. 2020 shall be used as notice of allocation of maternity leave and shall be submitted to the authorized officer of the agency with the filled out Application for Leave form (CS Form No. 6, Revised 2020) and proof of relationship.*

*“In the event the female employee dies or is permanently incapacitated, the balance of her maternity leave benefits, if any, shall accrue to the child’s father or the alternate caregiver, subject to the following conditions:*

*“(a) That the maternity leave benefits have not yet been commuted to cash; and*

*“(b) That a certified true copy of the death certificate or medical certificate or abstract are presented to the agencies/employers of both the female employee and child’s father or alternate caregiver.*

*“In case full pay has been given to the female employee, the child’s father or alternate caregiver, as the case may be, shall only be excused from work (leave without pay). Such leave without pay by the child’s father or alternate caregiver shall not be considered as a gap in the service.*

**“Sec. 18. Dispute Resolution.** – *Any dispute, controversy or claim arising out of or relating to the payment of maternity leave with full pay shall be filed by the concerned female employee initially to the head of agency and may be appealed to the Civil Service Commission (CSC) Regional Office having jurisdiction over the agency, and to the Commission Proper, respectively. The agency shall not hold or delay the payment of full pay to the female employee pending the resolution of the dispute, controversy or claim.*

**“Sec. 19. Grant of Paternity Leave.** – *Every married male employee in the government service shall be entitled to paternity leave of seven (7) working days with full pay for the first four (4) deliveries, whether childbirth or miscarriage, of his legitimate spouse with whom he is cohabiting.*

*“The first of the four (4) deliveries shall be reckoned from the effectivity of the Paternity Leave Act on July 15, 1996.*

*“A male employee with more than one (1) legal spouse shall be entitled to avail of paternity leave for an absolute maximum of four (4) deliveries regardless of whoever among his spouses deliver.*

*“Paternity leave of seven (7) days shall be non-cumulative and strictly non-convertible to cash. The same may be enjoyed either in a continuous or*

*in an intermittent manner by the employee on the days immediately before, during and after the delivery of his legitimate spouse, but not later than the period of the maternity leave availed of by the spouse.*

*“A married male employee shall be entitled to paternity leave by accomplishing and filing the Application for Leave form (CS Form No. 6, Revised 2020) within reasonable period, e.g., one (1) week, prior to the expected delivery except in cases of miscarriage and abnormal deliveries. Approval of the leave application shall be mandatory on the part of the approving authority unless the services of the male employee are urgently needed to preserve life and property in which case the male employee shall be entitled to overtime pay.*

*“Any employee who has availed of the paternity leave may be required to furnish his office a certified true copy of his marriage contract, birth certificate of the newborn child, medical certificate with pathology report in case of miscarriage duly signed by the attending physician or midwife showing the actual date of delivery.*

**“Sec. 20. Grant of Adoption Leave.** – *A female government employee, regardless of her civil status and employment status, and length of service who qualifies as an adoptive parent under R.A. No. 8552 or the “Domestic Adoption Act of 1998” and whose prospective adoptee is below seven (7) years of age as of placement, shall be qualified to avail adoption leave of sixty (60) days with full pay, which leave shall be enjoyed in a continuous and uninterrupted manner. If she is married, her legitimate spouse (government employee) can avail of adoption leave of seven (7) days with full pay which shall be enjoyed in a continuous or in an intermittent manner.*

*“A single male government employee, regardless of employment status and length of service who qualifies as an adoptive parent under R.A. No. 8552 and whose adoptee is below seven (7) years of age as of placement, shall be entitled to adoption leave of sixty (60) days with full pay, which leave shall be enjoyed in a continuous and uninterrupted manner. The same privilege may also be enjoyed by a married male employee with an unemployed (wife) spouse.*

*“Adoption leave shall provide an opportunity for the prospective adoptee and the adoptive parent/s to develop bonding similar to that between a child and his/her biological parents.*

*“Application for adoption leave shall be filed using Civil Service (CS) Form No. 6, Revised 2020, and accompanied by an authenticated copy of the Pre-Adoptive Placement Authority issued by the Department of Social Welfare and Development (DSWD), if the leave will be availed of before the grant of petition for adoption.*

*“If adoption leave is availed after the grant of the petition for adoption, the application for leave shall be accompanied by the authenticated copies of the Decree of Adoption issued by the proper court.”*

In addition, the Commission adopted the following guidelines:

1. Qualified female employees who gave live childbirth or suffered miscarriage and emergency termination of pregnancy upon the effectivity of R.A. No. 11210 on 11 March 2019 but were only granted less than what is stipulated under the new law, shall be entitled to one hundred five (105) days or sixty (60) days with full pay, as the case may be. Concomitantly, they may resume their remaining maternity leave and receive unpaid maternity leave benefits due them, provided that they notify their agency/office heads in writing using the Application for Leave form (CS Form No. 6, Revised 2020). Female employees whose sick or vacation leave credits were deducted following the application of the old maternity leave law, rules and regulations, shall be entitled to restoration of the same.
2. All employees shall use the prescribed revised Application for Leave Form (Civil Service Form No. 6, Revised 2020) with the Instructions and Requirements found in Annex A and the Notice of Allocation of Maternity Leave (CS Form No. 6a, s. 2020) found in Annex B as applicable.
3. The use of CS Form No. 41 for leave application shall be discontinued. Consequently, employees may secure a medical certificate issued by a government or non-government physician in whatever form in support of their application for leave, provided that the medical certificate bears complete details of the physician (e.g. name and PRC/license, PTR and S2 numbers), the employee, and the employee’s condition/state of health.

The following CSC issuances relative to maternity and paternity leave have been **amended** accordingly:

- CSC Memorandum Circular No. 14, s. 1999 (*Additional Provisions and Amendments to CSC Memorandum Circular No. 41, 1998*)
- CSC Memorandum Circular No. 22, s. 2002 (*Amendment of Section 11, Rule XVI of the Omnibus Rules Implementing Book V of the Administrative Code of 1987*)
- CSC Memorandum Circular No. 13, s. 2004 (*Clarification on Maternity Leave Policies*)
- CSC Memorandum Circular No. 1, s. 2018 (*Amendment to Section 20 of the Omnibus Rules on Leave on the Period Within Which to Avail of Paternity Leave*)



Consequently, the provisions of CSC Memorandum Circular No. 8, s. 2003 (*Amendment to Section 24 of CSC MC No. 41, s. 1998 on Computation on Leave Monetization and Reiteration of Policy on Maternity Leave*) have been **repealed**.

CSC Resolution No. 2100020 shall take effect on 24 April 2021 or after fifteen (15) days from its publication in the Daily Tribune on 08 April 2021, provided that the amendment to the rules on maternity leave shall apply to female employees who gave live childbirth, suffered miscarriage or emergency termination of pregnancy from the effectivity date of Republic Act No. 11210 on 11 March 2019.

  
**ALICIA dela ROSA-BALA**  
Chairperson

**28 April 2021**