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NEWS REPORT

Country:	Belgium
Title:	Maternity leave for self-employed
Date:	31 May 2016
Expert:	Jean Jacqmain
<u>Context</u>	
Issue at stake:	Extension of maternity leave and increased flexibility
Ground of discrimination:	Sex
Source:	Legislation
Field:	Self-employment
Applicable law:	Royal Decree of 20 July 1971 concerning the Sickness and Maternity Insurance Scheme for Self-employed Workers.

Content

Policy development: A Royal Decree of 13 March 2016¹ amended the Royal Decree of 20 July 1971 concerning the Sickness and Maternity Insurance Scheme for Self-employed Workers. The amendments will come into force on 1 January 2017 and apply to any maternity leave beginning by that date.

The personal scope of the R.D. of 20 July 1971 includes all self-employed workers and their assistants, as well as assisting spouses and registered partners ("common law" partners are simply included as assistants).

Key points of analysis: The present duration of maternity leave is 8 weeks (9 in case of multiple pregnancy), of which 3 (1 immediately before and 2 immediately after giving birth) are « obligatory » (i.e. using those weeks is a condition of entitlement to the social security benefits) and the remainder is optional and may be used over a period of 21 weeks following the « obligatory » leave.

As amended by the R.D. of 13 May 2016:

- the maximum duration of the leave will be 12 weeks (13 in case of multiple pregnancy), including the « obligatory » 3 weeks;
- the optional part of the leave will be usable over a period of 36 weeks;
- during the optional part of the leave, a worker will be allowed to resume her activities half-time. In that case, the optional part of the leave will amount to a maximum of 18 (or 20) weeks, and the flat-rate weekly benefit of EUR 449.32 will be halved.

¹ *Moniteur belge/Belgisch Staatsblad*, 23 May 2016.

Although the amendments will bring the Belgian statutory scheme closer to the minimum requirements set in Article 8 (1) of Directive 2010/41/EU, no reference was made to the directive in the report to the Sovereign or the preamble of the R.D.; moreover, considering Recital 19 of the directive, it should be noted that the statutory maternity scheme for paid workers does not provide any possibility of resuming work half-time during the optional part of the leave (i.e. 5 weeks out of a total of 15).

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