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Adoption Leave starting 1 January
2023

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6 December 2023

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In many countries, Adoption Leave is not a statutory employee entitlement *per se* (e.g., Japan, Australia, Iceland) while in some countries, leave for adoption is provided for under Parental Leave entitlements. Adoption Leave entitlements and eligibility criteria vary by jurisdiction. Entitlements in particular, may be a total number of days to be shared by both parents, or consist of individual entitlements for each parent.

As norms and family structures change around the world, an increasing number of countries have introduced statutory Paternity Leave and Adoption Leave.

In Switzerland, the 2020 referendum approved paid Paternity Leave and the related legislation came into effect on 1 January 2021, entitling fathers to 2 weeks of paid Paternity Leave within 6 months of their child's birth. Then, the 2021 referendum approved same-sex marriage and adoption of children by same-sex couples.

In line with recent changes, starting 1 January 2023, working parents who adopt a child under the age of 4 will be entitled to 2 weeks of paid Adoption Leave, with payments of social allowances by the social Loss of Earnings Allowance System, similar to the allowances paid for the existing Maternity Leave. However, the adoption allowance is available to only 1 of the parents, provided that parent effectively stops working during the leave.

Adoption Leave entitlement is governed by Article 329j of the Code of Obligations (Droit des obligations). Whereas, entitlements to payments of an allowance during Adoption Leave is governed by Articles 16t through 16x of the Loss of Earnings Compensation Act ([Loi fédérale sur les allocations pour perte de gain, LAPG](#)).

While there is no federal entitlement to Adoption Leave prior to 1 January 2023, according to the LAPG cantons may provide adoption allowances to eligible individuals. Additionally, some collective bargaining

agreements (CBA) do provide for Adoption Leave.

Eligibility for adoption allowance

According to Article 16t paragraph 1 of the LAPG, the criteria that an employee needs to meet for Adoption Leave allowance eligibility is:

- a child less than 4 years of age is placed in the employee's home for adoption;
- the employee has been insured under the Old Age and Survivors Insurance Act during the 9 months preceding the placement of the child and was employed for at least 6 months; and
- is an employee (or self-employed) as defined by social security law or gainfully works for a at the time the child is placed for adoption.

If the child is adopted jointly by both parents, then both must meet the above criteria. Also, per Article 16t paragraph 5 of the LAPG, the adoption of a spouse's or partner's child does not entitle an employee to the allowance.

Social adoption allowance

The adoption allowance is paid during the leave granted by the employer of the parent. The current amount of the allowance is 80% of the average earnings with a daily maximum of CHF 196.

As for the duration of the leave, according to Article 329j paragraph 1 of the Code of Obligations the maximum time for the leave is

2 weeks without pay, unless mutually agreed otherwise with the employer. The Adoption Leave must be taken within 1 year of the adoption. If both parents are employed, the 2 weeks of Adoption Leave may be shared between the parents, but not simultaneously taken according to Article 329j paragraph 3 of the Code of Obligations. According to paragraph 4, Adoption Leave may be drawn on a weekly or daily basis.

Entitlement to paid Adoption Leave is per child adopted. However, when 2 or more children are simultaneously adopted, the right to paid Adoption Leave remains the same, i.e., 2 weeks of paid Adoption Leave.

Legislative background

On 12 December 2013, a Parliamentary proposal to Introduce of an Adoption Allowance ([*Initiative parlementaire Introduire des allocations en cas d'adoption d'un enfant*](#)) advocated for the introduction of a government-paid 12-week Adoption Leave at federal level. The Committee for Social Security and Health of the Swiss National Council (*la Commission de la sécurité sociale et de la santé publique du Conseil national, SGK-N*) reduced the proposed duration of the leave to 2 weeks; approved the proposal on 5 July 2019; submitted it to the Swiss National Council; and the amendment to the law was adopted on 1 October 2021.

The referendum period related to the parliamentary proposal expired on 20 January 2022. According to the Federal

Social Insurance Office (*Office fédéral des assurances sociales, OFAS*) the Regulation on allowances for loss of earnings ([Règlement sur les allocations pour perte de gain](#)) was pending the final decision of the Federal

Council. At its meeting of 24 August 2022, the Federal Council approved the Adoption Leave provisions and set its effective date as 1 January 2023.



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Adam is an International Benefits Analyst based in Manhattan and has been with Alliant for 3 years. Adam has demonstrated his ability to generate a favorable rapport with all, including Alliant clients. Whether he is addressing client needs through the online International IQ platform, coordinating meetings, preparing benchmarking reports or renewals with his clients and colleagues, or simply conducting regular check-ins to make sure the client is satisfied, his enthusiasm and drive to keep his clients happy enhance any account he works on.

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