

THE LAW ON FINANCIAL SUPPORT TO FAMILIES WITH CHILDREN

(The Official Gazette of the Republic of Serbia No. 16/02 , 115/05 , 107/09)

Revised text, concluding with amendments made is the Official Gazette of the Republic of Serbia No. 107/09 which are applicable starting from 31/12/2009 (amendments in Articles: 1 , 6 , 9 , 11 , 12 , 13 , 14 , 15 , 15a , 17 , 18 , 20 , 22 , 24 , 25 , 26 .)

I. GENERAL PROVISIONS

Article 1.

- (1) This Law regulates financial support to families with children.
- (2) In the context of this Law, financial support to a family with children includes:
- 1) improvement of conditions for satisfying the basic needs of children;
 - 2) particular incentives for child birth;
 - 3) support to underprivileged families with children, families with **children with special needs** and children without parental care.

Article 2.

- (1) In the context of this Law, the term family includes: parents, or guardians, foster parents, adoptive parents and children, as well as relatives in the direct line, and in the side line up to the second degree of kinship, provided they are living in a shared household.
- (2) Notwithstanding paragraph 1 of this Article, in determining order of births, family also includes children not living in it.
- (3) Shared household, in the context of this Law, represents a community of living, earning and spending of resources.

Article 3.

- (1) In order to be entitled to receive wage compensation during maternity leave, absence from work for child care reasons and absence from work for special child care reasons (hereinafter: wage compensation) and qualifying for maternity benefits –

birth order of children in a family is determined in relation to the date of application for exercising these rights, by date and hour of birth entered into the registry of births.

(2) In order to be entitled to child allowance, birth order of children from a divorced marriage or cohabitation which ceased to exist is determined taking into account the parent with whom the child lives, according to the decision made by the competent authorities.

(3) In order to be entitled to child allowance, birth order of children who were of legal age at the time of divorce or termination of cohabitation, or for whom the procedure of establishing family law status before a competent authority, is determined by the parent with whom the children live.

(4) In the context of paragraphs 2 and 3 of this Article, the fact with which parent a child lives shall be determined according to findings of the competent social service center.

Article 4.

(1) Revenues which affect exercising of rights regulated by this Law, established as average monthly amounts, based on revenues made in three years preceding the month when the request was submitted, are as follows:

- 1) revenues subject to taxation according to law which regulates personal income tax;
- 2) revenues gained through:
 - (1) pension and disability allowance;
 - (2) income gained in line with the rights of war invalids;
 - (3) relatives who have legal obligation of financial support;
 - (4) severance in the event of termination of the need for the work of employees due to technological, economic or organizational changes made in the year prior to request submitting;
 - (5) benefits according to social service programs;
 - (6) benefits due to unemployment period;
 - (7) realized monetary and other liquid resources in the year prior to request submitting;
 - (8) unregistered activities.

(2) When income is determined as a lump sum, the income is determined by the base of calculation of pension and disability insurance.

(3) Revenues expressed as annual revenues are taken as average monthly amounts.

Article 5.

(1) The right to the child allowance can be achieved if the applicant or members of his family, do not own financial or other liquid resources (achieved through the sale of real estate, bonds, stocks and other securities, etc.) in the amount exceeding 30 child allowances by family member at the time of application.

(2) If the applicant or members of his family own money and other liquid assets of the value higher than the amount of 30 child allowances by family member at the time of application, the applicant is not entitled to child allowance for the period proportional to number of months obtained by dividing the total amount of those assets with average salary in the Republic, tax and contributions excluded.

Article 6.

(1) The right to the child allowance may be achieved if the applicant, or members of his family, do not own immovable assets on the territory of **the Republic of Serbia**, not including appropriate housing facility which corresponds to the needs of individual, or a family.

(2) Notwithstanding paragraph 1 of this Article, the right to child allowance may be obtained if the applicant or members of his family who do not have income from agriculture and do not possess immovable property on the territory of **the Republic of Serbia**, not including appropriate housing facilities which correspond to needs of individual or family, and other necessary facilities in an agricultural household and land of the total area of two acres per family member.

Article 7.

(1) Average monthly income per employee in the Republic is established in line with data published by the body in charge of statistics of the Republic.

(2) Average monthly income, tax and contributions excluded, per employee in the Republic is established in line with data published by the authorities in charge of statistics of the Republic.

(3) Data on cost-of-living-index in the Republic shall be based on the data published by the authorities in charge of statistics of the Republic.

(4) In the context of this Law, data on the level of cadastral income and average cadastral income by one hectare of arable land is determined according to data provided by the Republic authorities in charge of land surveying.

Article 8.

(1) Rights regulated under this Law are individual rights and they may not be transferred to other individuals or legal entities.

(2) Financial gains grounded by this Law may not be used as security or debt enforcement means.

II. THE RIGHT TO FINANCIAL SUPPORT TO FAMILY WITH CHILDREN

Article 9.

(1) In the context of this Law, the rights to financial support to family with children are as follows:

- 1) income compensation during maternity leave, absence for child care and leave for special child care;
- 2) maternity benefits;
- 3) child allowance;
- 4) reimbursement for preschool for children without parental care;
- 5) reimbursement for preschool for **children with disabilities**;
- 6) reimbursement for preschool for children from disadvantaged families.

(2) The rights stated in paragraph 1, items 1 to 5 of this Article are rights of common interest and their provision is under jurisdiction of the Republic.

(3) The rights stated in paragraph 1, item 6 of this Article are under jurisdiction of municipality or the City, in line with this Law.

(4) If the resources are provided for, municipality or the City may establish other rights, may expand the scope of rights stipulated by this Law, as well as more favorable terms for their implementation.

1. Income compensation during maternity leave, absence from work for child care and absence from work for special child care

Article 10.

(1) The right to income compensation during maternity leave, absence from work for child care, and absence from work for special child care may be realized by:

- 1) employees working for natural persons and legal entities (hereinafter: employee working for employer);

2) self-employed persons.

(2) Income compensation from paragraph 1 of this Article may also be awarded to father, one of the adoptive parents, foster parent or guardian of the child, providing that the absence from paragraph 1 of this Article is in line with labor regulations.

Article 11.

(1) Income reimbursement for persons in the Article 10, paragraph 1, item 1) of this Law is defined as the average base salary of an employee for 12 months preceding the month when the leave commenced, increased based on time spent at work, for each full year of working full time, in line with the Law, up to five average monthly salaries in the Republic of Serbia.

(2) Income reimbursement for persons in the Article 10, paragraph 1, item 1) of this Law who were employed for less than 12 months, is defined in the following manner: income for the months missing is taken as 50% of the average monthly income in the Republic of Serbia, in line with data published by the Republic authority in charge of statistics, in the month preceding the month when the leave was commenced.

(3) Income reimbursement for persons in the Article 10, paragraph 1, item 2) of this Law is determined as the average monthly base for payment of contributions for mandatory social security in the last 12 months preceding the month when the leave commenced, up to five times the average monthly salaries in the Republic of Serbia.

(4) Income reimbursement for persons in the Article 10, paragraph 1, item 2) of this Law who were self-employed for less than 12 months is defined in the following manner: income for the months missing is taken as 50% of the average monthly income in the Republic of Serbia, in line with data published by the Republic authority in charge of statistics, in the month preceding the month when the leave was commenced.

(5) Income reimbursement shall be payable in the amount determined in line with paragraphs 1-4 of this Article, for the period of implementation of this right.

(6) The method of calculating the income reimbursement is prescribed by the Minister of Social Affairs.

Article 12.

(1) The full amount of the income reimbursement, as defined in Article 11 of this Law, is applicable to persons in Article 10 of this Law, providing that they were employed immediately prior to exercising this right, and that income, or income reimbursement was made on these grounds, or provided they were self-employed for more than six months continuously.

(2) Persons who were employed **and made income or income reimbursement on that ground**, or who were self-employed continuously and immediately prior to exercising this right for three to six months, are entitled to 60%, whereas persons who were employed **and made income or income reimbursement on that ground**, or who were self-employed continuously and immediately prior to exercising this right up to three months, are entitled to 30% of the amount of income reimbursement stipulated by Article 11 of this Law.

(3) For persons under paragraph 1 of this Article the monthly amount of income reimbursement may not be lower than the minimum wage determined for the month in which payment is made.

Article 13.

(1) Calculation and payment of income reimbursement is made by employer, at the same time with calculation and payment of salaries to employees.

(2) **The employer is obliged to submit evidence to municipal or city authorities on the level of basic income of an employee for the period of 12 months preceding the month when the leave commenced.**

(3) For beneficiaries of rights under Article 10, paragraph 1, item 2) of this Law who do not have other employees, calculation and payment of income is made by municipal or the city authorities, from resources provided in the budget of the Republic.

(4) Municipal or the city authority shall transfer resources to employer under paragraph 1 of this Article from the resources provided in the budget of the Republic.

(5) Resources are transferred to the employer under paragraph 1 of this Article upon delivery of evidence of payment income reimbursement to the employee.

(6) Minister of Finance and Minister of Social Affairs agree method and procedure for transfer of resources for payment of income compensation to employees during maternity leave, absence from work for child care and leave for special child care.

2. Parental allowance

Article 14.

(1) Mother is entitled to parental allowance for the first, second, third and fourth child provided that she is citizen of the Republic of Serbia, with residency in the Republic of Serbia and is entitled to health care provided by the Health Insurance Institute of the Republic of Serbia.

(2) Exceptionally, a mother who has three children and gives birth to two or more children with next delivery will be entitled to parental allowance for each child born, based on a special decision issued by the Ministry in charge of social care affairs.

(3) Birth order is determined according to number of children born alive, at the moment of application for parental allowance eligibility.

(4) The right under paragraph 1 of this Article shall be granted to a mother who is immediate caretaker of a child for whom she is submitting application, whose previously born children are not placed in a social care institution, foster family or given up for adoption, and who is not deprived of parental rights over the children from the previous births.

(5) The right under paragraph 1 of this Article shall be exceptionally recognized if a child from the previous birth order is placed under care of an institution for the purpose of continued health protection and care, or if there is a justified reason for placing child from the previous birth order under the care of an institution, who has mental development disorder of serious and severe mental retardation, with serious physical illness or impairments, and with multiple development disabilities, in line with previously acquired opinion issued by the Ministry for Social Affairs.

(6) Apart from the application for acquiring rights to parental allowance, also required is necessary documentation and certificate issued by the competent guardian on meeting the requirements prescribed in paragraphs 4 and 5 of this Article.

(7) The right to parental allowance, provided that terms under paragraphs 1-5 of this Article are met, may also be granted to father of a child, if the child's mother is not alive, if she has abandoned the child or if she is not able to take immediate care of the child for justified reasons.

(8) Conditions for eligibility for parental allowance are determined on the day of application submitting.

Article 15.

(1) Parental allowance is paid as a lump sum, starting from June 2002 and it amounts to 50,000 RSD for the second child, 90,000 RSD for the third child and 120,000 for the fourth child.

(2) Parental allowance for the first child is paid as a lump sum, starting with firstborn children from January 1st, 2006 and it amounts to 20,000 RSD.

(3) Parental allowance for the second, third and the fourth child is paid in 24 equal monthly installments, starting with all newborn children, from January 1st, 2006.

(4) The amount for parental allowance for children under paragraph 14, item 2 is paid in the amount prescribed for the fourth child.

(5) Parental allowance prescribed in paragraphs 2 and 3 of this Article shall be adjusted on April 1st and October 1st of the current year, based on statistical data, according to the cost of living trends on the territory of the Republic during the

previous six months, whereas the nominal value shall be established in line with the decision by the Minister of Social Affairs.

(6) The amount of the parental allowance is determined according to the day of birth of the child.

(7) Application for eligibility for rights to parental allowance with necessary documentation is to be submitted no later than **six months** after the child is born.

Article 15a

Should the right beneficiary abandon the child during payment of parental allowance, made in 24 monthly installments, further payment shall be suspended until further decision of the Ministry for Social Affairs.

Article 16.

(1) Parental allowance may not be granted if mother or members of the family pay property tax on the tax base exceeding 12,000,000 RSD.

(2) Parental allowance may not be granted if parents are living and working abroad at the moment of application.

3. Child allowance

Article 17.

(1) Child allowance shall be granted to a parent who takes immediate care of the child, is a citizen of the **Republic of Serbia**, has residence on the territory of the Republic of Serbia, is beneficiary of the health care provided by the Republic health Insurance Institute for the first, second, third and the fourth child, by order of birth in the family, from the day of submitted application, under terms stipulated by this Law.

(2) Notwithstanding paragraph 1 of this Article, a mother with three children who gives birth to two or more children in the second delivery, shall be entitled to child allowance for each child born in such a delivery, based on a special decision made by the Ministry for Social Affairs.

(3) Foster parent and guardian of a child shall be also entitled to child allowance under provisions of paragraph 1 of this Article.

(4) Notwithstanding paragraph 1 of this Article, foster parent or guardian of a child shall be entitled to child allowance for four own children in the family at the most and for each child without parental care.

(5) Foreign citizen who works on the territory of the Republic of Serbia shall be entitled to child allowance if so prescribed by an international agreement, under terms stipulated by this Law.

(6) Child allowance shall be granted to children living and studying on the territory of the Republic of Serbia, if not arranged otherwise by an international agreement.

(7) Child allowance shall be granted to a child under the age of 19, if studying as a regular student.

(8) Child allowance shall also be granted to a child who do not commence schooling for justified reasons, or who enrolls into school at a later date or ceases studying as a regular student, for the period of absence, up to the age of 19.

(9) Notwithstanding paragraph 6 ^[1] of this Article, child allowance shall also be granted to a child older than 19, for whom a distribution act exists, for the period over which the child is included into educational program and the program of training for work, provided that there is an extended custody right for 26 years of age at the most.

Article 18.

(1) Education in the context of this Law means acquiring education as a regular student in primary or secondary school, in line with the regulations in the field of education.

(2) Notwithstanding paragraph 1 of this Article, considered to have the status of regular student is also a person from vulnerable social groups and person with exceptional abilities who acquire secondary education or education as part-time working student, if the inability of regular school attendance is justified and with consent given by the Minister of Education.

Article 19.

(1) The right to child allowance shall be acquired in the following instances:

1) if the total monthly income, tax and contributions excluded, per family member in three months preceding the month when application is submitted amounts up to 2,750 RSD, and the total monthly cadastre income per family member in the previous year does not exceed 3% of the average cadastre income per hectare of arable land in the previous year, or has been made of the land of up to 500 m² on which a residential building was constructed;

2) if total monthly cadastre income per family member in the previous year amounts to up to 7% of the average cadastre income per hectare of arable land in the previous year, whereas the family does not have any other incomes.

(2) The amount of 2,750 RSD under paragraph 1 item 1) of this Article is the amount applicable for the month of June of 2002, and it shall be adjusted according to the living costs index.

Article 20.

For single parents, foster parents, guardians and parents of **children with disabilities** for whom an act on classification was adopted, and who is not placed under the care of an stationary institution, the threshold stipulated in Article 19 of this Law is increased by 20%.

Article 21.

Nominal threshold amount for implementation of right to child allowance, in line with Articles 19 and 20 of this Law, is established by the Minister for Social Affairs.

Article 22.

(1) The amount of child allowance for the month of June of the year 2002 for the first, second, third and the fourth child is 900 RSD.

(2) The amount of child allowance is adjusted on April 1st and October 1st of the current year, based on statistical data, according to the cost of living trends on the territory of the Republic during the previous six months.

(3) The amount of child allowance, determined in line with paragraphs 1 and 2 of this Article for single parents, foster parents, guardians and parents of **children with disabilities** shall be increased by 30%.

(4) For a child for whose education or rehabilitation the resources are provided from the public expenditure, fully or more than 50%, the amount of the child allowance is decreased by 50%.

(5) Nominal values of child allowance, in line with paragraphs 1 to 4 of this Article, are determined by the Minister for Social Affairs.

4. Reimbursement for preschool stay for children without parental care

Article 23.

(1) Preschool children without parental care are entitled to reimbursement for preschool stay in a preschool institution which belongs to a network of institutions established by municipality, or the City, in the amount of beneficiary participation in the service price.

(2) Children without parental care who are staying in social care institutions shall be entitled to reimbursement in line with paragraph 1 of this Article.

(3) Children without parental care who are placed in foster or guardian families shall be entitled to expenses reimbursement under paragraph 1 of this Article, provided that the right to child allowance is ensured in line with this Law.

5. Reimbursement for preschool stay for children with disabilities

Article 24.

(1) Preschool **children with disabilities** are entitled to reimbursement for preschool stay in a preschool institution which belongs to a network of institutions established by municipality, or the City, in the amount of beneficiary participation in the service price.

(2) **Children with disabilities** are entitled to expenses reimbursement under paragraph 1 of this Article, provided that the right to child allowance is ensured in line with this Law.

(3) Preschool institution which organizes separate group for **children with disabilities** shall be entitled to expenses reimbursement per child, in the amount of beneficiary participation in the service price.

6. Subsidizing the cost of stay in preschool institution for economically disadvantaged families

Article 25.

(1) Preschool children from economically disadvantaged families, as well as children without parental care and **children with disabilities** who are not entitled to this right in line with Articles 23 and 24 of this Law shall be, depending on the financial situation of their families, entitled to subsidization of the preschool stay in a preschool institution which belongs to a network of institutions established by municipality, or the City.

(2) The method and conditions of reimbursement of costs referred to in paragraph 1 of this Article shall be determined by the competent authority of the municipality or the City.

III. PROCEDURE AND METHOD OF EXERCISING THE RIGHTS

Article 26.

(1) The Minister responsible for Social Affairs shall prescribe the conditions and manner of exercising the rights to: wage compensation during maternity leave, absence from work for child care and leave for special child care; parental allowance, child allowances, reimbursement of preschool stay for children without parental care and reimbursement for preschool stay for **children with disabilities**.

(2) The Minister responsible for Social Affairs shall prescribe detailed terms for absence from work or part-time work of a parent, or foster parent, adoptive parent or guardian of a child under the age of five who is in need of special care due to serious psychophysical disorder.

(3) Municipality, or the city committee in responsible for **children with disabilities** issues opinion on the level of psychophysical disorder of a child, whereas the cost of its work is financed from the budget of municipality, or the City.

(4) The composition, competence and method of work of the committee is determined by municipal or city authorities, in line with the law.

Article 27.

The right stipulated by this Law shall be exercised in accordance with regulations of the general administrative procedure, if not otherwise stipulated by this Law.

Article 28.

(1) Decision-making on the rights under Article 9, paragraph 1, items 1) to 5) of this Law shall be vested in the municipal or city authorities.

(2) Municipal or the city authorities decide on rights under paragraph 1 of this Article based on the submitted application.

Article 29.

The rights under this Law are decided upon in the first instance by municipal or city authorities of the place of residence of the applicant, except for the right on income reimbursement during maternity leave, absence from work for child care and absence from work for special child care, which fall under jurisdiction of municipal or city authorities of the location of headquarters of the employee's employer.

Article 30.

(1) Appeals against first instance decisions on the rights under Article 9, paragraph 1, items 1) to 5) of this Law are processes in the second instance by the Minister in charge of Social issues.

(2) Deciding in the second instance on appeals against the first instance decisions on the rights under Article 9, paragraph 1, items 1) to 5) of this Law on the territory of the Autonomous Province of Vojvodina is entrusted to the competent authority of the Autonomous Province of Vojvodina.

Article 31.

Beneficiary of rights stipulated by this Law who exercised these rights on the grounds of false or inaccurate data, or who failed to report alterations which affect the loss or the scope of these rights shall pay damages in accordance with the Law.

Article 32.

Resources for exercising the rights of general interest stipulated by Article 9, paragraph 1, items 1) to 5) of this Law shall be provided for in the budget of the Republic, whereas resources for maternity leave shall be registered separately, as well as resources for children and the family.

Article 33.

The Ministry of Social Affairs shall monitor the work of state bodies in conducting activities of the state government prescribed by this Law, in line with the Law which regulates the state administration.

IV. PENALTY PROVISIONS

Article 34.

(1) A fine of 20,000 to 100,000 RSD shall be imposed on the employer as a legal entity who fails to carry out calculation and payment of income reimbursement in accordance with Article 13 of this Law, or if they calculate and pay more than the amount which is established in line with Articles 10 to 13 of this Law.

(2) For the offense referred to in paragraph 1 of this Article, employer who is entrepreneur shall be fined with 10,000 to 50,000 RSD.

(3) For the offense referred to in paragraph 1 of this Article, responsible person working for the legal entity shall be fined with 7,000 to 10,000 RSD.

Article 35.

(1) A fine of 20,000 to 100,000 dinars shall be imposed on the employer as a legal entity, or on other legal entity if they issue a false certificate on the actual revenue of the applicant under Article 4 of this Law.

(2) For the offense referred to in paragraph 1 of this Article, employer who is entrepreneur shall be fined with 10,000 to 50,000 RSD.

(3) For the offense referred to in paragraph 1 of this Article, responsible person working for the legal entity shall be fined with 7,000 to 10,000 RSD.

Article 36.

A fine of 20,000 to 100,000 dinars shall be imposed on responsible person working for municipal or city authorities, if funds for payment of benefits stipulated by this Law were used illegally.

V. TRANSITIONAL AND CONCLUDING PROVISIONS

Article 37.

(1) On the day when this Law becomes effective, exercising of the rights obtained on the grounds of the regulations which were effective by the day when this Law came into force ceases, notwithstanding the rights which shall be appropriately harmonized with the provisions of this Law.

(2) Beneficiaries of maternity allowance gained in accordance with legally valid decisions on the day when this Law comes into effect shall receive payments to the deadline established by the appropriate decisions.

(3) Payment of the benefits for newborn children established by legally valid decisions shall be made in accordance with regulations which were in force before the date of enactment of this Law.

(4) For a child born before enactment of this Law, previously effective regulations on exercising rights to maternity allowance and support for newborn children shall be applicable.

(5) The right to maternity allowance, as provided for in this Law, shall be applicable to children born on June 1st 2002 and beyond.

Article 38.

On the day when this Law comes into effect, the following ceases to be effective: Article 1; Article 2 items 1) and 2), item 5) in the part pertaining to adequate content of work with children without parental care and children with disabilities and children from economically disadvantaged families and item 6); Articles 5. to 9; Article 11. paragraph 1. Items 1) to 4) and item 5) in the part pertaining to children without parental care and children with disabilities; paragraph 2. In the part pertaining to items 1) to 4); Articles 12. to 30 ; Article 31. In the part pertaining to children without parental care and children with disabilities; Article 36. paragraph 1. In the part pertaining to the right to income reimbursement during maternity leave, extended maternity leave of an employed parent and absence from work of adoptive parent due to child care, maternity allowance, support for newborn children and allowance for children; Articles 37. to 42 ; Article 66. paragraph 1. Notwithstanding the part pertaining to preschool education and education of children undergoing lengthy hospital treatment and educational program of the duration of three hours prior to primary school; Article 69. And Article 76. Of the Law on Social Care of Children ("The Official Gazette of the Republic of Serbia ", No. 49/92, 29/93, 53/93, 67/93, 28/94, 47/94, 48/94, 25/96 and 29/01).

Article 39.

This Law shall come into force on June 1st, 2002.

PROVISIONS NOT INCLUDED INTO REVISED TEXT

The Law Amending the Law on Financial Support to Families with Children
("The Official Gazette of the Republic of Serbia, No. 115/05)

Article 18.

For children born prior to January 1st 2006, the right to parental allowance shall be exercised in line with regulations applicable prior to the date of enactment of this Law.

The Law Amending the Law on Financial Support to Families with Children
(**"The Official Gazette of the Republic of Serbia, No. 107/09**)

Article 12.

(1) The procedures for exercising the right to income reimbursement commencing prior to the date of enactment of this Law shall be completed in line with regulations applicable prior to commencement of maternity leave.

(2) The right to parental allowance for children born prior to the date of enactment of this Law shall be exercised in line with regulations applicable on the day the child was born.

NOTE OF THE EXPERT:

^[1] Given that by the Article 9 of the Law Amending the Law on Financial Support to Families with Children ("The Official Gazette of the Republic of Serbia, No. 107/09), in Article 17 of this Law the new paragraph 2 has been added, and that the former paragraphs 3-8 have been renumbered as paragraphs 4-9, the designated part should read "paragraph 7" instead of "paragraph 6".