

# Geneva's parental allowance scheme cannot yet be implemented as planned

On 18 June 2023, the Geneva voters approved the principle of an 8-weeks parental leave financed equally by employers and employees. For the time being, however, the canton of Geneva cannot introduce this insurance for the other parent because the planned financing arrangements are not compatible with federal law. However, the Federal Council is proposing a revision of the federal law, which should enable the cantons to introduce parental insurance for the other parent in the near future.

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## The Background

On 18 June 2023, the Geneva voters approved an amendment to the Geneva Constitution.

Following this vote, and subject to federal approval, the Geneva Constitution would provide that the Canton of Geneva would guarantee an insurance of at least 16 weeks in the event of maternity and at least 8 weeks for the other parent, financed equally by employers and employees. At the joint request of the two beneficiaries, it would guarantee the possibility of deferring two weeks of insurance in favour of the other beneficiary.

The insurance would also apply in the case of adoption or permanent foster care.

As this is a constitutional amendment, the guarantee of the Federal Assembly is required.

## The federal guarantee is refused

On 22 May 2024, the Federal Council recommended to the Federal Assembly that it should not guarantee this amendment, because its content was contrary to federal law.

Indeed, under federal law, the cantons do not have the power to introduce an allowance for the other parent, financed equally by employers and employees. This possibility is currently only granted for maternity and adoption allowances.

Consequently, this cantonal amendment cannot now be incorporated into the Geneva Constitution.

## Coming soon: new federal law

However, the Federal Council is of the opinion that the cantons should be able to introduce this type of parental insurance for the other parent. The Federal Council has submitted a corresponding amendment to the Federal Act on loss of earnings insurance for consultation, which goes in this direction. If the amendment comes into force, the Federal Council will propose in a future message to the Federal Assembly that it guarantees this new Geneva parental allowance (with the exception of the part relating to permanent foster care).

## Current parental leave

Pending the introduction of the new parental leave in the canton of Geneva, the current parental leaves for birth or adoption are as follows, provided that the conditions for allowances are met:

- Maternity leave of 14 weeks after the birth, 16 weeks in the canton of Geneva.
- Extension up to 56 days if the child is hospitalised immediately after birth.
- Paternity leave of 2 weeks within 6 months of the birth.
- Adoption leave of 2 weeks after the adoption, 16 weeks in the canton of Geneva, to be shared by the adopting parents.

Please do not hesitate to contact us if you have any further questions on this subject.

**Legal Note:** The information contained in this Smart Insight newsletter is of general nature and does not constitute legal advice.

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