

PATERNITY LEAVE POLICY

LEGISLATION

This policy has been drafted in line with the Paternity Leave and Benefit Act 2016 - This Act allows 'relevant parents' to take paternity leave from employment in respect of a child.

PURPOSE

This Act will entitle certain employees, who are relevant parents in relation to a child, to employment leave for the purposes of enabling the employee to provide, or assist in the provision of, care to the child or to provide support to:

- the mother of the child
- the adopting mother
- sole male adopter or
- to entitle a surviving parent to employment leave on the death of a relevant parent

ENTITLEMENT TO LEAVE

Only one person who is a relevant parent in relation to a child shall be entitled to paternity leave in respect of that child.

This Act will create an entitlement of 2 weeks' paternity leave to be taken as one continuous period of two weeks.

In the event of multiple births, or, if a person adopts 2 or more children at the same time, a person who is a relevant parent in relation to the children concerned shall only be entitled to one period of paternity leave under this section in respect of the children concerned.

A key requirement of the Act will be that paternity leave must be used for the care of the child to which the leave relates.

NOTIFICATION & CONFIRMATION OF PATERNITY LEAVE

Paternity leave must usually be applied for at least 4 weeks in advance. However, the Act will allow for relaxation of the normal notification period in cases where the date of confinement occurs four or more weeks before the expected date, subject to a minimal notification period of 14 days.

At the time of notification, or as soon as reasonably practicable afterwards, the employee must give his/ her employer a copy of the medical certificate confirming the pregnancy of the expectant mother and confirming the expected week of confinement of the expected mother.

In the case of adoption (other than intercountry adoption effected or to be effected outside the state) notification, in writing, of the expected day of placement is required as soon as reasonably practicable. A copy of the certificate of placement issued to the adoptive parent/s must be supplied as soon as possible but no later than 4 weeks after the date of placement.

In the case of intercountry adoption effected or to be effected outside the state notification, in writing, of the expected day of placement is required as soon as reasonably practicable. A copy of the applicable declaration of eligibility and suitability issued to the adoptive parent/s must be supplied as soon as possible but no later than 4 weeks after the date of placement.

TAKING THE LEAVE

Paternity leave can be taken at any time commencing on the date of the birth (or placement in the case of an adoption) and ending not later than 26 weeks thereafter. This means that a couple can

chose to avail of the leave at the time of the birth, or at the end of the period of paid maternity leave (thus if they chose, they can have 28 weeks continual paid maternity/paternity leave) or any time in between.

The Period of paternity leave will commence on the date the relevant parent selects in his/ her notification but it cannot commence earlier than the date of confinement or the day of placement and cannot be later than 26 weeks after that date.

The relevant parent who is entitled to but has not taken paternity leave may take that paternity leave at the end of a period of maternity leave that is transferred to the father on the death of a mother during her maternity leave (this transfer is provided for in section 16 of the Maternity Protection Bill 1994).

POSTPONEMENT

The Act will allow for the postponement of the paternity leave (either in whole or in part) in the event of hospitalisation of the child. In such an event the relevant parent will be allowed to select another date at which the paternity leave will take place.

POSTPONEMENT DUE TO SICKNESS OF RELEVANT PARENT

In the event that the relevant parent becomes sick prior to the commencement of his/ her paternity leave he/she must notify their employer in writing of their wish to postpone the paternity leave and they must provide relevant evidence in respect of the illness.

In such an event the absence will be treated in the same manner as any absence from work of the relevant parent due to sickness.

The relevant parent must notify their employer in writing of their intention to take their postponed leave as soon as reasonably possible but not later than the day the postponed leave begins.

POSTPONEMENT IN THE EVENT OF HOSPITALISATION OF CHILD

If the Child who the paternity leave relates to is hospitalised the relevant can submit a written request to their employer for the postponement of their paternity leave.

If the employer agrees to this request the relevant parent may postpone the paternity leave but it must be taken in one continuous period commencing not later than 7 days after the discharge of the child from hospital or such other date the employer and relevant parent agree to.

RETURN TO WORK

An employee has the right to return to work for the same employer (or new employer if there was a change in ownership), to do the same job, under the same contract of employment, in conditions not less favourable than before the leave was taken.

If an employee was not doing their normal or usual job before the leave, they are entitled to return either to the job that they were doing before the leave or their usual job.

PROTECTION FROM PENALISATION

An employee shall not be penalised for proposing to exercise or having exercised his or her entitlement to paternity leave. Such penalisation includes:

- Dismissal
- Unfair treatment including selection for redundancy
- Unfavourable change to terms or conditions of employment

TRANSFER OF LEAVE

The Act will provide for transfer of paternity leave to the mother (or other surviving parent) where a father or other relevant parent dies while having an entitlement to paternity leave that has not been used.

ANNUAL LEAVE & PUBLIC HOLIDAYS ENTITLEMENTS:

Any public holidays that fall during a period of Paternity Leave will be added to the end of the period of paternity leave.

Annual leave which accrues during an absence on paternity leave will be granted by the employer in accordance with Section 20 of the Organisation of Working Time Act 1997.

PROBATION

A period of probation, training or apprenticeship may be suspended, by the employer, while the employee is on paternity leave.

EMPLOYEES ON FIXED-TERM CONTRACT

Employees on fixed-term contracts are entitled to paternity leave.

However, if the contract is due to expire during a period of parental leave, the leave and any entitlements to benefit expire on the same day. There is no entitlement to return to work.

PROTECTION OF EMPLOYMENT RIGHTS

An employee is regarded as remaining in employment during an absence on paternity leave, and retains all employment rights.

The absence counts as reckonable service for the purposes of annual leave, increments, seniority etc. Paternity Leave cannot be treated as sick leave, adoptive leave, maternity leave, annual leave, parental leave or force majeure leave, to which an employee is entitled.

MAINTAINANCE OF RECORDS

The Employer is required to maintain a record of the paternity leave of employees indicating the period of employment for each employee and the dates and times in respect of when each employee was on paternity leave. These records must be retained for a period of 8 years after the relevant paternity leave is taken.

ENTITLEMENT TO SOCIAL WELFARE BENEFIT WHILE ON PARENTAL LEAVE

The Act will provide for the amendments to the Social Welfare Acts to provide a new social welfare payment to be known as Paternity Benefit. The employee should contact their local Department of Social Protection Office regarding qualification for such payments.

DISPUTE RESOLUTION

Any disputes that arise in relation to paternity leave can be referred to the Workplace Relations Commission.

CHANGE OF OWNERSHIP

If the business has changed ownership during the employee's absence on the leave, he/she is entitled to work under a contract of employment identical to the contract that existed with the original employer.

CONTACT THE HR SUITE:

If you have any queries please do not hesitate to contact our office on 066-7102887 and we would be happy to deal with your query.

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