



EMPLOYMENT RIGHTS EXPLAINED

Factsheet 4: Leave for parents

IN THIS SERIES

Terms and conditions of employment • Pay and wages • Holidays and leave from work • **Leave for parents** • Part-time workers • Employment permits • Leaving or losing your job • Redundancy

This factsheet provides information on maternity, adoptive and parental leave. It also explains where to complain if you have difficulty in securing any of the employment rights involved. **Factsheet 3: Holidays and leave** gives more information on holidays and other leave from work. You can find more information about your employment rights in the booklet *Employment rights explained* (available from your local Citizens Information Centre), from the National Employment Rights Authority (NERA) at www.employmentrights.ie or from the Citizens Information website at www.citizensinformation.ie

MATERNITY LEAVE

You are entitled to leave while pregnant and immediately after giving birth. Adoptive mothers and sole male adopters are entitled to leave. You are entitled to return the job you were doing before the leave began with the benefit of any improvements that may have taken place during the leave. There is no

entitlement in legislation to pay from your employer during leave but most employees qualify for a social welfare payment.

Do I have to have worked a certain length of time before I am entitled to maternity leave?

No, a pregnant employee is entitled under legislation to take maternity leave provided she gives the required notice, irrespective of how long she has been working for her employer, what hours she works or the nature of her employment (permanent, fixed-term or casual).

Am I entitled to paid time off to attend ante-natal and post-natal medical check-ups when pregnant?

Yes. Once your pregnancy is confirmed, you are entitled to paid time off during normal working time for medical visits connected with the pregnancy. This includes travel time to and from the visit. There is a similar entitlement for medical visits after the birth. The entitlement lasts for 14 weeks following the birth including any period taken on maternity leave following the birth.

Am I entitled to paid time off to attend ante-natal classes?

Yes, you are entitled to paid time off (which includes travel time) to attend one set of ante-natal classes (other than the last three in the set, which normally occur after maternity leave has started). You should inform your employer in writing of the dates and times of the classes or the date and time of each class. The father is entitled to attend the last two classes in the set without loss of pay.

How much maternity leave am I entitled to?

The basic period of maternity leave is 26 weeks. At least two weeks of this must be taken before the end of the week of the expected date of birth, and at least four weeks after the birth. How you take the remaining 20 weeks is a matter for you to decide. The usual practice is for employees to take two weeks before the birth and 24 weeks after. You can also take up to 16 weeks' additional unpaid leave. This is not covered by the maternity benefit payment from the Department of Social and Family Affairs.

Am I entitled to payment during maternity leave?

Your entitlement to pay during maternity leave depends on the terms of your contract of employment. Employers are not obliged to pay women on maternity leave.

You may qualify for a social welfare payment, Maternity Benefit, paid by the Department of Social and Family Affairs provided you have sufficient PRSI contributions. Maternity Benefit is generally paid for 26 weeks and should be claimed at least six weeks before you are due to go on leave (16 weeks if self-employed). Maternity Benefit is based on a rate of 80% of your gross earnings subject to a minimum and maximum payment. Your contract could provide for additional rights to payment during the leave period, so that, for example, you could receive full pay and sign over your Maternity Benefit to your employer.

I am working on a fixed-term contract. Am I entitled to maternity leave?

Yes, an employee on a fixed-term contract is entitled to full maternity leave. If your fixed-term contract ends before the last day of maternity leave, this counts as your last day of maternity leave. This does not affect your entitlement to the full 26 weeks of Maternity Benefit.

Can I postpone maternity leave if my baby is in hospital?

Yes. If your baby is in hospital, you may request your employer in writing to postpone your maternity leave or additional maternity leave. If part of the maternity leave is being postponed, then you must have been on leave for a minimum of 14 weeks of which at least four must have been after the date of birth. You must also supply a letter from the hospital confirming the baby's hospitalisation. The maximum period of postponement is six months. The postponed leave must be taken in one continuous period starting within seven days of the baby's discharge from hospital.

What notice do I need to give my employer before taking maternity leave?

You need to give your employer at least four weeks' notice in writing of your intention to take maternity leave. A medical certificate confirming the pregnancy must be provided with the notice. If you intend to take the 16 weeks' additional maternity leave, you must give your employer at least four weeks' notice of this in writing. It is essential to comply with these notice requirements, as failure to do so may cause loss of rights.

What if I have my baby earlier or later than expected?

If the birth takes place four or more weeks earlier than expected, you are entitled to take 26 weeks' leave from the actual date of birth – less any leave already taken. Where the baby is born four or more weeks early, you will also be deemed

to have fulfilled the notice requirements as long as you inform your employer within 14 days of the birth.

If you have a stillbirth or miscarriage any time after the twenty-fourth week of pregnancy, you are entitled to the full maternity leave, including additional leave – currently 26 weeks plus 16 weeks. To apply for Maternity Benefit following a stillbirth, you need to send a letter from your doctor with the Maternity Benefit application form, confirming the expected date of birth, the actual date of birth and the number of weeks of pregnancy.

Do I have the right to return to work after maternity leave?

Yes, but you must give your employer at least four weeks' written notice of your intention to return. You have the right to return to the job that you had before going on leave. However, if it is not reasonably practicable for your employer to allow you to return to your job, your employer must provide you with suitable alternative work. This new position should not be on terms less favourable than the terms of the previous job.

It is essential to comply with the notice requirement, as failure to do so could take away your right to return to work. However, if a Rights Commissioner or the Employment Appeals Tribunal considers that there are reasonable grounds for failing to give the proper notice (or for giving it late) then late notice may be accepted.

Can I lose out in regard to my employment conditions when I return from maternity leave?

No. Apart from pay and superannuation, you are entitled to be treated as if you had been at work during your maternity leave and any additional maternity leave periods. Your employment conditions cannot be worsened because you have taken maternity leave. If pay or other conditions have improved while you have been on maternity leave, you are entitled to these benefits when you return to work.

Maternity leave cannot be counted as part of any other leave entitlement such as sick leave, annual leave or parental leave. The period spent on maternity leave may be used to accumulate annual leave entitlement as if it were a period of actual employment. Employees on maternity leave are entitled to have the credit of any public holiday(s) during the leave period. If you decide not to return to work after your period of maternity leave, you are required to give your employer notice in the usual manner.

Am I entitled to any time off if I am breastfeeding?

Yes, for a maximum period of 26 weeks following the birth, you are entitled to either paid time off (one hour per working day) or a reduction in hours without loss of pay if you are breastfeeding.

Are fathers ever entitled to leave on the birth of a baby?

Fathers are only entitled to maternity leave if the mother dies within 24 weeks of the birth. In these circumstances, the father may be entitled to a period of leave, the extent of which depends on the actual date of the mother's death. Where a father qualifies for leave under these circumstances, he also has an optional right to the additional leave of 16 weeks. Fathers are entitled to unpaid parental leave (see below).

What rights do adoptive parents have?

The employment rights of adoptive parents have been brought into line with the rights of birth parents. Normally, only the adoptive mother is entitled to leave unless a male employee is the sole adopter of the child. You are entitled to 24 weeks adoptive leave plus an additional 16 weeks' unpaid adoptive leave. Adoptive Benefit from the Department of Social and Family Affairs may be payable during adoptive leave. Adoptive leave begins on the date of placement, not before. Adoptive parents can attend required preparation classes and pre-adoption meetings during work hours without loss of pay.

You can postpone adoptive leave if your adopted child is hospitalised and absence from work on additional adoptive leave will count for all employment rights (except remuneration and superannuation benefits) such as seniority and annual leave.

PARENTAL LEAVE

When can parental leave be taken, and is it paid leave?

The Parental Leave Act 1998, as amended by the Parental Leave (Amendment) Act 2006 allows parents in Ireland to take parental leave from employment in respect of certain children. A person acting in loco parentis (that is, in place of the parents – such as a guardian) is also eligible.

Since 18 May 2006, you can take leave in respect of a child up to eight years of age (previously five years). If a child is adopted between the age of six and eight, leave in respect of that child may be taken up to two years after the date of the adoption order. In the case of a child with a disability, leave may be taken up until the child is 16 years of age. If you become ill while on parental leave and as a result are not able to care for the child, you can may suspend the parental leave during your illness and restart the parental leave when your illness is over. Parental leave must be used only to take care of the child concerned. Where leave is taken and used for another purpose (for example, to do other work), your employer is entitled to cancel the leave. Employees on parental leave are not entitled to pay from their employer, nor is there any social welfare payment equivalent to Maternity or Adoptive Benefit. You can take the 14 weeks for each child in one continuous period or in separate blocks of a minimum of six weeks. If your employer agrees, you can separate your leave into periods of days or even hours.

How much leave can I take?

Employees with one year's service are entitled to take full parental leave. Parental leave is available for each child and amounts to 14 weeks for each child. However, unless a multiple birth is involved, no more than 14 weeks may be taken in a 12-month period regardless of the number of children, except where the employer consents. Each parent has an equal entitlement to 14 weeks' parental leave but the entitlements cannot be combined and taken by one parent only unless both parents work for the same employer and that employer consents. The parental leave legislation provides for the minimum entitlement. Your contract may provide for more extensive rights.

Do I have to give notice of taking parental leave?

Yes, you should inform your employer in writing of your intention to take parental leave at least six weeks before it is due to start. The notice should state the proposed starting date for the leave, and how long it will last.

Can my employer refuse to allow parental leave?

If your employer considers that you are not entitled to parental leave he or she must give you an opportunity to make representations. Following this, if your employer continues to believe that you are not entitled to parental leave, he or she must inform you of this and give a summary of the reasons.

However where you are entitled to the leave and before the confirmation document is signed for the leave, your employer may postpone the leave for up to six months. This must be for one or more of a stated number of reasons including the lack of a replacement, the fact that there are other employees on parental leave or there is a variation in the amount of work. You are entitled to four weeks' notice of such a postponement. Normally, only one postponement is allowed although seasonal variation in the workload may justify a maximum of two postponements.

Does taking parental leave affect other employment rights I may have?

Apart from the loss of pay and superannuation while on parental leave, you must be regarded for employment rights purposes as still working. This means that you can build up annual leave while on parental leave. If your annual holidays fall due during parental leave, you can take them later. A public holiday that falls while you are on parental leave and on a day when you would normally be working is added to your period of leave.

ENFORCING YOUR RIGHTS

If you have a dispute with your employer about maternity, adoptive leave or parental leave, you may refer the matter to a Rights Commissioner within six months of the date of the dispute occurring. (12 months if there is reasonable cause for the delay).

If you have been dismissed due to a matter connected with your pregnancy or for claiming your rights under the Maternity Protection Act 1994, you can claim redress under the unfair dismissals legislation and you may refer your case to either a Rights Commissioner or the Employment Appeals Tribunal. Note that an employee dismissed in these circumstances does not need any particular period of service with the employer in order to bring a claim under the unfair dismissals legislation.

Further information is available from the Equality Authority which is responsible for overseeing the implementation of the legislation.

The Citizens Information Board is the statutory body which supports the provision of information, advice and advocacy on the broad range of social and civil services to the public. It provides the Citizens Information website and supports the voluntary network of Citizens Information Services and the Citizens Information Phone Service.

USEFUL ADDRESSES

Citizens Information Board Head Office

George's Quay House
43 Townsend Street, Dublin 2

Tel: (01) 605 9012

Website:

www.citizensinformationboard.ie

Email: info@ciboard.ie

Department of Social and Family Affairs

Information Services, Social Welfare
Services Office, College Road, Sligo

Tel: (01) 704 3000

Lo-call: 1890 20 23 25 (to request
an information leaflet or booklet)

Lo-call: 1890 66 22 44

(for general information)

Website: www.welfare.ie

Citizens Information 

LOG ON

www.citizensinformation.ie

LO-CALL

1890 777 121 Open Mon to Fri, 9am to 9pm

DROP IN

For your local centre see Golden Pages listing

Employment Appeals Tribunal

Davitt House,
65a Adelaide Road, Dublin 2

Tel: (01) 631 3006

Lo-call: 1890 220 222

Website: www.eatribunal.ie

Equality Authority

2 Clonmel Street, Dublin 2

Tel: (01) 417 3333

Lo-call: 1890 245 545

Email: info@equality.ie

Website: www.equality.ie

Labour Relations Commission (including Rights Commissioner Service)

Tom Johnson House,
Haddington Road, Dublin 4

Tel: (01) 613 6700

Email: info@lrc.ie

Website: www.lrc.ie