



Irish Nurses and Midwives Organisation
Working Together

Carer's Leave

(Nurses/Midwives Working in the Private Sector)

**The largest Professional Union
for Nurses and Midwives in Ireland
representing over 50,000 members**

1. Introduction

This leaflet provides an outline of the rights and entitlements of employees under the Carer's Leave Act, 2001. It is not a legal interpretation of the Act.

2. Purpose of Carer's Leave

The Carer's Leave Act, 2001 provides employees with an entitlement to avail of temporary unpaid leave of up to 104 weeks to enable them to care for a relevant person (close relative or friend) who has been objectively assessed by the Department of Social Protection as being in need of full-time care and attention.

The Act does allow for an employer and employee to agree more favourable terms to the employee than those provided for under the Act.

3. Minimum period of Employment required

To qualify for carer's leave, you must have completed 12 months continuous employment with your employer before commencing the leave.

4. Is Carer's Leave Paid Leave?

- Carer's leave is unpaid. However, under the Carer's Benefit Scheme, employees who meet the eligibility requirements are entitled to a Carer's Benefit payable by the Department of Social Protection.
- While on carer's leave, an employee is entitled to work for up to 18.5 hours per week.
- For more information on Carer's Benefit contact the Department of Social Protection.

5. Manner in which Carer's Leave may be taken

- For each relevant person, carer's leave may be taken in a continuous period of 104 weeks, or separate periods, the total of which must not exceed 104 weeks.
- Your employer has the right to refuse to grant carer's leave for a period of less than 13 weeks, 'on reasonable grounds'. However, your employer must specify in writing to you the grounds for such refusal. If you are not satisfied with these reasons, you have the right to appeal to the Adjudication of the WRC.
- If the leave is taken in separate periods, there must be a gap of at least 6 weeks between the periods of leave in respect of a particular relevant person.
- The Act does, however, allow for more favourable arrangements to be agreed between employer and employee.

6. Leave in respect of more than one person

- In general an employee is entitled to a maximum period of 104 weeks carer's leave in respect of any one relevant person, at any one time.
- The exception to the above, however, is where two relevant persons reside together. In such a case, an employee who is already on carer's leave in respect of one relevant person, may avail of carer's leave in relation to the care of a second relevant person, provided they both reside together. This exception can only apply once.
- The total amount of carer's leave where two relevant persons reside together must not exceed 208 weeks, i.e. 104 weeks in respect each relevant person.
- The commencement date of leave in respect of the second relevant person will be the date on which the employee has been notified by the Department of Social Protection Deciding Officer that the person is a relevant person.

7. Leave in respect of different relevant persons

Six months must elapse between the end of a period of carer's leave in respect of one relevant person and the commencement of carer's leave in respect of another relevant person (except in the case of relevant persons who are residing together, as described in (section 6).

8. Notification Required

An application must be made to the Minister for Social Protection for a decision as to whether the person to be cared for is a relevant person, i.e. in need of full-time care and attention.

Your employer must be provided with at least six weeks' written notice which must state:-

- your proposal to take carer's leave;
 - the proposed date of commencement of the leave,
 - its duration and the manner in which it is proposed to be taken;
 - that an application has been made to the Minister for Social Protection for a decision as to whether the person to be cared for is a relevant person, or, where appropriate, that the decision of a deciding officer is under appeal.
- You are allowed to give less than 6 weeks' notice, where in 'exceptional or emergency circumstances' it is 'not reasonably practicable' to do so. In such a case, notice must be given as soon as is 'reasonably practicable'.

9. Confirmation of Leave

- At least two weeks before the leave is due to commence, and where an employee has given the employer the Deciding Officer's decision that the person to be cared for is a relevant person, the 'confirmation document' specifying the date of commencement of the leave, its duration, and the manner in which it is to be taken, must be prepared and signed by both the employee and employer.
- Before the 'confirmation document' has been signed, an employee is entitled to revoke the notice of her/his intention to take carer's leave.

- Once the 'confirmation document' has been signed, the employee is entitled to take carer's leave at the specified time.
- After the 'confirmation document' has been signed, however, both parties can agree to change the arrangements and a new 'confirmation document' setting out the revised arrangements can be drawn up.

10. Annual Leave / Public Holiday Entitlement

Employees on carer's leave can only accrue an entitlement to annual leave and public holidays during the first 13 weeks of leave for each relevant person.

11. Termination of Carer's Leave

Generally, carer's leave terminates on the date specified in the confirmation document. However, there are other circumstances under which carer's leave may be terminated, e.g.

- on another date agreed between the employer and employee;
- when the employee no longer provides full-time care and attention to the relevant person.
- when the person being cared for is no longer a relevant person;
- where the person being cared for dies, the leave will terminate either 6 weeks after the date of death, or the date that is specified in the confirmation document, whichever is the earliest.

12. Return to Work

You must give written notification to your employer that you intend to return to work at least 4 weeks before you are due to return.

13. Protection of Employment Rights

- While on carer's leave you are regarded as still being in employment, and therefore, all of your employment rights are unaffected by the leave (with the exception of the right to

remuneration, certain annual leave, certain public holidays, superannuation benefits, etc).

- Carer's leave cannot be treated as part of any other leave to which you are entitled, including annual leave, sick leave, adoptive leave, maternity leave, parental leave and force majeure leave.
- When carer's leave has expired, you have the right to return to the same job you held immediately before the commencement of the leave and under the same contract of employment. However, if this is not reasonably practicable, you have the right to suitable alternative work under a new contract of employment, the terms and conditions of which must not be substantially less favourable than those which you had immediately prior to the leave, and continuity of service is preserved.

14. Resolution of Disputes

Disputes arising in relation to whether the person to be cared for is a relevant person and/or whether the employee is providing full-time care and attention can only be referred to the Department of Social Protection.

Disputes in relation to any other entitlement under the Act can be referred to the Adjudication Service of the WRC, with right of appeal to the Labour Court.

15. Further Information

Further information is available from the INMO Information Office.

This leaflet is not a legal interpretation of the Carer's Leave Act, 2001 (errors and omissions accepted).

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