



Irish Nurses and Midwives Organisation
Working Together

Parental Leave & Force Majeure 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 sets out guidelines on parental leave and force majeure leave entitlements, based on the provisions of the Parental Leave Act 1998-2006 and the European Union (Parental Leave) Regulations 2013. It is not a legal interpretation of the Act/Regulation.

2. Entitlement to Parental Leave

- The Parental Leave (Amendment) Act 2019 amends the Parental Leave Act 1998 and extends the period of unpaid parental leave from 18 to 26 weeks. The additional leave is 26 weeks from 1 September 2020.
- The Act increases the upper age limit of a child for which parental leave may be taken from 8 to 12 years of age.
- Any parent who has already availed of their current entitlement of 18 weeks will be permitted to take the remainder of the new increased entitlement, provided that the child is under the age of 12.
- If both parents are employed by the same employer one parent may transfer up to 14 weeks' of their parental leave to the other but this is subject to the employer's agreement.

3. Leave in respect of more than one child

- Where you are entitled to parental leave in respect of children whose births are closely spaced, no more than 26 weeks leave may be taken in any 12-month period unless you have the agreement of your employer.
- In the case of multiple births, this restriction does not apply and each parent is entitled to 26 weeks parental leave for each child. For example, each parent would be entitled to 52 weeks parental leave in the case of twins, 78 weeks in the case of triplets, etc.

4. Minimum period of employment required

- To qualify for the maximum parental leave, you must have completed 12 months continuous employment with the same employer before commencing parental leave.
- Where your child is approaching the upper age limit and you have more than three months but less than one year's service, there is provision for pro-rata parental leave, i.e. one week's leave for each month's continuous service with the employer before the leave commences.

5. Manner in which Parental Leave may be Taken

- Parental leave may be taken in a continuous period of 26 weeks. There is a statutory entitlement to take the 26 weeks in separate blocks of a minimum of 6 continuous weeks. Alternatively, subject to the agreement of your employer, parental leave may be taken in reduced hours. If you are employed in a job-sharing or part-time capacity you are still entitled to a continuous period of 26 weeks parental leave, however, this period includes weeks off / days off.
- If the leave is to be taken in separate blocks or in reduced hours the total number of hours' leave to which you are entitled is determined by the number of hours worked by you during a particular period of continuous weeks (there are two ways of calculating the entitlement - one where you and your employer agree on a reference period and the other where a reference period cannot be agreed).

6. Notification required

- Your employer must be given at least six weeks written notice of your intention to take parental leave. However, it is at your employer's discretion to waive all or part of this period.
- The notice must set out the date you propose to commence the leave, its duration and the manner in which it is proposed to be taken.
- You may be requested by your employer to provide evidence of the child's date of birth and/or adoption of the child. You may also be requested to provide confirmation that you are the child's parent.

7. Confirmation Document

- At least four weeks before the leave is due to commence, 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 you and your employer.
- Once the "confirmation document" has been signed, you are entitled to take the parental leave at the specified time.
- After the confirmation document has been signed, both parties can agree to change the arrangements and a new confirmation document setting out the revised arrangements must be drawn up. However, the employer is not obliged to change the arrangements.

8. Postponement of Parental Leave

- Postponement of parental leave cannot take place if the leave is confirmed. However, if the confirmation document has not yet been signed, your employer can postpone the commencement of your leave for up to six months. In such a case, written notice must be given to you by your employer not less than four weeks before your leave is due to commence. Before postponing the leave your employer must consult with you.

9. Transfer from Parental Leave to Sick Leave

- If an employee becomes sick and is unable to care for the child then he/she may postpone the parental leave if it has not already commenced, or suspend the taking of the remainder of the leave if it has commenced, until such time as he/she is no longer sick.
- You must notify your employer in writing as soon as is reasonably practicable after becoming sick and the notice must be accompanied by a medical certificate.

10. Termination of Parental Leave

- Where an employer believes that the parental leave is not being used to take care of the child concerned, parental leave can be terminated. The employer, however, must give you written notice in advance of the termination of leave.

11. Returning from Parental Leave

- Employees returning from parental leave now have the right to ask for a change in their working hours and/or patterns for a limited period. Employers must consider such a request but are not required to grant it.
- You must give your employer a written request at least six weeks before the proposed commencement date of the changes to your working hours/patterns. The request should set out the commencement date, the nature of the changes requested and duration of the period.
- At least four weeks before the proposed commencement date your employer must inform you in writing as to whether your request has been refused or granted.
- Where your employer grants such a request an agreement must be prepared and signed by both parties setting out the changes to your working hours/patterns, the commencement date and the duration of the period.
- You have the right to cancel a request for a change in working hours/patterns by notice in writing to your employer in circumstances where the agreement has not yet been signed by you and your employer.

12. Force Majeure Leave

- The Parental Leave Act 1998-2006 also gives all employees a right to limited leave with pay for family crises. Such leave is called *force majeure* leave and may be availed of where, owing to injury or the illness of specified relatives, the immediate presence of the employee is required at the place where the family member is. Relatives include parents, children, spouses (including common law spouses), grandparents, brothers and sisters.
- Force majeure provisions have been extended to include persons in a relationship of domestic dependency, including same-sex partners.
- The maximum *force majeure* leave that you may avail of is three days in any period of 12 consecutive months or 5 days in any period of 36 consecutive months.
- You must also notify your employer in writing as soon as possible outlining the facts that entitled you to the leave.

13. Protection of Employment Rights

- While on parental leave you are regarded as not being absent, and therefore, you retain all employment rights, **other than the right to pay and superannuation benefits.**
- While on force majeure leave you are regarded as not being absent, and therefore, you retain all employment rights, **including pay and superannuation benefits.**
- After parental leave, you are entitled to return to the same job you held before the commencement of parental leave and under the same contract of employment, terms and conditions. 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 commencement of the leave.
- Both parental leave and force majeure leave cannot be treated as part of any other leave to which you are entitled, e.g. annual leave, sick leave, maternity leave.
- Employees retain an entitlement to any public holidays falling during a period of parental leave. The Act provides that a corresponding number of days in lieu of public holidays should be added to the end of the period of leave.

This leaflet is not a legal interpretation of the Parental Leave Act 1998-2006 and the European Union (Parental Leave) Regulations 2013 (errors and omissions accepted).

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