



Irish Nurses and Midwives Organisation
Working Together

Parents Leave

**The largest Professional Union
for Nurses and Midwives in Ireland
representing over 41,000 members**

1. Introduction

The Parent's Leave and Benefit Act 2019 amended by the Family Leave and Miscellaneous Provisions Act 2021 provides statutory leave for a relevant parent within the first two years of a child's life, or in the case of adoption, within two years of the placement of the child with the family. Parent's leave is available to each parent. The Act also provides for the payment of parent's benefit from the Department of Social Protection to employees who have made the necessary PRSI contributions and satisfy the eligibility criteria for payment. Parent's Leave and Benefit has increased from 5 weeks to 7 weeks for parents of children born or adopted from July 2022. Employees who had taken 5 weeks' parent's leave prior to 1 July 2022 will now have an entitlement to an additional 2 weeks' leave provided the child is under two years of age.

2. Who is the Relevant parent

- A parent of the child
- A spouse, civil partner or cohabitant of the parent of the child
- A parent of a donor-conceived child as provided for under section 5 of the Children and Family Relationships Act 2015
- The adopting parent or parents of a child
- The spouse or civil partner of the adopting parent of the child (if the parents have not adopted the child together).

3. Parent's Benefit

Where enough PRSI contributions have been made the parent will be entitled to a payment from the Department of Social Protection.

4. Manner in which Parent's leave may be taken

Parents can take the leave one week at a time or in a block of more than one week until they use their leave entitlement.

5. Notification required

Apply in writing to your employer six weeks before the date you intend to start the leave.

- indicate the expected start date and how long the leave will be
- Where your employer is not the employer of the other parent taking maternity or adoptive leave then you must include appropriate certification confirming pregnancy and the expected date of confinement, or in the case of adoption the certificate of placement.

6. Parents Leave and Maternity leave

Parent's leave is separate to maternity leave. Parent's leave cannot start while you are on maternity leave but can start from the day maternity leave ends. You must make a separate application for parent's leave.

7. Can an employer refuse parent's leave

An employer cannot refuse parent's leave, but they can postpone it.

8. Postponement of parent's leave

An employer can postpone parents leave when they feel it would have a 'substantial adverse effect on the operation of their business, profession or occupation'. Reasons for postponement can include:

- (a) The seasonal variations in the volume of work
- (b) The unavailability of another person to carry out the duties of the employee during the leave period
- (c) The nature of the duties referred to in (b),
- (d) Staffing levels over the period of the requested leave

Your employer may postpone the requested leave, but they must let you know in writing **no later than 4 weeks** before the intended start date of the leave.

The leave cannot be postponed for more than 12 weeks after the start date of the requested parent's leave, and the new date must be agreed by both of you.

- Before postponing parent's leave with a written notice, the employer must consult with the employee.
- The notice must contain a statement summarising the grounds for postponement.
- The leave cannot be postponed more than once.

9. Hospitalisation of child

If your child is hospitalised and you want to postpone your parent's leave, either if it has already started or before it starts, you must put the request in writing to your employer. Your employer is not obliged to grant the request.

10. Death of the Child

The death of the child does not affect the entitlement of the parent to parents leave (once within the timeframe and they qualify as a relevant parent) even where notice in writing of the intention to take the leave was not given.

11. Can Parent's leave be transferred between parents

Where a relevant parent dies, a surviving parent is entitled to leave (referred to as transferred parent's leave) to provide or assist in providing care for the child for a period of two weeks or for the amount of leave the deceased parent did not take.

12. Apply for transferred Parent's leave

To apply for transferred parent's leave, notify your employer in writing no later than six weeks before the intended start date of the transferred parent's leave. In your notification, mention:

- (i) the death of the relevant parent
- (ii) your intention to take transferred parent's leave
- (iii) the length of leave you are entitled to

If requested by the employer, a copy of the death certificate may need to be provided.

13. Protection of Employment Rights

An employer cannot penalise, or threaten an employee with penalisation for proposing to take parent's leave or for taking parent's leave

Penalisation includes:

- (a) dismissal, or threat of dismissal
- (b) unfair treatment including selection for redundancy or unfavourable change to terms and conditions

If you feel you've been penalised for taking parent's leave and it has led to your dismissal, you can make a complaint to the Workplace Relations Commission under the Unfair Dismissal Act (1977)

This leaflet is not a legal interpretation of The Parent's Leave and Benefit Act 2019 amended by the Family Leave and Miscellaneous Provisions Bill 2021 (errors and omissions accepted).

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