

Policy on Parents Leave and Benefit Act 2019

Document Reference and Version Number	
Purpose	<p>This policy informs all employees covered by the Parents Leave and Benefit Act 2019 of their rights and entitlements while in this employment.</p> <p>This policy covers all part-time and full-time employees in the organisation, provided that they meet the conditions outlined below. This policy provides parents with a temporary unpaid break from work to take care of young children.</p>
Commencement Date	January 2020
Date of Next Review	January 2021
Who needs to know about this document	All Staff
Revision History	
Policy Author	Human Resources Department
Policy Owner	HR Manager
Approved	

Context

The Parents Leave and Benefit Act 2019 enable a relevant* parent to avail of 2 weeks statutory Leave within the first year of their child's life, or in the case of adoption, one year of the placement of the child with the family.

The right to take this new leave only applies to children born or adopted from 1 November 2019

Who is 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, civil partner or spouse of the adopting parent of the child (if parents have not adopted jointly)*
- *Each member of a married couple of the same sex, a couple that are civil partners of each other, cohabiting couple of the same sex*

The Law

The Parent's Leave and Benefit Act 2019 (S.I. No. 629 of 2019.) was signed into law on 24 October 2019, this Order provides for the commencement of those sections of Part 5 of the Parent's Leave and Benefit Act 2019 which amend the Social Welfare Consolidation Act 2005, to enable the introduction of Parent's Benefit with effect from 1 November 2019.

Entitlements

- Parents leave must be taken within the first year of a child's life and the leave is available to each parent
- Parents Leave can be taken in a continuous period or not less than one week
- In the case of multiple births or the adoption of multiple children at the same time, a person who is a relevant parent shall only be entitled to one period of parents leave
- Employers do not have to pay employees while on parent's leave. **Parents Benefit**** is paid while you are on parent's leave from work if you have enough social insurance (PRSI) contributions.
- A relevant parent who adopts a child shall not be prevented from taking parents leave, if the parents who gave the child up for adoption have already taken parents leave

- Employee must have **completed one- years continuous employment** in order to avail of the leave
- Where a relevant parent is entitled to parents leave, except where a relevant parent has died, the relevant parents of that child shall not be entitled to transfer any part of his or her parents leave to the parent
- The death of a child does not affect the entitlement of the parent to parents leave once within the timeframe and they qualify as a relevant parent
- In event of hospitalization of the child , the relevant parent is entitled to have the leave postponed or part thereof, (*written request must be submitted*)
- Where a relevant parent dies, the surviving parent is entitled to the deceased parents leave, if not already taken.
- An employer cannot penalise, or threaten an employee with penalisation for proposing to take parents leave or for taking parents leave
- An employee accrues annual leave during parent's leave as though the absence has been worked.
- A parent can postpone parent's leave if their child is in hospital, provided that it is taken within seven days of the discharge of the child from hospital, or another date on agreement.

Parents Benefit **

You must apply for Parent's Benefit at least 4 weeks before the date you start your parent's leave. PRSI contribution conditions for Parent's Benefit are similar to the conditions for Maternity Benefit, Adoptive Benefit and Paternity Benefit and you must have a minimum number of weeks PRSI paid within a relevant period. Your PRSI contributions can be from both employment and self-employment. You must meet the conditions when you apply. The PRSI classes that count for Parent's Benefit are A, B, C, D, E, H and S (self-employed).

You can apply for Parent's Benefit online at mywelfare.ie or request an application from;

Parent's Benefit Section

Department of Employment Affairs and Social Protection
 McCarter's Road
 Buncrana
 Donegal
 Ireland
 F93 CH79

Employment protection

Employees' statutory and contractual rights, with the exception of remuneration, are protected under the Parents Leave and Benefit Act 2019. During any period of parents leave under the Act, an employee remains in the employment of the Institute, and as such, they retain all employment rights (*except the right to remuneration and superannuation benefits*). The absence counts as reckonable service for the purposes of annual leave, public holiday entitlement, increments, seniority and redundancy.

If an employee

- *exercises, or proposes to exercise his or her right to parents leave and is dismissed, or*
- *is not permitted by the employer to return to work, and is entitled to do so, following a period of parents leave,*

Then he or she will be regarded as having been unfairly dismissed for the purposes of the Unfair Dismissals Acts 1977 to 2015, unless there are substantial grounds justifying the dismissal. Any period of probation, training or apprenticeship is suspended by the employer for the duration of the parents leave period and will be completed when the employee returns to work. A relevant parent will have a right to return to the same job after parent's leave on the same terms and conditions as before. An employee who avails of their right to parent's leave must not be penalised by the employer for taking the leave. A parent cannot benefit from more than one allowance of parent's benefit in the case of multiple births or adoption of children simultaneously. Parent's leave is not transferable between parents unless there is a death of one parent.

Where an employee makes a complaint to the WRC that they were prevented from taking parent's leave by their employer, the WRC may order the employee be allowed to take the leave and/or award compensation of up to two weeks' remuneration.

Postponement by the employer

Management may decide to postpone the parents leave, for up to 12 weeks, if satisfied that granting the leave would have a substantial adverse effect on the operation of the business. This could be due to seasonal variations in the volume of work or the unavailability of staff to carry out the duties of the employee.

Postponement must be in writing, no later than four weeks before the proposed date of commencement of the leave, specifying the grounds for the postponement. Consultation with the employee must take place before any notification of postponement. Employers may only postpone Parents leave once.

The Institute cannot postpone parents leave once both parties have signed a confirmation document.

Abuse of parents leave

An employee must use their parents leave for the specific purpose to take care of the child concerned. The Institute may terminate the leave if it has reasonable grounds to believe that it is being used for a purpose other than taking care of the child concerned.

However, before terminating the leave, the employer must notify the employee, in writing, of its intention to do so, and invite the employee to make representations on the matter within seven days. The employer is obliged to consider the employee's submission before deciding whether to terminate the leave.

The employee must be notified, in writing, specifying the grounds and the date of the termination, which must be no earlier than seven days after the date when notification of termination is given. In a case where the leave is terminated and the employee returns to work, the period between the date of the employee's return to work and the date on which the leave would have ended if the employee had completed the leave, does not count as parents leave.

Refusal to grant parents leave

Management may refuse, in writing, to grant parents leave, if it has reasonable grounds to believe that the employee is not entitled under the Acts. The employee is permitted to make representations on the matter within seven days of the refusal, and the employer must consider the employee's submission, giving reasons for the refusal.

Notification and confirmation procedures

Employees must give written notice to the Institute of their intention to take parents leave, not later than six weeks before the proposed commencement of the leave. Applicants must indicate the expected date of commencement and duration of parents leave (*Notice of Intention Application Form*)

The Institute will require an employee to provide evidence of his or her entitlement to parents leave (*eg, the child's date of birth, the date of the adoption order, or evidence of parentage*).

Once notification of the intention to take parents leave has been made, the employee and Institute must prepare a confirmation document. This document must be prepared no later than four weeks before the leave is due to begin and must include the following details:

- *the date on which the leave will commence;*
- *the duration of the leave;*
- *the manner in which the leave will be taken;*
- *Signatures of the employer and employee.*

Once both parties have signed a confirmation document, it cannot be altered unless both parties agree to the change. An employee may revoke, in writing, his or her notice of intention to take parents leave at any time before the confirmation document is signed.

Records

The Institute keep a record of parents leave taken by employees, specifying the period of employment of each employee and the dates and times of the leave taken. Parents leave records must be maintained until the person is due to retire, as unpaid leave periods are not pensionable.

Contact Details

For Queries within the HR Office:

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