

March 2013

PARENTAL LEAVE ACT, 1998 **2013 amendment**

This Act has been amended from the 8th March 2013 to provide an increase in the period of Parental Leave entitlement for employees, as well as an additional requirement for employers to consider employee requests for temporary changes in working hours and/or patterns on return from Parental Leave.

The Parental Leave Act allows both Parents and persons acting in Loco Parentis (acting as a parent), unpaid leave for each child born or adopted for the purpose of taking care of the child, subject to certain conditions. Such leave does not interfere with any employment rights except superannuation.

Leave Entitlement: On completion of one year's continuous service, an Employee may now, in line with the Amended Legislation, take **18 weeks** Parental Leave. This leave may be taken in minimum continuous blocks of 6 weeks or, with the agreement of the Employer, in shorter blocks, or reduced working hours. Leave is not transferable between Parents unless both parents work for the same employer and it is with the agreement of the employer. Where the child is near the upper age limit and the Employee has more than 3 months service, Parental leave may be taken on a Pro-Rata basis. Except in the case of twins or triplets, Parental Leave is limited to 18 weeks in a 12-month period.

Qualifying Children: Children upto the age of 8 years or in the case of a child with disabilities or suffering from a long term illness upto the age of 16. Where an adopted child is between 6 and 8 years old at the time of adoption, then Parental Leave must be taken within two years of the adoption order.

Notice: Parents must give 6 weeks advance notice and arrangements agreed

are recorded in the "Confirmation Document", which must be prepared and signed 4 weeks prior to the Leave. Both parties, only, may change the terms agreed, once signed.

Employers may postpone leave where "it would have a substantial adverse effect on the employers business". This may only be done once, except where the reason is due to "seasonal variations" in the business. In such cases it may be postponed twice. Where it is postponed, the Employer must state the reasons in a "Statement in Summary" Form no later than 4 weeks before commencement date. A postponement cannot exceed six months. Where such a postponement would take Parental Leave beyond the upper age limit of the child, the limits will not apply.

Purpose of Leave: The Parental Leave **MUST** be to take care of the child. Where an Employer discovers it is not being used for that purpose, then the Leave may be terminated by the giving of 14 days notice, in writing, stating the reasons. The Employee may make representations to the Employer within the first 7 days. In such cases, the Employee is not entitled to return to their position.

Sickness during Leave: Where an employee falls ill and they are unable to care for the child, leave may be suspended for the duration of the illness and will be regarded as sick leave.

Force Majeure Leave: Employees may take limited leave, WITH PAY, in the case of an injury to or an illness of a family member or a person in a relationship of domestic dependency, including same sex partners, and the presence of the Employee must be required where such a person is. Maximum leave is 3 days in 12 months / 5 days in 36 consecutive months. Employees availing of this leave should be requested to complete a form stating the reasons, as soon as is reasonably practicable after the leave has been taken.

Return to Work: Employees are entitled to return to the same or suitable alternative work on terms and conditions no less favourable than before. However, the Amended Legislation now places an obligation on employers to consider employee requests for changes to their working hours and/or patterns for a set period on return from Parental Leave

Employers must consider the needs of both the business and the employee when considering such requests.

Where the request is not granted, the employer must respond in writing to the

employee as soon as possible, but no later than within 4 weeks after receipt to the request, advising that the request has been refused.

Where such changes are agreed, the employer must draft an Agreement setting out the following;

- The changes to the employee's working hours and/ or pattern.
- The commencement and duration of the agreed set period.

The agreement should then be signed by both the employee and the employer and a copy should be retained by both.

Before signing an agreement an employee may decide in writing to revoke a request for such changes.

Disputes: Where there is a dispute in relation to Parental Leave the matter may be referred to a Rights Commissioner whose decision may be appealed to the Employment Appeals Tribunal, and on to the High Court on a point of law

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