



# Enable Ireland

# PARENTAL LEAVE POLICY

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## 1.0 Legislation

*The Parental Leave Act, 1998 as amended by the Parental Leave (Amendment) Act, 2019*, gave effect to an EU Directive on parental leave (96/34/EC) and came into operation on 3rd December, 1998. The Act has two main purposes to entitle a staff member:

- Who is a natural or adoptive parent of a child, or a person acting in 'loco parentis' (acting as a parent to the child) to unpaid leave (parental leave) to enable him/her to take care of the child
- To a number of paid days leave (force majeure) to deal with family emergencies resulting from injury or illness of a family member

## 2.0 Scope

The Act covers all staff who are employed:

- Under a contract of employment or contract of apprenticeship
- By an employment agency. In this case, it is the person who is liable to pay the wages who is deemed to be the employer for the purposes of the legislation.

With reference to the application of the HR process in relation to staff employed by other agencies through the PDS framework, this policy is applied in accordance with the:

- [National Policy on the Lead Agency Model](#)<sup>1</sup> (2019:4),
- **Interagency Agreement**, together with any new policy or guideline documents arising from PDS.

## 3.0 Entitlement to Parental Leave

Effective from 01 September 2020, each parent is entitled to 26 weeks parental leave for each child. The leave must be taken before the child reached 12 years of age or 16 years of age in the case of a child with a disability or long term illness.

In Enable Ireland, the leave must be taken before the child reaches thirteen years of age and sixteen years of age in the case of a child with a disability, except, in the case of an adopted child.

### 3.1 Adoptive Children

If a child is under 10 years at the time of the adoption, the leave must be taken before the child reaches 12 years of age. However, if the child is aged between 10 and 12 years at the time of the adoption, the leave must be taken within two years of the adoption order.

In Enable Ireland, this leave must be taken before the child reaches thirteen years of age. However, if the child is aged between eleven and thirteen years at the time of the adoption, the leave must be taken within two years of the adoption order.

## 4.0 Loco Parentis

Parental leave entitlements are also available to person acting in loco parentis in respect of an eligible child.

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<sup>1</sup> <https://www.hse.ie/eng/services/list/4/disability/progressing-disability/pds-programme/documents/national-policy-on-the-leadagency-model.pdf>

## **5.0 Minimum Service Requirement**

A staff member must have at least one year's continuous service with Enable Ireland before being entitled to take parental leave. However, where the staff member has more than three months' but less than one year's service, and where the child is approaching the age threshold, the staff member will be entitled to one week's leave for every month of continuous employment completed with the Enable Ireland.

## **6.0 Transfer of Leave**

Each parent has a separate entitlement to parental leave from his/her job. The leave may not be transferred between the parents; e.g. a mother cannot take a father's leave, and vice versa. However, in the case where both parents are employed by the same employer 14 of the 26 weeks leave may be transferred from one parent to another, subject to the employer's agreement.

## **7.0 Manner in Which Parental Leave May Be Taken**

The leave may be taken as one continuous period of leave, or in separate blocks of a minimum of 6 continuous weeks or more favourable terms in agreement with the employer.

If the leave is taken in this way there must be at least ten weeks between each separate period. A staff member is not entitled to any more than 26 weeks' leave per child.

Where a staff member qualifies for parental leave in respect of more than one child, the staff member may not take more than 26 weeks' parental leave in any 12 month period, unless the employer agrees otherwise. However, this restriction does not apply in the case of children of a multiple birth (i.e. twins, triplets, etc.).

Staff members who did not avail of their full 26 weeks leave entitlement before their child reached the age of 12 years may avail of their outstanding weeks along with the additional 4 weeks. All the remaining weeks may be taken in blocks, of not less than one week, assuming the child's age is still under 12 years. Staff who never availed of any of their parental leave entitlement must take the leave in a continuous block of 26 weeks or two separate periods of a minimum of six weeks each.

## **8.0 Broken Leave**

Where the employer agrees to allow the parental leave period to be broken up and the staff member wishes to take the leave in the form of a number of hours, then the entitlement is based on the hours the staff member worked in the 26 weeks prior to the commencement of the leave.

There are two ways of calculating the entitlement, if the leave is to be broken up:

### ***1. Where an employer and a staff member agree on a reference period***

Where the employer and staff member agree that the 26 continuous weeks worked by the staff member before the leave commences is to be used as a reference period, then the total number of hours worked during that 26 week period represents the total number of hours' leave to which the staff member is entitled.

## **2. Where an employer and an staff member cannot agree on a reference period**

Where the parties cannot agree on a particular period of 26 continuous weeks to be used as a reference period, then a different formula will be applied, (e.g. where the staff member does not work a fixed number of hours per week). In this case, the average number of hours worked in a 26 week period, before the start of any period of parental leave, must be calculated.

## **9.0 Parental Leave and Maternity Leave**

Parental leave can be taken immediately following maternity leave provided the staff member has complied with the service and notification procedures of the Act and provided the employer does not postpone the leave (see note on postponement below).

### **10.0 Postponement of Parental Leave Due to Illness**

In the event that a staff member falls ill while on Parental Leave and as a result is unable to care for the child, this leave may be suspended for the duration of the illness following which period the parental leave recommences.

### **11.0 Protection of Employment Rights**

A staff member is regarded as remaining in the employment concerned, during an absence on parental leave, and retains all employment rights (except the right to remuneration and superannuation benefits).

The absence counts as reckonable service for the purposes of annual leave, increments, seniority etc.

Parental leave cannot be treated as sick leave, adoptive leave, maternity leave, annual leave or force majeure leave, to which a staff member is entitled.

### **12.0 Entitlement to Social Welfare Benefit While on Parental Leave**

There is no entitlement to social welfare benefit while on parental leave.

Staff members may receive credited social welfare contributions following a period of parental leave and are advised to contact Social Welfare Services directly.

### **13.0 Suspension of Probation**

A period of probation, training or apprenticeship may be suspended, by the employer, while the staff member is on parental leave.

### **14.0 Annual Leave and Public Holidays**

Any public holidays that fall during a period of parental leave will be added to the end of the period of parental leave.

Annual leave which accrues during an absence on parental leave will be granted by the employer in accordance with Section 20 of the *Organisation of Working Time Act, 1997*.

## **15.0 Notification Procedures**

Staff must give written notice to the employer of their intention to take parental leave, not later than 6-six weeks before the proposed commencement of the leave. A copy of the notice must be retained by both parties.

The notice must include the following details: (*see Appendix 1 Parental Leave Notification*) • date on which the staff member intends to commence the leave;

- duration of the leave;
- manner in which the staff member proposes to take the leave;
- staff member's signature.

## **16.0 Evidence**

The employer may require the staff member to provide evidence of his/her entitlement to parental leave (e.g. the child's date of birth or the date of the adoption order).

## **17.0 Confirmation of Parental Leave**

The staff member and employer must prepare a confirmation document, once notification of the intention to take parental leave has been made.

This document must be prepared no later than 4-four weeks before the leave is due to begin and must include the following details (*see Appendix 2 Parental Leave Confirmation Form*):

- 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 staff member

A copy of the signed confirmation document must be retained by both parties.

### **17.1 Alterations to the Confirmation Document**

Once a confirmation document has been signed by both parties, it cannot be altered unless both parties agree.

## **18.0 Revocation of Notice**

An staff member may revoke, in writing, his/her notice of intention to take parental leave at any time **before** the confirmation document is signed.

## **19.0 Postponement of Parental Leave by the Employer**

The Employer may decide to postpone the parental leave if satisfied that granting the leave would have a substantial adverse effect on the operation of the business.

The postponement of this leave may be for a period not exceeding 6 months, to a date agreed by both the Employer and the staff member.

## **20.0 Notification of Postponement**

Postponement must be in writing, no later than 4-four weeks before the proposed date of commencement of the leave, specifying the grounds for the postponement. Consultation with the staff member must take place before any notification of postponement.

## **20.1 Limitations on Postponement of Leave**

- Generally, the employer may postpone the leave only once in respect of any particular child.
- Parental leave cannot be postponed by the employer once a confirmation document has been signed by both parties.
- If, solely as a result of postponement, the child concerned will reach the age threshold before the end of the leave, the staff member retains the entitlement to take the parental leave.

## **21.0 Abuse of Parental Leave**

A staff member must use his/her parental leave to take care of the child concerned. The employer may terminate the leave if he/she has reasonable grounds to believe that it is not being used for this purpose. If following an investigation a staff member is found abusing this leave, they may be subject to disciplinary action under the Enable Ireland Disciplinary Policy.

## **22.0 Termination of Leave**

Before terminating the leave, the employer must notify the staff member, in writing, of his/her intention to do so, specify the grounds for terminating the leave and invite the staff member to make representations on the matter within seven days. The employer is obliged to consider the staff member's submission before deciding whether to terminate the leave.

### **22.1 Notification of Termination**

The staff member 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 notification of termination is given.

In a case where the leave is terminated and the staff member returns to work, the period between the date of the staff member return to work and the date on which the leave would have ended if the staff member had completed the leave, does not count as parental leave.

## **23.0 Refusal to Grant Parental Leave**

Enable Ireland may refuse, in writing, to grant parental leave, if it has reasonable grounds to believe that the staff member is not entitled. The staff member is permitted to make representations on the matter within seven days of the refusal using the Enable Ireland Grievance Policy & Procedure to his/her line Manager who must consider the staff member's submission, giving reasons for the refusal.

## **24.0 Return to Work**

Following a period of parental leave, a staff member is entitled to return to the job that was held immediately prior to the commencement of the leave under the same contract, terms and conditions of employment or to his/her normal/usual job, as soon as is practicable.

A staff member may request a change to the working hours or pattern of work for a set period following their return to work from parental leave. A staff member must as soon as is reasonably practicable but not later than 6 weeks before the proposed commencement of the set period give their line manager a request in writing signed by the staff member to specify the nature of the changes requested and the duration of the set period. The line manager will not later than four weeks from receipt of request inform the staff member if their request has been granted or refused.

## **25.0 Alternative Employment**

If it is not reasonably practicable for an employer to allow a staff member to return to the job held immediately prior to the leave, suitable alternative employment must be provided under a new contract of employment. The terms and conditions of the alternative employment must not be substantially less favourable to the staff member than the terms of their original job.

## **26.0 Staff on Fixed Term Contract**

Staff on fixed term contracts are entitled to parental leave (subject to satisfying the service and notification requirements of the Act). However, if the contract is due to expire during a period of parental leave, the leave and any entitlements to benefit expire on the same day. There is no entitlement to return to work.





## Appendix 1 Parental Leave Notification Form

*This form must be completed by the staff member concerned not later than **six weeks** before the commencement of the Parental leave.*

Please attach with this form a copy of the Birth Certification or Adoption Order.

Staff Member Details	
Name:	
Address:	
Start Date:	
Centre:	
Department:	
PPS number:	

Parental Leave Details	
Proposed Date of Commencement of Leave:	
Proposed duration of Parental Leave:	Weeks: Days: Hours:
Manner in which to be taken:	
Proposed date of return after Parental Leave:	
Name of Child:	
Child's Date of Birth or Estimated Date of Delivery <i>(if applying before the birth of the child)</i>	

*Parental leave is granted solely for the purpose of taking care of the above named child. This leave may be terminated if it is not used for this purpose. Any staff member abusing this leave may be subject to disciplinary action up to and including dismissal.*

*I declare that the information given above is accurate and complete.*

**Staff Member Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_



## Appendix 2

### Parental Leave Confirmation Form

*This form must be completed by the Employer and Staff Member not later than four weeks before the commencement of the Parental leave.*

Staff Member Details	
Name:	
Address:	
Start date:	
Centre:	
Department:	
PPS Number:	

Parental Leave Details	
Approved Date of Commencement of Parental Leave:	
Duration of Parental Leave:	Weeks: Days: Hours:
Manner in which to be taken:	

*Parental leave is granted solely for the purpose of taking care of the above named child. This leave may be terminated if it is not used for this purpose. Any staff member abusing this leave may be subject to disciplinary action up to and including dismissal.*

*Staff Member Signature:* \_\_\_\_\_

*Line Manager Signature:* \_\_\_\_\_

*Line Manager Print Name:* \_\_\_\_\_

*Date:* \_\_\_\_\_