



## **Parental Leave \***

It is becoming quite common that due to children being on summer holidays that parents will look to avail of Parental Leave to look after the children during these holidays. For some working parents it is often a position where they have little or no option but to seek this leave. This can be because of the significant cost of childcare in Ireland and the lack of affordable short term child care options.

For employers, of course the challenge with such leave is not having the employee in the workplace.

It is important that employers have a clear policy which is communicated to employees on how parental leave is to be applied for and the criteria which will be considered in postponing parental leave.

It is important for employers to understand what parental leave actually is.

The Parental Leave Act 1998-2013 allows for up to 18 weeks of unpaid leave from work to both men and women for each child to care for their young children. Normally to avail of the leave the child must be under the age of 8 years of age. There are exceptions.

The leave must be taken in a continuous block for 14 weeks or two separate blocks of at least 6 weeks. This is the legal entitlement which the employee has.

Some employers will agree that the leave will be taken on a different basis; namely a number of days in any particular week or perhaps a month off in the summer over the course of a number of years or some other arrangement. For an employee who has for example two children under the age of 8 years of age then both parents will have a total of 36 weeks which can be taken.



## **Postponement of Leave**

This issue is often raised by employers.

An employer is allowed to postpone leave on one occasion for business need reasons. In very limited circumstances the employer can postpone the leave for a second time due to the volume of work. Before postponement the employer however must first consult with the employee and give a written reason for the postponement. There is no right for an on-going postponement. Therefore, for example if an employee requested 9 weeks off in July and August 2015 the employer could postpone it. However, if the employee puts in a subsequent request for the same period in 2016 the employer will have to show that there can be a postponement due to the volume of work. However, come 2017 the employee will be entitled to take that block and there is nothing the employer can do about it.

## **Applying for Parental Leave**

An employee who wishes to claim parental leave must make a written request to the employer. This request must be at least six weeks before the intended leave date. It must set out the length of time-off requested and the expected return date. The employee must then sign a written document with the employer four weeks before the leave is due to start.

What can the Leave be used for?

The employee must use the time off to care for his / her children. If this is not the case then the employer has the right to cancel the leave. It is important as part of any parental leave policy that the employer sets out that any abuse of the parental leave provisions is a disciplinary matter and may result in dismissal. The leave is there to enable the employee to care for a child or children. It is not there for the employee to take an extended holiday with the children being left with a grandparent. There is of course nothing to stop a parent during the parental leave taking the children on holidays but the use of parental leave is there to care for the children. It is time to be used by the parent with their child or children and not for any other reason.



### **Returning to work**

It is sometimes forgotten that an employee returning from parental leave does not have an absolute right to their own job. The employer can place the employee in a suitable alternative position.

On the return to work the employees often request a short term change in work hours. There is absolutely no obligation on an employer to agree to this.

### **The Future Developments**

In 2015 the Minister for Children launched an inter – departmental group to examine the cost and quality of early year and school age care. It is likely that this is going to result in an extended debate on the issue of parental leave. Saying this, there is no proposal at the present time for new legislation but we would anticipate that such legislation is likely to arise.

**\*In contentious cases a Solicitor may not charge fees or expenses as a percentage or proportion of any award or settlement.**