

Parental Leave*

The Parental Leave Act 1998 (as amended by the Parental Leave (Amended) Act 2006 and the Parental Leave (Amended) Act 2019) covers the rights of Parents for up to 26 weeks 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. An employee needs 1 year service to be able to apply. There are some exceptions.

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 allow for up to 26 weeks 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 12 years of age. There are exceptions. The most usual is where there is a disability or a long term illness where it can be taken up until the child is 16 years of age.

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 then both parents will have a total of 26 weeks which each can be taken.

Postponement of Leave

This issue is often raised by employers.

An employer is allowed to postpone leave for business need reasons for up to 6 months. In very limited circumstances the employer can postpone the leave for a second time due to the volume of work or seasonal reasons. 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 6 weeks off for July and August the employer could postpone it. However if the employee put in a subsequent request for the same period in the following year the employer will have to show that there can be a postponement due to the volume of work. However, in the 3rd year 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 employers often request a short term change in work hours. There is absolutely no obligation on an employer to agree to this.

Who may claim Parental Leave

Parental Leave may be claimed by natural and adoptive parents.

Parental Leave may not be exchanged between parents but there are exceptions for parents working for the same employer.

***Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.**

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