

GUIDE TO PATERNITY RIGHTS

Paternity Leave provides for up to 2 weeks leave for new parents other than the mother of the child. It can be taken within 6 months of the birth or adoption.

In the case of multiple births or multiple children adopted at any one time, there is no entitlement to paternity leave longer than 2 weeks.

ELIGIBILITY FOR PATERNITY LEAVE

The Act refers to a “relevant person” as being eligible for paternity leave. A “relevant person” can be defined as:

- The father of the child
- The spouse, civil partner or cohabitant of the mother of the child
- The parent of a donor-conceived child

In the case of adoptions, a “relevant person” can be defined as:

- The nominated person in the case of a married same sex couple
- The spouse, civil partner or cohabitant of the adopting mother or sole male adopter

NOTIFICATION OF PATERNITY LEAVE

The employee must notify their employer of their intention to take paternity leave at least 4 weeks prior to the expected commencement. Employees must provide a medical certificate from their partners doctor confirming the expected due date or confirmation of the actual due date if the leave is being taken after the baby is born.

In cases of paternity leave for adoption, a copy of the Certificate of Placement or Declaration of Eligibility and Suitability (foreign adoptions) must be provided to the employer.

PATERNITY PAY

Paternity Benefit is paid through the Department of Employment and Social Protection. There is no obligation on employers to top up the difference between the Paternity Benefit and the employees normal wages.

Employees should apply for Paternity Benefit at least 4 weeks prior to commencing the leave. Self-employed should apply at least 12 weeks prior. A form PB2: Employer Certificate for Paternity Benefit must be completed by the employer to confirm entitlement to Paternity Benefit.

To qualify for paternity pay **an employee** must have:

- At least 39 weeks PRSI paid in the 12-month period before the first day of paternity leave.

Or

- At least 39 weeks PRSI paid since first starting work and at least 39 weeks PRSI paid or credited in the relevant tax year or in the tax year immediately following the relevant tax year. For example, if the employee is going on paternity leave in 2020, the relevant tax year is 2018 and the year following that is 2019.

Or

- At least 26 weeks PRSI paid in the relevant tax year and at least 26 weeks PRSI paid in the tax year immediately before the relevant tax year. For example, if the employee is going on paternity leave in 2020, the relevant tax year is 2018 and the year before that is 2017.

To qualify for paternity pay if **self-employed** you must have:

- 52 weeks PRSI contributions paid at Class S in the relevant tax year. For example, if going on paternity leave in 2020, the relevant tax year is 2018.

Or

- 52 weeks PRSI contributions paid at Class S in the tax year immediately before the relevant tax year. For example, if going on paternity leave in 2020, the tax year immediately before the relevant tax year is 2017.

Or

- 52 weeks PRSI contributions paid at Class S in the tax year immediately following the relevant tax year. For example, if going on paternity leave in 2020, the tax year immediately following the relevant tax year is 2019.

POSTPONING PATERNITY LEAVE

Paternity leave may be postponed if the birth of the baby is later than expected. The postponement should be put in writing to the employer.

If the employee is sick before their paternity leave starts they may also postpone the leave until they are better. This must be put in writing to the employer along with a medical certificate.

In the event the baby is hospitalized the employee can request to postpone all or part of their leave.

RETURNING TO WORK

Employees who return to work after paternity leave are entitled to return to the same job and same terms and conditions in place when they left. In the event it is not reasonably practicable for the employee to return to the same job they should be provided with suitable alternative work that is no less favourable terms than their previous one.

If you would like more tailored advice on managing paternity leave or any other employment matter please contact Peopletime Ltd on 057 9308720 or email info@peopletime.ie