



North
Eastern
Health
Board

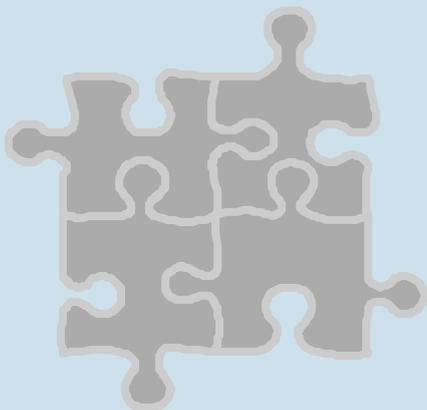
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Parental Leave Act, 1998

Including Sustaining Progress Recommendations

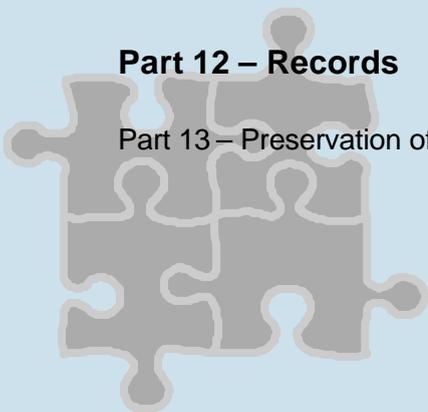
Guidelines for Implementation North Eastern Health Board

**Issued by
Employee Relations Unit
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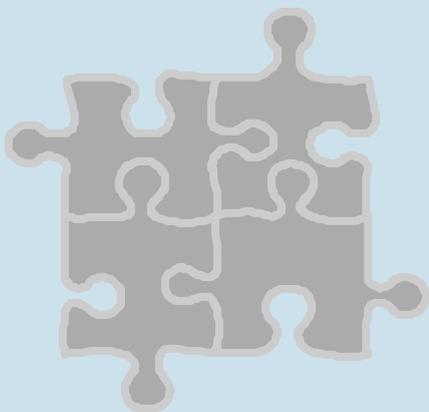


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Part 1 - Summary

Introduction

The purpose of this handbook is to outline the principal features of the Parental Leave Act, 1998. This handbook is designed for NEHB personnel who will have responsibility to implement the issues of the Act on a day to day basis. It is a brief outline of the law and it is not intended to be a legal interpretation of the Act.

Application

The Act applies to all North Eastern Health Board staff. For the purposes of this document a staff member refers to officers and non-officers, whether temporary or permanent, whole-time or part-time.

Operation of the Act

The Parental Leave Act 1998 came into operation on 3rd December 1998 and it provides for the granting of 14 weeks parental leave to a staff member who is the natural or adoptive parent of a child, to enable him or her take care of the child. In line with commitments given under the social partnership agreement *Sustaining Progress* Health Service employers have increased the age limit for eligibility in advance of amending legislation, expected later in 2004.

Entitlement

Parents of children who are less than 8 years old (or 16 years old in the case of a child with a disability) are entitled to avail of parental leave. The leave must be taken before the child concerned attains the age of 8 years, except in the case of a child with a disability where the leave can be taken before the child attains the age of 16 years. In the case of an adopted child who is over 3 years old (and less than 8 years old) at the time of the adoption the leave must be taken within 2 years of the adoption order.



Manner in which Parental Leave can be taken

Parental leave may be taken as a continuous period of 14 weeks or, alternatively, with the agreement of the manager¹, it may be taken in separate blocks or by working reduced hours to the limit of 14 weeks.

Conditions on taking Parental Leave

1. A staff member must have one year's continuous employment with the Board, except in the case of a staff member who has completed three months' continuous employment, on the latest day for commencing a period of parental leave (e.g. 14 weeks from the child's eighth birthday), in which case, the staff member is entitled to one week's leave for each month of continuous employment.
2. Where both parents are entitled to parental leave, the leave is not transferable between the parents.
3. If a parent is entitled to periods of parental leave in respect of two or more children, no more than 14 weeks of parental leave may be taken in any 12 month period, except with the consent of the line manager. There is an exception in the case of multiple births.
4. Parental leave is unpaid.



¹ In this document, a reference to "manager" refers to the Administrative Head of that department. In the case of clerical/administrative staff, the manager with responsibility for approving Parental Leave is the Hospital Administrator, Community Care Administrator, Operational Services Manager, Senior Administrative Officer, Supt. Community Welfare Officer, or Senior Executive Officer, as appropriate. For nursing grades, the manager with responsibility for approving Parental Leave is the Director of Nursing, or Asst. Director of Nursing, as appropriate. For the allied health professions, the manager with responsibility for approving Parental Leave is the Head of Discipline, i.e. Senior Social Worker, Occupational Therapy Manager, Principal Clinical Psychologist. For medical personnel, the manager with responsibility for approving parental leave is the Medical Manpower Manager. For Support grades, the manager with responsibility for approving Parental Leave is the Operational Services Manager/Head of service, as appropriate.

Protection of Employment Rights

During an absence on parental leave an employee is regarded as being in the employment of the Board and retains all of his/her employment rights (except the right to remuneration and superannuation benefits or any obligation to pay contributions in respect of the employment).

Annual leave and Public Holidays

Annual leave which accrues during an absence on parental leave shall be granted by the Board in accordance with Section 20 of the Organisation of Working Time Act, 1997. In practical terms, this means that the annual leave entitlement of the employees grade will not be reduced by virtue of taking Parental Leave.

Staff entitled to any public holidays falling during a period of parental leave shall have the extra day(s) added to the parental leave.

Protection against dismissal

The dismissal of a member of staff, as a result of the exercise or proposed exercise, of the right to parental leave or *force majeure* leave, will be regarded as an unfair dismissal for the purposes of the Unfair Dismissals Acts, 1977 to 1993.

Application Procedure

A staff member must give at least 6 week's notice, in writing, to the manager specifying the date of commencement of the leave, its duration and the manner in which it is proposed to be taken. The application must be signed. Not less than 4 weeks before the commencement of the leave the manager and the employee must write up a document specifying the date of commencement of the leave, its duration and the manner in which it will be taken. This should be signed by both manager and employee. This document is referred to as the confirmation document, and once signed, is binding on both parties, and cannot be altered without the consent of both parties. A HR 10 Form (Appendix B) should then be completed and forwarded to the Personnel General Administration Unit.



Postponement of Parental Leave by the Manager

The manager may decide to postpone the parental leave if he/she is satisfied that granting the leave would have a substantial adverse effect on the service under his/her responsibility. The postponement may be for a period not exceeding six months, to a date agreed on by both the manager and the employee. The employee must be notified of the postponement, in writing, not later than 4 weeks before the intended commencement of the leave.

Abuse of Parental Leave

It is a specific requirement of the legislation that an employee must use his/her parental leave to take care of the child concerned.

Termination of Parental Leave

The manager, in consultation with the Human Resources Department may terminate the leave if there are reasonable grounds to believe that it is being used for a purpose other than taking care of the child concerned.

Refusal to grant Parental Leave

The manager may refuse, in writing, to grant parental leave if there are reasonable grounds to believe that the employee is not entitled to such leave. The manager is obliged to consider the employee's submission before deciding to refuse the leave. The reasons for such refusal must be specified.

Return to work

An employee is entitled to return to work at the end of a period of parental leave with the employer with whom he/she was working immediately before the absence, in the job held immediately prior to the leave and under the same contract, terms and conditions of employment.

Alternative employment

If it is not reasonably practicable for the Board to allow an employee to return to the job held immediately prior to the leave, the Board, will offer the employee suitable alternative employment under a new contract of employment. The terms of the alternative employment must not be substantially less favourable to the employee than the terms of his or her original job.



Leave on grounds of *Force Majeure*

An employee is entitled to limited leave with pay for urgent family reasons. This leave is granted in circumstances where, by reason of an injury to or the illness of a person, the immediate presence of the staff member, at the place where the ill or injured person is situated, is indispensable.

The persons referred to above are defined in the legislation as:

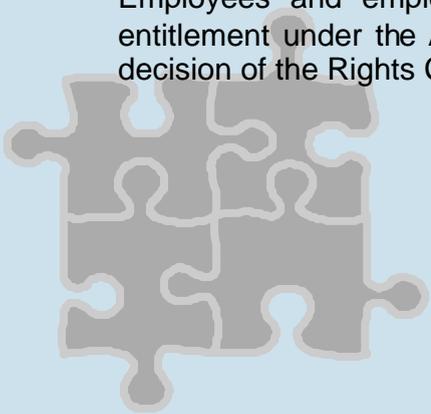
- Child or adoptive child of the employee
- Spouse or partner (living as husband or wife) of the employee
- A person in respect of whom the employee is acting in *loco parentis*
- Brother or sister of the employee
- Parent or grandparent of the employee
- Persons of such other (if any) class or classes as may be prescribed.

Conditions applying to Force Majeure Leave

1. It may consist of one or more working days
2. The maximum leave that can be availed of is 3 days in 12 consecutive months or 5 days in 36 consecutive months.
3. The staff member must notify his/her manager as soon as reasonably practicable after taking the leave.
4. The staff member must supply to the manager, notification that he/she has taken this leave, with dates on which the leave was taken and the facts entitling the employee to the leave.
5. For the purposes of the Act part of a day of *force majeure* leave is deemed to be one day.

Disputes

Employees and employers are entitled to refer a dispute in relation to an entitlement under the Act to a Rights Commissioner. Either party may appeal a decision of the Rights Commissioner to the Employment Appeals Tribunal.



Redress

The Rights Commissioner and the Employment Appeals Tribunal may order redress, as they consider appropriate, including either or both of the following:

- The grant of parental leave for a specified period
- The payment to the employee by the employer of compensation not exceeding 20 weeks' remuneration.

Enforcement by the Circuit Court

If a person fails or refuses to comply with a decision of the Rights Commissioner or a determination of the Tribunal, the other party may apply to the Circuit Court for an order directing compliance.

Appeals to the High Court

Either party to proceedings in the Employment Appeals Tribunal may appeal to the High Court from a determination of the Tribunal on a point of law.



Records

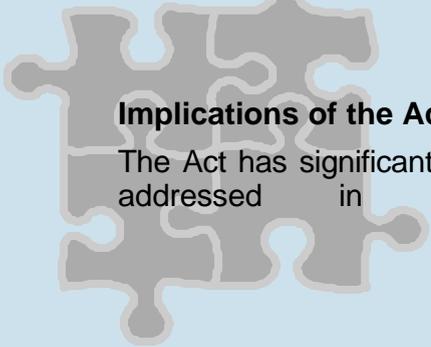
The Board is obliged to keep a record of parental leave and force majeure leave taken by his or her employees and such record must be retained for 8 years. An employer who fails to keep such records may be liable, on summary conviction, to a fine of up to £1500.

Preservation of Social Insurance Benefits

The Minister for Social, Community and Family Affairs has introduced Regulations to ensure preservation of social insurance records for employees who avail of parental leave.

Implications of the Act

The Act has significant implications for health board staff and these matters are addressed in subsequent sections of this handbook.



Part 2 – Introduction

The Parental Leave Act, 1998, gives 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:

- (a) to provide for a new entitlement for men and women to avail of unpaid leave from employment to enable them to take care of their young children.

The Act provides for the manner in which parental leave may be taken – either as a continuous block of 14 weeks or, with the agreement of the employer, broken up over a period of time. The employment rights of the employee are protected while she/he is on parental leave, and the employee has the right to return to work after such an absence.

- (b) to provide for limited paid leave (*force majeure* leave) to enable employees to deal with family emergencies resulting from injury or illness of a family member.

The Act provides that employees are entitled to *force majeure* leave provided it does not exceed 3 days in any 12 consecutive months, or 5 days in any 36 consecutive months.

The main provisions of the Act are dealt with under the following headings in this document:

Part 3:	Entitlement
Part 4:	Manner in which Parental leave may be taken
Part 5:	Protection of Employment Rights
Part 6:	Application procedure
Part 7:	Postponement of Parental Leave by the Local Authority
Part 8:	Abuse of Parental Leave
Part 9:	Return to Work
Part 10:	Leave on grounds of Force Majeure
Part 11:	Disputes
Part 12:	Records
Part 13:	Preservation of Social Insurance benefits
Part 14:	Implications of the Act for the North Eastern Health Board



Part 3 – Entitlement (Section 6)

Parents of children who are 8 years of age or under (16 years or under in the case of a child with a disability) are entitled to avail of parental leave. The Act applies to natural and adoptive parents only and does not cover stepparents or foster parents.

The leave must be taken before the child concerned attains the age of 8 years, except in the case of an adopted child who is over 3 years old (and less than 8 years old) at the time of the adoption, in which case, the leave must be taken within 2 years of the adoption order.

An employee must have one year's continuous service with the North Eastern Health Board. (Where the child is approaching the upper age limit and the employee has 3 or more month's service but less than one year's service, there is provision for pro-rata parental leave).

An employee is entitled to Parental leave for each child of which he/she is the natural or adoptive parent.

Where both parents are entitled to Parental Leave, the leave is not transferable between the parents.

Part 4 – Manner in which Parental Leave may be taken (Section 7)

The leave may be taken as a continuous period of 14 working weeks. With the agreement of the manager and the employee, parental leave may also be taken in separate blocks or by working reduced hours to the limit of 14 weeks.

If the leave is to be broken up, there are two ways of calculating the entitlement:

Where the manager and the employee agree on a reference period

A reference period is a particular period of 14 consecutive weeks worked by an employee before taking parental leave.

In the case where the manager and the employee agree on a particular period of 14 continuous weeks as the reference period, the total number of hours worked by the employee during that period represents the total number of hours' leave to which the employee is entitled (irrespective of how the leave is spread).



Where the manager and the employee cannot agree on a reference period

In the event that the manager and the employee are unable to agree on a particular period of 14 consecutive weeks to be used as a reference period, then a different formula should be applied. In such an event, the total number of hours of parental leave to which an employee is entitled is continually re-evaluated to reflect fluctuations in the hours worked.

In determining the 14 week period mentioned above, absences as a result of parental leave during these 14 weeks are treated as if the employee was at work. Absences as a result of other types of leave are excluded and the fourteen week reference period shall be extended by a corresponding number of days immediately prior to the start of the period. Other types of leave include annual leave, public holidays, sick leave, maternity leave, adoptive leave and *force majeure* leave.

Where a parent is entitled to periods of parental leave in respect of two or more children, no more than 14 weeks of parental leave may be taken in any 12 month period, unless the local manager agrees this with the employee. The exception is in the case of multiple births.

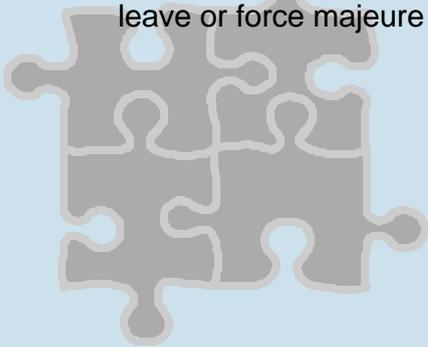


Part 5 – Protection of Employment Rights (Section 14)

During an absence on parental leave an employee is regarded as being in the employment of the North Eastern Health Board and retains all of his or her employment rights (except the right to remuneration and superannuation benefits or any obligation to pay contributions in respect of the employment). The absence, therefore, will count as reckonable service for the purposes of annual leave, increments, seniority, etc.

However, under legislation the Board may require that a period of probation, training or apprenticeship be suspended while the employee is on parental leave.

Parental leave cannot be treated as part of any other leave to which the employee is entitled (e.g. sick leave, adoptive leave, maternity leave, annual leave or *force majeure* leave).



Annual leave and Public Holidays

Annual leave which accrues during an absence on parental leave shall be granted by the NEHB in accordance with Section 20 of the Organisation of Working Time Act, 1997. In practical terms this means that an employee availing of parental leave will not suffer a concurrent reduction in their annual leave entitlement.

Staff who are entitled to any public holidays falling during a period of parental leave shall have the extra day(s) added to the parental leave.

Protection against dismissal

The dismissal of a member of staff, as a result of the exercise or proposed exercise, of the right to parental leave or *force majeure* leave, will be regarded as an unfair dismissal for the purposes of the Unfair Dismissals Acts, 1977 to 1993. In addition, an employee who is entitled to return to work following a period of parental leave and is not permitted to do so by a manager (who acts in this respect on behalf of the Board), shall be regarded as having been unfairly dismissed for the purposes of the Unfair Dismissals Acts, 1977 to 1993.



Part 6 – Application Procedure (Sections 8 and 9)

A staff member must give at least 6 week's notice, in writing, to their manager specifying the date of commencement of the leave, its duration and the manner in which it is proposed to be taken. The application must be signed. The manager may require an employee to provide documentary evidence confirming the staff member's entitlement to parental leave. Such documentary evidence might include:

- Birth certificate of the child with the staff member named as parent.
- Adoption order to the adoptive parents, with details of the date of birth of the child and the date of making the adoption order.
- Other documentary evidence e.g. court order.
- In cases where a parent wishes to avail of Parental Leave for a child in excess of 8 years old, confirmation of the eligibility of the parent to avail of this leave may be sought.

Not less than 4 weeks before the commencement of the leave the manager and the employee must prepare and sign a document called a confirmation document specifying the date of commencement of the leave, its duration and the manner in which it will be taken.

Once a confirmation document has been signed by both the employee and a representative of the Board, the leave arrangement cannot be varied unless both parties agree. At this point the manager should complete form HR 10 and return the signed form to the Personnel General Administration Unit. (Appendix 2)

The North Eastern Health Board may, at its discretion, waive all or part of the notification period. The employee may revoke his or her notice of intention to take parental leave at any time before the confirmation document is signed. Such revocation must be made in writing to their manager.

Part 7 – Postponement of Parental Leave (Section 11)

A manager has the discretion to postpone the parental leave if he/she is satisfied that granting the leave would have a **substantial adverse effect** on service continuity or service delivery. The postponement may be for a period not exceeding six months, to a date agreed on by both the manager and the staff member. If no date can be agreed this does not affect the manager's right to postpone.



Notification of postponement

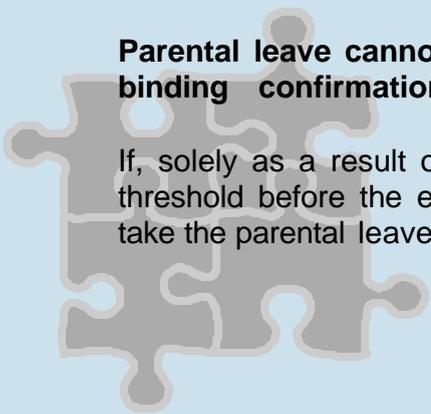
The manager must notify the employee, in writing, of the intention to postpone the leave, no later than four weeks before the proposed date of commencement of the leave. Such notice must specify the grounds for the postponement, and the manager must consult the employee before giving such notice.

Limitations on postponement of leave

Generally, a manager may postpone the leave only once in respect of any particular child. If, however, a reason for the postponement is seasonal variations in the volume of work, the leave may be postponed twice in respect of the same child.

Parental leave cannot be postponed by any health board officer, once a binding 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 employee retains the entitlement to take the parental leave.



Part 8 – Abuse of Parental Leave (Section 12)

Termination of Parental Leave

Parental leave is granted to enable working parents, both men and women, to take care of their young children. If the officer with responsibility for implementing the Act has reasonable grounds for believing that a staff member is not using the leave for this purpose, the leave may be terminated following the expiry of 7 days' notice and the staff member concerned may be required to return to work. Managers should consult with a member of the Human Resources Department before serving notice of the proposal to terminate Parental Leave.

Refusal to grant Parental Leave

An application for parental leave may only be refused, by notice in writing, where the relevant officer has reasonable grounds for believing that the staff member does not have a legitimate entitlement under the terms of the Act.

However, before any notice of termination or refusal can be given, the staff member must be invited, in writing, to make representations on the matter within a period of 7 days.

Abuse of parental leave is a disciplinary matter and the manager, in consultation with the Human Resources Department may decide to take disciplinary action.

Part 9 – Return to Work (Section 15)

A staff member is entitled to return to work at the end of a period of parental leave under the same contract and under no less favourable terms and conditions of employment.

If the job held by the staff member before commencing parental leave was not his or her normal or usual job, the employee shall be entitled, following a period of parental leave, to return to that job, or to his or her normal or usual job, as soon as is practicable.

If an interruption or cessation of work at a staff member's place of employment on the date of the intended return to work makes it unreasonable to expect the staff member to return to work on that date, the employee may return to work as soon as is practicable after the interruption or cessation ends.



If it is not reasonably practicable to allow a staff member to return to the job held immediately prior to the leave, the manager must offer the employee suitable alternative employment under a new contract of employment. The terms of the alternative employment must not be substantially less favourable to the staff member than the terms of his or her original job.

Part 10 - Leave on grounds of *Force Majeure*(Section 13)

A staff member is entitled to leave **with pay** from his or her employment for urgent family reasons, owing to the injury or illness of any of the persons listed below. Entitlement to *force majeure* leave is limited to circumstances where the immediate presence of the staff member, at the place where the ill or injured person is situated, is indispensable.

The persons referred to above are defined in the legislation as:

- A child or adoptive child of the staff member
- Spouse or partner (living as husband or wife) of the staff member
- A person in respect of whom the staff member is acting in *loco parentis*
- Brother or sister of the staff member
- Parent or grandparent of the staff member



Force majeure leave cannot be treated as part of any other leave to which the staff member is entitled. There is no requirement that a staff member has a minimum period of service to qualify for entitlement to *force majeure* leave.

Notification of force majeure leave

As soon as reasonably practicable after his/her return to work after an absence on *force majeure* leave, a staff member must confirm, in writing, to the relevant officer (i.e. manager) that he/she has taken the leave, the dates on which it was taken and the facts entitling the staff member to take the leave. There is no requirement for the staff member to supply a medical certificate.

Maximum entitlement

An employee may not be absent on *force majeure* leave for more than 3 days in any 12 consecutive months, or 5 days in any 36 consecutive months. Absence for part of a day is counted as one day of *force majeure* leave.

Part 11 – Resolution of Disputes (Sections 17-22)

It is recommended that normal procedures should be applied in respect of any dispute in relation to entitlements under the Act. In addition, the Act provides for referral of a dispute by either party in relation to entitlements under the Act to a Rights Commissioner. Application should be made as soon as may be, but must not be later than 6 months after the occurrence of the dispute. Where appropriate and where requested by the officer concerned, the grievance procedure² may also be used for the resolution of such disputes.

Either party may appeal a decision of the Rights Commissioner to the Employment Appeals Tribunal. An appeal is made giving written notice to the Tribunal as soon as may be, but within 4 weeks of the date on which the Rights Commissioner's decision is given. Regulations made under the Act set out the details to be provided in such an appeal.

Redress

The Rights Commissioner and Employment Appeals Tribunal may order redress, as they consider appropriate, including either or both of the following:

1. The granting of parental leave for a specified period to be taken at such time or times and in such manner as may be specified;
2. The payment to the staff member by the local authority of compensation not exceeding 20 weeks' remuneration.

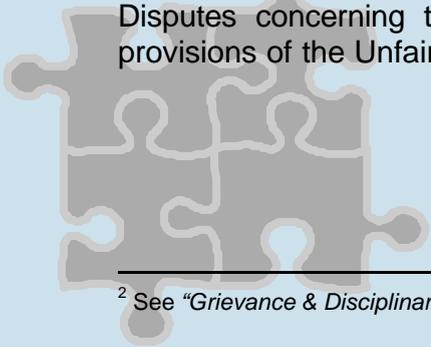
The Rights Commissioner or the Employment Appeals Tribunal may direct either party to the dispute to do what is necessary to resolve the dispute expeditiously.

If a person fails or refuses to comply with a decision of the Rights Commissioner or a determination of the Tribunal, the other party, or the Minister for Justice Equality and Law Reform, if he or she considers it appropriate having regard to all the circumstances, may apply to the Circuit Court for an order directing compliance.

Either party to proceedings in the Employment Appeals Tribunal may appeal to the High Court in respect of a determination of the Tribunal on a point of law.

Disputes concerning the dismissal of an employee are dealt with under the provisions of the Unfair Dismissals Acts, 1977 to 1993.

² See "Grievance & Disciplinary Procedures for the Health Service", Health Service Employers Agency 2004



Part 12 – Records (Section 27)

The North Eastern Health Board is obliged to keep a record of parental leave and *force majeure* leave taken by its employees, specifying the period of employment of each staff member and the dates and times of the leave taken. Such records must be retained for **8 years**. An employer who fails to keep such records may be liable, on summary conviction, to a fine of up to £1500.

Copies of all notices and documents required under the Act must be retained by the staff member and the NEHB for one year.

Part 13 – Preservation of Social Insurance Benefit

The Minister for Social, Community and Family Affairs has introduced Regulations to ensure preservation of social insurance records for employees who avail of parental leave. In such circumstances, employees should contact the Department of Social, Community and Family Affairs at the following address, to ensure that appropriate credits are made:

Department of Social, Community and Family Affairs, Records Section
Gandon House
13 Amiens Street
Dublin 1
Telephone: 8748444
Ext. 2233



Part 14 - Implications of the Act for the NEHB

Introduction

The Parental Leave Act, 1998 is aimed at the reconciliation of work and family life and the promotion of equal opportunity policies³. In the light of this it should be regarded positively in the health boards as public sector employers and all applicants should be facilitated as far as is practicable.

The leave may be taken as a continuous period of 14 weeks. However, with the agreement of the Board and the employee, parental leave may also be taken in separate blocks or by working reduced hours to the limit of 14 weeks. This provision enables local managers to agree with the staff member a mutually suitable arrangement with regard to the taking of parental leave.

³ See "Guide to Equal Opportunities & Diversity in the Workplace", Health Service Employers Agency 2003

Parental leave cannot be refused to eligible staff members but it can be postponed once (maybe twice) where the manager is satisfied that the taking of the leave would have a “substantial adverse effect” on the organisation.

Accordingly, the decision to postpone Parental Leave should be taken carefully. Finally, in the spirit of the ongoing development of family friendly policies within the North Eastern Health Board, parental leave should be viewed in a positive light and proactively promoted throughout the organisation.

Grades

All Health Board grades are covered by the Parental Leave Act, 1998.

Pay

A staff member is not entitled to payment while absent on parental leave. Employees availing of payment facilities to VHI, etc. should make appropriate arrangements with the Payroll Dept, to ensure continuity of such payments.

Service for Superannuation purposes

Absence on parental leave does not count as service for superannuation purposes. The current regulations that apply in relation to the deduction of service will apply also in relation to deduction of service for parental leave.

The purchase of service scheme should be brought to the attention of applicants for parental leave who may wish to cover the period of absence with contributions.

Service for Increment, Annual leave and Seniority

Staff on parental leave are deemed for all purposes (other than the right to remuneration and superannuation benefits or any obligation to pay contributions in respect of the employment) to be in employment. The absence will therefore count as service and will reckon for increment purposes and for qualifying service for annual leave and seniority.

Public Holidays/Privilege days

Where public holidays fall during the period of parental leave they are added on to the end of parental leave. If a staff member is entitled to Good Friday, Church Holidays, or any privilege days and they fall during the period of parental leave, they are added on to the end of parental leave also.



Sick Leave while on Parental Leave

An employee who becomes ill, while on parental leave, remains on parental leave and the illness does not alter the nature of the leave. However, in such cases, the manager has discretion, in consultation with the Human Resources Department, to agree with the employee that the period of illness will not constitute a period of parental leave. Managerial discretion in this regard should only be invoked in cases where the employee is certified as sick for a period exceeding one week.

Disputes in relation to this matter can be referred to a rights commissioner. However, until the case law has been developed the situation will remain uncertain. It is recommended that managers consider this matter on a case by case basis, having regard to the above, and in consultation with the Human Resources Department.

Probationary Period

In the case of a staff member who is on probation at the start of parental leave, the period of probation will stand suspended during the absence on parental leave and will be completed by the staff member on his/her return to work.

Eligibility for Parental Leave (one year's continuous service)

A staff member must have at least one year's continuous service with the NEHB before she/he is entitled to take parental leave.

Staff on Flexible Working Hours

The maximum absence on parental leave is 14 weeks in a 12 month period except by agreement with the manager (or in the case of a multiple birth). This maximum limit applies equally to staff on flexible working hours. If a staff member availing of flexible working hours wishes to avail of parental leave in the broken format, the calculation of leave entitlement will be on the basis of hours worked as detailed in Section 7 (2) of the Act.

Alternative Employment

If it comes to the attention of the relevant officer that a staff member, on parental leave, is in alternative employment, it is recommended that the matter be investigated immediately. Following investigation the General Manager, or equivalent or higher officer may decide to take disciplinary action. Abuse of Parental Leave in this fashion constitutes a serious misconduct.



Working Additional Hours

It is strongly recommended that a manager should not enter into an arrangement whereby a staff member agrees to work additional hours to avail of parental leave. This could be perceived as an abuse of the Act.

Force Majeure Leave

Entitlement of staff availing of Flexible Working Hours Scheme to *force majeure* leave

The full statutory entitlements of force majeure leave apply to staff on flexible working hours:

- 3 days in any 12 consecutive months
- 5 days in any 36 consecutive months.

Entitlements to *force majeure* leave of staff on a 24 hour shift

If a staff member, who is rostered to work a 24 hour shift, takes *force majeure* leave he/she is considered to have taken 1 day's leave and may take a further 2 days leave in the 12 month period.

Parental leave/*Force Majeure* leave across employments

New staff who have worked previously may have already taken some or all of their parental leave/*force majeure* leave entitlements. Accordingly, it is in order for a manager to check with a previous employer to establish parental leave/*force majeure* leave entitlements already availed of by the staff member. It is recommended that managers would co-operate with other employers in the provision of such information. Such requests for validation of Parental Leave/*Force Majeure* leave taken in previous employments should be directed to the Personnel General Administration Unit, in the Human Resources Department.

Two suggested routes for establishing details of parental leave/*force majeure* leave already availed of in a previous employment are its inclusion in the induction process or alternatively, its inclusion in the application procedure for such leave.



APPENDIX A

Calculation of “broken” leave in accordance with Section 7(2)(a)(ii) of the Act, in circumstances where the employer and employee are unable to agree on a period of 14 continuous weeks to be used as a reference period.

The following is an example of how parental leave should be calculated in the circumstances outlined above –

- (a) Calculate the total number of hours worked by the employee in the 14 weeks ending immediately before the week in which the employee proposes to commence the first period of leave. This figure represents the total number of hours’ leave to which the employee is initially entitled.
- (b) On the second and subsequent occasions on which the employee wishes to take part of his or her parental leave, calculate the total number of hours worked by the employee in the 14 weeks ending immediately before the week in which the employee proposes to commence the new period of leave. Add this to the totals calculated on each of the previous occasions the employee took part of his or her parental leave, and calculate the average of these figures. This new total represents the average hours worked by the employee over a number of 14 week periods and represents the employee’s revised entitlement to parental leave.
- (c) Calculate the total number of hours of parental leave already taken by the employee and subtract this figure from the total reached in (b). The outcome represents the balance of parental leave to which the employee is entitled.

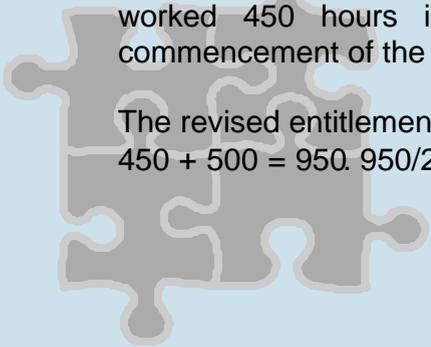


Example

The employee wishes to take short periods of leave over a long time scale. On the first occasion, the employee has worked 500 hours in the 14 weeks immediately prior to the week of commencement of the leave. The employee takes 20 hours’ leave. The next time the employee wishes to take leave, s/he has worked 450 hours in the 14 weeks immediately prior to the week of commencement of the leave.

The revised entitlement is calculated as follows:

$$450 + 500 = 950. 950/2 = 475.$$



The employee has already taken 20 hours' leave, so s/he has 455 hours remaining. On this occasion the employee takes 25 hours.

On the third occasion, the employee has worked 480 hours in the 14 weeks immediately prior to the week of commencement of the leave. The revised entitlement is calculated as follows:

$$480 + 450 + 500 = 1,430. \quad 1,430/3 = 477$$

The employee has already taken 45 hours' leave, so s/he has 432 hours remaining. On this occasion the employee takes 20 hours.

On the fourth occasion, the employee has worked 500 hours in the 14 weeks immediately prior to the week of the commencement of the leave. The revised entitlement is calculated as follows:

$$500 + 480 + 450 + 500 = 1,930 \quad 1,930/4 = 483$$

S/he has already taken 65 hours' leave, so s/he has 418 hours remaining. The employee takes another 30 hours' leave.....

This calculation is carried out every time the employee wishes to take part of his or her parental leave. When the figure in bold reaches zero, the leave entitlement has been exhausted.

NB. In determining the 14 week period mentioned above, absences as a result of parental leave during those 14 weeks are treated as if the employee was at work. Absences as a result of other types of leave are excluded, and the fourteen week period shall be extended by a corresponding number of days immediately prior to the start of the period. Other types of leave include annual leave, public holidays, sick leave, maternity leave, adoptive leave and *force majeure* leave.

