

Parental Leave

The right to Parental leave was introduced in 1999 under the Maternity and Parental Leave Regulations etc.1999 to provide the right to parental leave in relation to children under the age of five years (or 18 years if they are disabled). The total entitlement is to 13 weeks time off in relation to each child and the time off is unpaid. The purpose of parental leave is to have time off to care for your child.

ELIGIBILITY

To be eligible to take the leave the employee must be the parent, whether by birth or adoption, or have legal responsibility for the child such as in a guardian relationship. They do not have to be living with the child to qualify.

The employee must have at least one years' service with their employer and the leave requested must be taken to care for the child.

The child in respect of which the leave is being requested must be under the age of five or under the age of 18 if the child is disabled. For the purpose of these Regulations the child will be considered to be disabled if they are in receipt of Disability Living Allowance from the Government.

If parents are adopting they will be entitled to take the leave up to the 5th anniversary of the adoption or until the child's 18th Birthday whichever occurs first.

LEAVE ENTITLEMENT

Each parent can take up to 13 weeks parental leave for each child. If a child is disabled each parent can take up to 18 weeks parental leave for each disabled child.

A weeks leave is determined according to what the employee's normal working week would be.

FALLBACK SCHEME

The Regulations provide a default set of rules and procedures for handling parental leave. This set of rules is called the fallback scheme and provides that:

- The employee must give the employer 21 days notice of a request to take parental leave
- Leave must be taken as blocks of one week unless the child is disabled when leave can be taken in single days.
- An employer can postpone the leave for no longer than 6 months after the beginning of the period originally planned for parental leave, if they consider that the employee's absence would unduly disrupt the business.

(There is one exception to this rule and this is when the employee applies for parental leave immediately after the birth or adoption of the child. In these circumstances the leave requested cannot be postponed.)

ARRANGEMENTS THROUGH RELEVANT AGREEMENTS

If employers want to make their own arrangements regarding their parental leave scheme they must exceed the minimum requirements. If they want to have their own rules this can be done by either a collective or workforce agreement or alternatively through individual agreements. Collective agreements are agreements made between the Company and their recognised trade union. If the Company do not recognise a trade union they could opt to use individual agreements with each employee or a workforce agreement, which is an agreement between the Company and the workers or their representatives. A workforce agreement must:

- be in writing;
- be shown to all employees it will apply to, together with a guide explaining what it means;
- be signed when it comes into effect, either by all representatives or by most of the workforce where 20 or fewer employees are employed;
- last for no longer than five years.

Through the use of these agreements the Company can vary the notice requirements, the arrangements for postponing leave, and how leave should be taken.

TERMS AND CONDITIONS DURING PARENTAL LEAVE

During a period of parental leave the employee is entitled to benefit from only the implied obligations of the employee's contract such as trust and confidence and any contractual terms and conditions which relate to:

- notice periods;
- any compensation if the employee is made redundant; and
- disciplinary and dismissal and grievance procedures.

The employee is bound by his or her implied obligation of good faith and by any contractual terms and conditions relating to:

- notice periods;
- disclosure of confidential information;
- acceptance of gifts, or other benefits; and
- the employee working for someone else.

The employee continues to benefit from his or her statutory employment rights during parental leave. The continuation of other terms and conditions during parental leave, such as access to a company car or mobile phone, remains a contractual matter between the employer and employee.

PROTECTION FROM DETRIMENT AND DISMISSAL

An employee is protected from detrimental treatment and dismissal if they are either taking or seeking to take parental leave. They are also protected if they have declined to sign a workforce agreement relating to parental leave, or have acted as a representative or candidate in connection to such an agreement.

A detriment can cover a range of discriminatory actions, such as denial of promotion, and denying access to facilities or training opportunities which the employer would otherwise have offered. If an employee suffers unfair treatment at work or is dismissed or resigns as a result of a constructive dismissal for these reasons then they can make a complaint to an employment tribunal.

FURTHER INFORMATION

Equal Opportunities Commission (EOC) - Arndale House, Arndale Centre, Manchester M4 3EQ. Tel: 0845 601 5901, fax: 0161 838 1733

EOC (Scotland) - St Stephens House, 279 Bath Street, Glasgow G2 4JL Tel: 0845 601 5901, fax: 0141 248 5834

EOC (Wales) - Windsor House, Windsor Place, Cardiff CF10 3GE Tel: 029 2034 3552, fax: 029 2064 1079

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