



August 2016

Paternity Leave in Ireland

Introduction

While some employers have granted paternity leave as a matter of policy, 2016 saw the enactment of the Paternity Leave and Benefit Act 2016 which introduces statutory paternity leave in Ireland for the first time. Paternity leave is unpaid but the employee may qualify for paternity benefit from the State, depending on their social welfare status. It is open to an employer to offer employees paternity leave on a more favourable basis than the statutory entitlements but any provision which seeks to have the employee contract out of their entitlements or agree to reduced entitlements, is void. The following note explains some of the principal provisions of the Paternity Leave and Benefit Act 2016. In the event of a specific query the Act should be considered in detail and legal advice should be obtained.

Paternity Leave and Benefit Act 2016 (“the Act”)

The Act covers births and adoptions on or after **1 September 2016** and it provides that an employee who is a “relevant parent” in relation to a child is entitled to two weeks’ paternity leave, to enable him or her to provide, or assist in the provision of, care to the child or to provide support to the relevant adopting parent or mother of the child, as the case may be, or both. It is important that the leave be used for the stated purpose, otherwise the employer, subject to some conditions, would be entitled to refuse the leave or to terminate it if it has commenced.

For further information on any of the issues discussed in this article please contact:



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“Relevant Parent”

The term “relevant parent” is widely defined and in addition to the child’s father, includes various persons such as a spouse, civil partner or cohabitant. Only one person who is a relevant parent in relation to a child is entitled to paternity leave in respect of that child. There is an exception where a child is adopted and paternity leave had previously been taken in respect of that child.

Taking Leave – Notice requirements

The leave must be taken as two consecutive weeks, except in a case of the child being hospitalised. The entitlement to take paternity leave is subject to the employee having given written notice and in some cases supporting documentation, to their employer in relation to the start and end dates of the paternity leave. The relevant parent must give written notice of their intention to take paternity leave to their employer as soon as reasonably practicable but at least 4 weeks before the leave is to commence. The paternity leave must start no earlier than the date of confinement or day of placement, as the case may be, and not later than 26 weeks after such date or day. Where there are multiple births, the entitlement is still only two weeks and not two weeks per child.

Postponing Leave

The leave may be postponed where the date of confinement or placement is later than originally notified. The relevant parent must subsequently give the employer a copy of the child’s birth certificate or relevant adoption papers. The start of the leave may be postponed where the date of confinement or placement is later than originally notified. If the employee is on a fixed term contract which expires during the paternity leave, the paternity leave terminates on the contract’s original expiry date.

Paternity leave may be postponed where the child is born or adopted later than originally expected or where the relevant parent intending to take the leave becomes sick prior to the commencement of the leave. The relevant parent may request of their employer that the paternity leave be postponed where the child is hospitalised.

Transfer of Leave

A male employee, who becomes entitled to maternity leave or adoptive leave in the event of the death of a child’s mother, may take paternity leave immediately after the period of maternity leave or adoptive leave. Where a relevant parent dies without having taken their entire paternity leave, their surviving spouse becomes entitled to take any unused balance of the paternity leave.

Records

An employer must keep records in relation to paternity leave for a period of 8 years and failure to do so is an offence punishable by a fine and the payment of the costs of the prosecution.

Employee's Rights Protected

As with similar leaves such as maternity leave, adoptive leave and parental leave, the employee's employment rights are protected while they are on paternity leave and they have a general entitlement to return to their previous job at the end of the paternity leave. Any notice of termination or suspension given to an employee while they are on paternity leave is void. The period of any notice of termination or suspension given before the employee commenced paternity leave will be extended by the period of paternity leave. Employers are expressly prohibited from penalising an employee for taking or proposing to take paternity leave.

Paternity Benefit

The Act provides for the payment to the relevant parent of Paternity Benefit subject to the parent (being an employed contributor or a person in insurable self-employment) having the relevant number of qualifying social welfare contributions. The amount of the Paternity benefit is the greater of the amount of illness benefit which the person would otherwise receive if he or she was entitled to that benefit or € 230.00

For further information on paternity leave or any other employment law queries, please contact: john.doyle@dilloneustace.ie

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