

An Roinn Oideachais & Eolaíochta  
An Rannóg Párolla  
Cor na Madadh  
Baile Átha Luain  
Co. na Iarmhí



Payroll Division,  
Dept. of Education & Science  
Cornamaddy  
Athlone  
Co. Westmeath

**Circular SNA 13/05**

## **Department of Education and Science**

**To: Management Authorities, Principal Teachers and Special Needs Assistants in Primary and Post Primary Schools.**

### **Maternity/Adoptive and Paternity Leave for Special Needs Assistants**

#### **1. Introduction:**

The Minister for Education & Science wishes to advise Boards of Management of the arrangements that apply in relation to Maternity/Adoptive and Paternity Leave for Special Needs Assistants. **Arrangements outlined in this circular supersede all previous correspondence in relation to maternity leave.**

It should be noted that Special Needs Assistants who are working in fixed part time or job-sharing contracts will receive pro-rata entitlements with their full time colleagues.

#### **2. Maternity and Adoptive Leave:**

Special Needs Assistants may take maternity leave consisting of 18 consecutive weeks. Female and male Special Needs Assistants, who are sole adopters, may take adoptive leave consisting of 16 consecutive weeks. The period of maternity or adoptive leave (including days-in-lieu) shall not extend beyond the day on which any fixed term or fixed purpose contract of employment is due to cease. The granting or taking of maternity or adoptive leave shall not affect the date of termination of a fixed term or fixed purpose contract of employment.

The granting of maternity/adoptive leave is conditional on a Special Needs Assistant who intends going on maternity/adoptive leave submitting to the Board of Management, in writing, at least 4 weeks before the intended date of commencement of such leave, notification of their intention to avail of maternity/adoptive leave. The form in Appendix A should be used for application for paid maternity leave and the form in Appendix B should be used for paid adoptive leave.

Apart from a compulsory period of two weeks to be taken before the expected week of confinement and four weeks to be taken after the date of confinement, the taking of maternity leave is at the discretion of the Special Needs Assistant. Accordingly, it should be noted that fourteen weeks is the maximum permissible period of maternity leave before the expected date of confinement. Likewise sixteen weeks is the maximum permissible period of maternity leave after the expected date of confinement.

In the event of a stillbirth occurring after the 24<sup>th</sup> week of pregnancy, the mother is still entitled to 18 weeks maternity leave

### **3. Payment during Maternity/Adoptive Leave:**

#### **Maternity Leave**

Prior to notifying this Department of her intention to take maternity leave a Special Needs Assistant should establish her entitlement to maternity benefit with the Department of Social and Family Affairs. The rate of maternity benefit payable by the Department of Social and Family Affairs may be greater than the rate of pay being received by the SNA. In such a case the SNA may opt to be removed from the Department's payroll for the duration of the period of paid maternity leave. The SNA Maternity Leave Section should be advised as to which option the Special Needs Assistant wishes to avail of i.e. to avail of maternity benefit directly from the Department of Social and Family Affairs or to continue to be paid on this Department's payroll, Form 3 attached for this purpose. The SNA Maternity Leave Section should be notified at least four weeks before commencement of maternity leave. Where a Special Needs Assistant determines that monies paid on maternity benefit are greater than salary the person shall not be paid on the payroll for the duration of the maternity leave.

Payment from this Department during maternity leave will be for 18 consecutive weeks or the duration of the contract of employment whichever is the shorter.

A Special Needs Assistant due to go on maternity leave must complete a maternity benefit claim form (available from her GP). The Board of Management should forward the written notification, the medical certificate showing the expected date of delivery and the maternity benefit claim form to the SNA Maternity Leave Section at the address shown. It is essential that all the documentation be submitted four weeks prior to the commencement of the maternity leave to ensure continued payment of full salary or if claiming benefit directly, to ensure salary ceases, to avoid overpayment.

#### **Adoptive Leave**

Prior to notifying this Department of his/her intention to take adoptive leave a Special Needs Assistant should establish his/her entitlement to adoptive benefit with the Department of Social and Family Affairs. The rate of adoptive benefit payable by the Department of Social and Family Affairs may be greater than the rate of pay being received by the SNA. In such a case the SNA may opt to be removed from the Department's payroll for the duration of the period of paid adoptive leave. The SNA Maternity Leave SNA Section should be advised as to which option the Special Needs Assistant wishes to avail of i.e. to avail of adoptive benefit directly from the Department of Social and Family Affairs or to continue to be paid on this Department's payroll. The SNA Maternity Leave Section should be notified at least four weeks before commencement of adoptive leave. Where a Special Needs Assistant determines that monies paid on adoptive benefit are greater than salary the person shall not be paid on the payroll for the duration of the adoptive leave.

Payment during adoptive leave will be full salary for the 16 consecutive weeks or the duration of the contract of employment whichever is the shorter.

Special Needs Assistants due to go on adoptive leave must complete an adoptive benefit claim form (available from their GP). The Board of Management should forward the written notification and the adoptive benefit claim form to the SNA Maternity Leave Section at the address shown at least four weeks prior to the commencement of the adoptive leave. A Certificate of Adoption should be submitted to this Department not later than four weeks after the date of adoption.

### **4. Leave-in-Lieu:**

Where maternity leave overlaps with a period or periods of school holidays, public holidays and church holidays a Special Needs Assistant shall be allowed a maximum of 30 working days leave-in-lieu. In the case of adoptive leave the maximum number of working days leave-in-lieu is 22.

Leave-in-lieu of overlapped maternity/adoptive leave, as set out above will be taken by the Special Needs Assistant so as to follow on immediately from the end of the period of paid maternity/adoptive leave, or from the end of the school vacation period concerned, where the maternity/adoptive leave expires within such vacation period.

The overlapped days for which the Special Needs Assistant is entitled to leave-in-lieu are school vacation days including bank holidays and church holidays. Examples of days, which are not allowed as leave-in-lieu, are In-service days and exceptional closures (e.g. election days, inclement weather conditions etc.).

Leave-in-lieu will not be granted in respect of school closures occurring during any form of unpaid leave.

#### **5. Additional Maternity/Adoptive Leave (Unpaid):**

On completion of 18 weeks maternity leave or 16 weeks adoptive leave and days in lieu, if any, a Special Needs Assistant may take a period of **unpaid** maternity/adoptive leave. This leave is referred to as additional maternity/adoptive leave. Such applications should be submitted to the SNA Maternity Leave Section as soon as possible but not later than 4 weeks before the date of commencement of such leave. The unpaid leave shall consist of a statutory entitlement of up to 8 consecutive weeks (including weekends). It should be noted that, in the case of foreign adoptions, the Special Needs Assistant may apply to take some of the 8 weeks unpaid leave prior to the date of placement for the purposes of familiarisation with the child.

**Absences on additional maternity/adoptive leave are not reckonable for any purpose. (e.g. incremental or pension).**

#### **6. Attendance at Ante-Natal Classes:**

Time off from duty with pay for the expectant mother will be allowed for attendance at one set of ante-natal classes. Evidence of appointment with the dates and times of the classes must be given in writing to the Board of Management as soon as is practicable and in any event not later than 2 weeks before the date of the first class. Where possible Special Needs Assistants should, having regard to travelling distances etc., attend work before and after the classes.

An expectant father who is employed as a Special Needs Assistant shall be entitled to time off from duty for the purpose of attending the last two ante-natal classes attended by the expectant mother of their child before the birth of the child. Evidence of appointment with the dates and times of the classes must be given in writing to the Board of Management as soon as is practicable and in any event not later than 2 weeks before the date of the first class. Where possible Special Needs Assistants should, having regard to travelling distances etc., attend work before and after the classes. **This entitlement applies for one birth only.**

#### **7. Health Board Assessments (Adoption):**

A Special Needs Assistant may take unpaid leave in respect of health board assessments pertaining to adoption. The cost of substitution will be paid by this Department.

#### **8. Postponement of paid Maternity or Additional Unpaid Maternity Leave:**

A Special Needs Assistant who is on maternity leave or is entitled to, or is on, additional unpaid maternity leave may, if the child in connection with whose birth she is on, or is entitled to that leave, is hospitalised, request in writing to the Board of Management to postpone

- (a) part of the paid maternity leave, to a maximum of four weeks
- (b) part of the paid maternity leave and the additional unpaid maternity leave, or
- (c) the additional unpaid maternity leave or part of it.

The maximum period of postponement of leave is six months.

A Special Needs Assistant may make a request under (a) or (b) above to postpone part of her maternity leave with effect from a date she selects only if the period of maternity leave taken by her on that date is not less than 14 weeks. At least 4 of those weeks must be after the week of confinement.

A Special Needs Assistant who has not submitted an application for unpaid maternity leave four weeks prior to the proposed date of return to work following paid maternity leave shall be deemed for the purpose of making a request under (b) or (c) above to have complied with the notification requirements.

The Special Needs Assistant must make a written request to the Board of Management for postponement of the leave concerned as outlined in (a), (b) or (c) above and must supply documentary evidence with the request. The documentary evidence that must be supplied shall be a letter or other appropriate document from the hospital in which the child concerned is hospitalised confirming the hospitalisation and the date of same.

The Board of Management should notify the Special Needs Assistant in writing of their decision in relation to the request as soon as is reasonably practicable.

If the Board of Management agrees, the SNA Maternity Leave Section should be notified of the date of return to work. This date should not be later than the date on which the leave concerned is due to end in accordance with the notification given, or deemed to have been given by the Special Needs Assistant to the Board of Management.

The leave concerned shall be postponed (for a maximum period of six months) from the date agreed by the Board of Management and taken in one continuous period commencing not later than seven days after the discharge of the child from hospital. A letter or other appropriate document from the hospital concerned or the child's medical practitioner must be provided to the SNA Maternity Leave Section confirming that the child has been discharged from hospital and the date of discharge.

## **9. Protection of Mothers who are Breastfeeding:**

A Special Needs Assistant who is breastfeeding, may after returning to work and within a twenty six week period from the date of birth of the child, apply to take one paid hour per day off from her work, as a breastfeeding break. The Board of Management must be notified in writing four weeks in advance of the Special Needs Assistants' return to employment after confinement, of the intention to take time off for breastfeeding purposes. A copy of the birth certificate of the child concerned must be submitted with the application for the time off.

**10. Maternity/Adoptive Leave while on Probation:**

In the case of a Special Needs Assistant who is on probation at the start of maternity/adoptive leave, the period of probation will stand suspended during the absence and will be completed by the Special Needs Assistant on return to work. The period of maternity or adoptive leave (including days-in-lieu) shall not extend beyond the day on which any fixed term or fixed purpose contract of employment is due to cease. The granting or taking of maternity or adoptive leave shall not affect the date of termination of a fixed term or fixed purpose contract of employment.

**11. Paternity Leave:**

A male Special Needs Assistant is entitled to take paternity leave in respect of the birth or adoption of his child.

Up to three school days paid leave may be taken and they must be taken within four weeks of the birth. In the case of multiple births the maximum of three school days still applies. Paternity leave is not granted where the birth occurs before twenty four weeks of pregnancy and the child is stillborn.

In the case of adoption, three school days paid leave may be taken and they must be taken within four weeks of the date of placement of the child. In the case of more than one child being adopted at the same time the maximum of three days applies.

The Special Needs Assistant must give the Board of Management at least four weeks notice of his intention to take the leave.

**12. Substitution:**

The Board of Management may employ a substitute to cover the period of paid and unpaid maternity/adoptive leave and any days-leave in-lieu. A substitute may also be employed by the Board of Management to cover

1. paid paternity leave
2. attendance at ante-natal classes
3. attendance at health board assessments pertaining to adoption
4. absence due to time off for breast feeding purposes.

**13. Dissemination of Information:**

This circular should be brought to the attention of all existing Special Needs Assistants and retained for future reference in the school and given to all new Special Needs Assistants employed by the school.

*It may also be accessed on the Department of Education & Science website at **[www.education.ie](http://www.education.ie)** under Education Personnel/Special Needs Assistants.*

P. Maloney,  
Principal Officer.

July 2005

An Roinn Oideachais  
agus Eolaíochta,  
Cor na Madadh,  
Baile Átha Luain,  
Co. na hIarmhí.



Department of Education  
and Science,  
Cornamaddy,  
Athlone,  
Co. Westmeath.

### Application to Department of Education and Science for Maternity Leave for Special Needs Assistants

#### Employee's Details

Name: _____	
Address: _____	
PPSN: _____	Contact telephone Number: _____

#### School/Employers Details

School Name: _____	Roll Number: _____
Address: _____	
Contact telephone Number: _____	

Expected date  
of confinement: \_\_\_\_\_ *(Enclose a medical certificate  
confirming*

*the expected date of  
confinement)*

Commencement date  
of maternity leave: \_\_\_\_\_ *(Must be a minimum of 2  
weeks*

*before confinement date)*

Will you be availing of unpaid leave  
after the expiration of your paid leave?      Yes      No      *(Circle as appropriate)*

If "Yes", please complete as appropriate:

Unpaid leave up to 84 days (includes weekends)      State the number of days: \_\_\_\_\_

If the answer is "No", and you subsequently change your mind, you must notify the Department, via your Board of Management, at least 4 weeks before you are due to resume from paid maternity leave.

Signed: \_\_\_\_\_  
Special Needs Assistant

Date: \_\_\_\_\_

## PART 2

(TO BE COMPLETED BY THE BOARD OF MANAGEMENT)

## SCHOOL CLOSURES

State each school closure that will overlap with the period of paid maternity leave and which will be added to the end of the maternity leave period as leave-in-lieu.

Please also state the school closures which will overlap with the period of leave-in-lieu (if any).

FROM	TO	NUMBER OF DAYS	Number of public holidays in this period
	TOTAL NUMBER OF DAYS		

**Please ensure that the following items are enclosed with this application**

## Check List

**Enclosed (please tick)**

Medical Certificate showing expected date of confinement

11

MB10 form (Department of Social and Family Affairs form) fully completed

11

The completed form should be forwarded to the SNA Maternity Leave Section, Department of Education and Science, Cornamaddy, Athlone, Co. Westmeath at least four weeks before the proposed start date of the leave.

**Signed:** \_\_\_\_\_  
**Chairperson, Board of Management**

Date: \_\_\_\_\_

### SNA Form 3

***To be completed by Primary/Post Primary (delete as appropriate) Special Needs Assistants  
who are due to go on Maternity Leave***

Name: \_\_\_\_\_

PPS Number: \_\_\_\_\_

School: \_\_\_\_\_

Date of commencement of Maternity Leave: \_\_\_\_\_

Maternity Leave due to end: \_\_\_\_\_

Please tick the appropriate box below

I wish to remain on the payroll for the duration of Maternity leave ☐

I wish to be removed from the payroll for the duration of Maternity leave ☐

Please return this form to the Special Needs Assistants payroll four weeks prior to the commencement of Maternity Leave. Enclose MB10 Form if you have opted to remain on the payroll for duration of Maternity Leave (22 weeks).

Signed: \_\_\_\_\_ (Special Needs Assistant)

Date: \_\_\_\_\_



## Appendix B

An Roinn Oideachais agus  
Eolaíochta,  
Cor na Madadh,  
Baile Átha Luain,  
Co. na hIarmhí.



Department of Education  
and Science,  
Cornamaddy,  
Athlone,  
Co. Westmeath.

### Application to Department of Education and Science for Adoptive Leave for Special Needs Assistants

#### Employee's Details

Name: _____	
Address: _____	
PPSN: _____	Contact telephone Number: _____

#### School/Employers Details

School Name: _____	Roll Number: _____
Address: _____	
Contact telephone Number: _____	

Date of Commencement of Adoptive Leave: \_\_\_\_\_

*(Enclose a copy of the placement order. If it is not currently available, please ensure that the Board of Management receives it and forwards it to the Department of Education and Science as soon as possible but no later than four weeks after the placement of the child)*

Will you be availing of unpaid leave after the expiration of your paid leave?      Yes      No      *(Circle as appropriate)*

If "Yes", please complete as appropriate:

Unpaid leave up to 84 days (includes weekend)      State the number of days: \_\_\_\_\_

If the answer is "No", and you subsequently change your mind, you must notify the Department, via your Board of Management, at least 4 weeks before you are due to resume from paid adoptive leave.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Special Needs Assistant

## PART 2

(TO BE COMPLETED BY THE BOARD OF MANAGEMENT)

### SCHOOL CLOSURES

State each school closure that will overlap with the period of paid adoptive leave and which will be added to the end of the adoptive leave period as leave-in-lieu.

Please also state the school closures which will overlap with the period of leave-in-lieu (if any).

FROM	TO	NUMBER OF DAYS	DAY
	TOTAL NUMBER OF DAYS		

Please ensure that the following items are enclosed with this application

#### Check List

#### Enclosed (please tick)

Certificate of adoption (this must be supplied to the payroll within 4 weeks after the date of adoption if it is not currently available)

☐

MB10 form (Department of Social and Family Affairs form) fully completed

☐

The completed form should be forwarded to the SNA Maternity Leave Section, Department of Education and Science, Cornamaddy, Athlone, Co. Westmeath at least four weeks before the proposed start date of the leave.

Signed: \_\_\_\_\_

Chairperson, Board of Management

Date: \_\_\_\_\_

### SNA Form 3

***To be completed by Primary/Post Primary (delete as appropriate) Special Needs Assistants who are due to go on Maternity Leave***

Name: \_\_\_\_\_

PPS Number: \_\_\_\_\_

School: \_\_\_\_\_

Date of commencement of Maternity Leave: \_\_\_\_\_

Maternity Leave due to end: \_\_\_\_\_

Please tick the appropriate box below

I wish to remain on the payroll for the duration of Maternity leave ☐

I wish to be removed from the payroll for the duration of Maternity leave ☐

Please return this form to the Special Needs Assistants payroll four weeks prior to the commencement of Maternity Leave. Enclose MB10 Form if you have opted to remain on the payroll for duration of Maternity Leave (22 weeks).

Signed: \_\_\_\_\_ (Special Needs Assistant)

Date: \_\_\_\_\_