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AN ROINN | DEPARTMENT
OIDEACHAIS | OF EDUCATION
AGUS SCILEANNA | AND SKILLS

Circular 0006/2015

**To: The Managerial Authorities of Recognised Primary, Secondary
and Community and Comprehensive Schools**

**Parental Leave Entitlements for Clerical Officers and Caretakers employed in National
Schools under the 1978/79 Scheme and Clerical Officers employed in Post Primary
Schools under the 1978 Scheme**

The Minister for Education and Skills directs you to implement the regulations and procedures regarding Parental Leave Entitlements for Clerical Officers and Caretakers employed in National Schools under the 1978/79 Scheme and Clerical Officers employed in Post Primary Schools under the 1978 Scheme.

The regulations and procedures are to be implemented by each employer with immediate effect and all staff must adhere to the terms of this circular.

This circular supersedes all previous circulars, memoranda, rules and regulations in relation to Parental Leave Entitlements. Please ensure that copies of this circular are provided to all members of the Board of Management and its contents are brought to the attention of all Clerical Officers and Caretakers employed in National Schools under the 1978/79 Scheme and Clerical Officers employed in Post Primary Schools under the 1978 Scheme in your employment including those on leave of absence.

This Circular can be accessed on the Department's website: <http://www.education.ie/>

Padraig Maloney
Payroll

02 February 2015

PARENTAL LEAVE ENTITLEMENTS

Definitions

For the purposes of this circular the following terms shall have the meanings assigned to them here unless the context indicates otherwise:

Adopting Parent - the term adopting parent refers to an employee who is in the process of becoming an adoptive parent and in whose care a child has been placed with a view to making an adoption order.

Disability – means, for the purposes of the Parental Leave Acts, an enduring physical, sensory, mental health or intellectual impairment of the child such that the level of care required for the child is substantially more than the level of care that is generally required for children of the same age who do not have any such impairment.

DSP – means The Department of Social Protection.

Employer – means a Board of Management/Manager in the case of primary, voluntary secondary and community and comprehensive schools. The Board of Management/Manager may delegate responsibility for matters set out in this circular to the Principal of the school.

Employee – means a Clerical Officer or a Caretaker employed in a National School under the 1978/79 Scheme or a Clerical Officer employed in a Post Primary School under the 1978 Scheme.

In Loco Parentis – means the employee applying for parental leave must be either legally responsible for or fulfil the criterion that he or she is actively parenting the child on an on-going basis.

Long-Term Illness – means, for the purposes of the Parental Leave Acts, a long-term illness, the effect of which is that the level of care required for the child is substantially more than the level of care that is generally required for children of the same age who do not have any such long term illness.

The Department – means the Department of Education and Skills.

General Information

1. Parental leave is a period of **unpaid leave** available to employees for the purpose of the care of children. It is provided for under the Parental Leave Acts 1998 and 2006 and the European Union (Parental Leave) Regulations 2013 (S.I. No.81 of 2013).
2. An employee on parental leave is deemed for all purposes to be in employment at that time with the exception of remuneration and superannuation. The absence is therefore fully reckonable for all other purposes including progression on the incremental salary scale.
3. An employee absent on parental leave may not engage in any type of paid employment as, under the terms of the Parental Leave Acts, the leave is specifically intended for the care of children.

Entitlement to Parental Leave

4. With effect from 8 March 2013 an employee is entitled to 18 weeks parental leave in respect of each child up to the age of 13 years or the age of 16 years in the case of a child with a disability and/or long-term illness. There is no obligation however to take the full 18 weeks leave. Employees who have taken 14 weeks previously may now apply for an additional 4 weeks in respect of children who fulfilled the eligibility criteria on and since 8th March 2013, when EU Parental Regulations 2013 [S.I. No. 81 of 2013] came into effect.
5. Each parent has a separate entitlement to parental leave from his/her job and such leave is available to each parent who meets any of the following criteria:
 - (a) the natural parent
 - (b) the adoptive parent
 - (c) the adopting parent
 - (d) An employee acting *in loco parentis* to a child
6. Where an employee is acting *in loco parentis* it is a matter for the employer to be satisfied that the granting of parental leave is appropriate.

Eligibility

7. An employee may be eligible for parental leave where s/he has completed one year's continuous employment with the employer from whose employment the leave is taken.
8. In circumstances where, on the latest day for commencing a period of parental leave, the employee has less than one year but more than three months continuous service with the employer from whose employment the leave is to be taken, the employee shall be entitled to parental leave for a period of one week for each month of continuous service completed with his/her employer at the time of the commencement of the leave.
9. Entitlement to parental leave shall cease on the expiry of the contract of employment and that contract not having been renewed.

Correspondence Address

10. The employer will address all necessary correspondence to the employee at the address last notified to their employer and no fault shall lie with the employer in the event that the employee does not receive such correspondence.

Pattern for Parental Leave

11. An employee may avail of parental leave in blocks of at least 1 week up to a maximum of 18 weeks
12. Where an employee applies for parental leave for 6 or more weeks, the minimum period which must be granted by the employer is 6 weeks except in the cases of postponement and refusal of parental leave as outlined in paragraphs 19-21 and 22-23 of this circular.
13. With the agreement of the employer, parental leave may be separated into periods of days.

Parental Leave Time Limits

14. Entitlement to parental leave shall end not later than the day on which the child concerned attains his/her 13th birthday, or
 - in the case of an adopted child aged between 11 and 13 years, not later than two years from the date of the adoption order,
 - in the case of a child with a disability and or long term illness, not later than the day on which the child attains his/her 16th birthday.
15. Parental Leave for more than 1 child in any period of 12 months may not exceed 18 weeks without the consent of the employer except in the case of multiple births (twins, triplets etc.) where an employee has a statutory entitlement to take more than 18 weeks in any 12 month period.

Annual Leave/Public Holidays

16. Any entitlements in respect of public holidays occurring while on parental leave will be addressed by additional annual leave.
17. Annual leave entitlements are to be taken at a time outside of the period of parental leave.
18. Employees who resign/retire or their employment ceases may be entitled to additional payment in lieu of their accrued annual leave.

Postponement of Parental Leave by the Employer

19. Parental leave may be postponed in circumstances where granting the leave at that time would have a substantial adverse effect on the operation of the Employer and ordinarily the leave may only be postponed once.

20. In such circumstances the employer is obliged to

- Consult with the employee prior to any decision to postpone the leave
- Where the postponement is deemed necessary, notify the employee in writing not later than 4 weeks before the intended date of the commencement of the leave
- Ensure that the postponement is not any longer than 6 months from the original date on which the parental leave was due to commence
- Agree a new date for the postponed leave to be taken at a time when the employee would otherwise have been working
- Ensure that any further or subsequent postponement can only be permitted on the grounds where it affects seasonal variation.
- Ensure that a new confirmation document (see Paragraph 26 below) agreeing to the new revised dates is signed by both parties with the understanding that this can be further amended provided there is agreement between both parties.

21. Where solely as a result of postponement of the leave a child passes the age threshold, the entitlement to parental leave is not lost. The leave should be taken as soon as possible after the period of postponement has lapsed on a precise date agreed by both parties.

Refusal to grant Parental Leave

22. Where there are reasonable grounds to believe that the employee may not be entitled to parental leave the employer may refuse to grant such leave.

23. In such circumstances the employer is obliged to:

- Notify the employee in writing of the reasons for the proposed refusal and invite him/her to make representations on the matter within 7 days.
- Consider any representations from the employee before making a final decision on whether or not to refuse the leave.
- Where the employer ultimately decides to refuse the leave then the employee must be notified in writing of the decision summarising the grounds for the refusal.

Transfer of Parental Leave

24. Subject to the approval of the employer, it is possible to transfer 14 weeks out of the 18 week parental leave entitlement to another parent of a relevant child, provided the other parent is employed with the same employer. In compliance with Council Directive 2010/18/EU, it is necessary for each parent to retain 4 weeks, out of his/her 18 week entitlement, for his/her own personal use. Under that Directive, these 4 weeks may not be transferred to another parent and can only be used by the parent with whom the entitlement originates. This means where both parents are employed by the same employer one parent may avail of 32 weeks and the other 4 weeks.

Application for Parental Leave

25. Application for parental leave should be made by an employee to his/her employer at least 6 weeks in advance of commencement of the leave on the prescribed application form which is attached at Appendix A of this circular.

Employer Confirmation Document

26. The employer in granting parental leave should, 4 weeks prior to the commencement of the leave, prepare with the employee the confirmation document attached at Appendix B of this circular. This document constitutes a legal agreement between the parties. An employee may revoke the application at any point prior to the signing of the confirmation document by both parties.

Confirmation to the Department

27. The employer must record the proposed absence via the Online Claims System not later than 4 weeks prior to the commencement of the leave. As parental leave is unpaid leave, undue delay in recording of the leave may result in overpayment of salary to the employee concerned. Any overpayment of salary arising in this manner must be recouped from the employee.

Replacement of Staff Member

28. Where a replacement employee is employed to cover an absence under this circular, the specified purpose contract awarded to the employee covering the absence should make clear reference to the fact that there are circumstances where the replacement appointment may have to be terminated in the event of the absent employee returning to duties earlier than initially expected e.g. suspension/postponement of parental leave through illness of the employee.
29. Such a replacement will not have any entitlement to a redundancy payment when his/her post is terminated due to the return of the absent employee, or for any other reason.

Termination of Parental Leave

30. Parental leave may be terminated by the employer if there are reasonable grounds to believe that the leave is being used for a purpose other than the care of the child/children concerned.
31. Before terminating the leave the employer is obliged to:
- Notify the employee in writing that the matter is under consideration, and invite the employee to make representations within 7 days;
 - Consider any representations from the employee before making a final decision
 - Notify the employee in writing of the decision summarising the grounds
32. The final decision notification should inform the employee of his/her obligation to return to work after the expiry of 7 days from the receipt of the notice.

Suspension/Postponement of Parental Leave through illness of the Employee

33. If during, or immediately prior to, the agreed period of parental leave, the employee concerned becomes ill to the extent that s/he is unable, or will be unable to care for the child it is possible:
- Where the leave has not already commenced, to postpone the taking of the leave to such time as the employee is fit to resume the care of the child, or
 - Where the leave has already commenced, to suspend the taking of the balance of the leave to such time as the employee is fit to resume the care of the child.
34. Where it becomes necessary due to illness to suspend or postpone the leave the employee must as soon as is reasonably practicable provide written notification to the employer of the postponement/suspension of the leave due to illness and provide appropriate medical certification to the employer which confirms the employee's incapacity to care for the child as a result of illness.
35. It should be noted that the suspended portion of the leave, if it is to be availed of, must be taken as soon as possible after the employee has been certified fit to resume.
36. If, purely as a consequence of a suspension of the leave due to the certified illness/incapacity of the parent, the child goes over the age threshold, the entitlement to take the leave remains and must be taken as soon as possible.

Carryover of remaining Parental Leave from a previous employment

37. Subject to the normal age threshold limitations and service requirements, an employee entering this scheme from a previous employment where some parental leave has already been availed of;
- Shall retain his/her statutory right to any unused remainder of parental leave which has been carried over to the new employment, and
 - Irrespective of previous arrangements, shall take his/her parental leave in accordance with the terms of this circular.

Overlap of statutory leave types

38. It is not permissible to be simultaneously absent on two types of statutory leave. Where there is an overlap (e.g. maternity leave), parental leave may be postponed for a reasonable period by mutual agreement between the employer and the employee.

Request to change work hours/pattern by Clerical Officers (CO)

39. A clerical officer returning to work from parental leave may request a change in work hours/pattern for a set period of time. Where a CO is work-sharing, any change to their work sharing pattern is subject to the minimum 50:50 work sharing pattern as set out in paragraph 3.15 of the Haddington Road Agreement.

40. Such request must be made in writing to the employer as soon as reasonably practicable, but not later than six weeks before the proposed commencement of the set period of time concerned, specifying the nature of the changes requested and the date of commencement and duration of the set period requested.
41. The employer shall consider that request having regard to the CO's terms and conditions in relation to leave and remuneration as well as the needs of both the employer and the employee. The employer shall inform the CO in writing if the request is being granted or refused as soon as reasonably practicable, but not later than four weeks after receiving an application.
42. Where the request is approved, both parties must prepare and sign a written agreement which sets out the revised work arrangements, including date of commencement and duration of the changes. The employer must retain the original agreement on file and give a copy to the CO. At any time before the agreement has been signed, the CO may, by notice to the employer in writing, revoke the requested change to work hours/pattern.

Voluntary Deductions

43. Voluntary deductions from salary may cease when an employee goes on parental leave. It is the sole responsibility of an employee availing of parental leave to ensure that voluntary deductions do not lapse. No liability rests with the Department for policies of any nature which lapse. Further details in relation to voluntary deductions can be found on the Department's website www.education.ie under Education Staff – Information – Payroll & Financial – Voluntary Deductions.

Social Welfare Arrangements

44. All queries in relation to Social Welfare arrangements and appropriate credits should be directed to the Department of Social Protection.

Compliance

45. All employers/employees must adhere to the regulations and procedures set out in this circular. Failure to abide by the regulations and procedures set out in this document on the part of the employee is a disciplinary matter.
46. All documentation relating to parental leave arrangements must be retained by the employer with the relevant personnel records for 8 years. These records may be selected for inspection by nominated Department officials.

Application form and the confirmation document

47. Copies of the application form for parental leave and the confirmation document are attached at Appendices A and B.

Further Information

48. In accordance with the introductory paragraph the regulations in this circular are to be implemented by the employer. Thus all queries should initially be brought to the attention

of the employer who may wish to consult with their representative organisation, who may further wish to consult with the Department at the following email address:
NTSPayroll@education.gov.ie

APPLICATION FOR PARENTAL LEAVE
(TO BE COMPLETED BY THE EMPLOYEE)

School: _____ Roll No. _____

Name: _____

Home Address: _____

Telephone No: _____

PPSN: _____

I hereby make application for parental leave in respect of:

Name of Child: _____

Date of birth: _____

(The birth certificate of the child and, where applicable, evidence of the date of the adoption order of the child, or evidence of parent acting in loco parentis should accompany this application)

Have you previously availed of parental leave in respect of the child above?

Yes No

If yes please state the number of weeks:

I propose to take parental leave as follows:

Please tick

- In one continuous block of 18 weeks
- In separate periods of weeks/days as follows:

Dates of parental leave as follows:

Date From	Date to	Total period of parental leave

I hereby confirm that the information recorded in this document is true and accurate and my application for parental leave is submitted in accordance with the regulations and procedures set out in circular letter 0006/2015.

Signature of Employee: _____

Date: _____

On completion please forward this Application Form to your employer

CONFIRMATION DOCUMENT FOR PARENTAL LEAVE
(TO BE COMPLETED BY THE EMPLOYER AND THE EMPLOYEE)

School:

Roll No.

I hereby confirm that parental leave has been granted to:

Name of Employee: _____

PPSN: _____

In respect of:

Name of Child: _____ Date of birth: _____

Parental leave has been granted in accordance with circular 0006/2015 as follows:

Date From	Date to	Total period of parental leave

Signature of Employee: _____

Date: _____

Signature of Employer: _____

Date: _____

Following signing, no amendment can be made to the confirmation document without the agreement of both parties.

This document should be retained on the employee's personnel file and a copy retained by the employee.

A copy of this form should also be forwarded to: **NTS Payroll, Department of Education and Skills, Cormaddy, Athlone.**