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**24/11/2004 LP:- Adoptive Leave & Maternity Protection Legislation - improvements**

**E109/128/02**

**E109/70/00**

**To all Personnel Officers**

## **Improvements to Adoptive Leave and Maternity Protection Legislation**

### **1. Introduction**

I refer to changes to the civil service adoptive leave and maternity leave arrangements arising from recent changes to adoptive leave and maternity protection legislation.

### **2. Adoptive Leave**

The Adoptive Leave Order 2004 was signed on 22 October, 2004 and comes into effect on 19 November, 2004 (four weeks after the date the Order was signed). The effect of the Order is to increase the period of adoptive leave from 14 weeks to 16 weeks.

Civil servants who commence their adoptive leave on or after 19 November, 2004 are therefore entitled to paid leave for 16 weeks. Confidential Circular 1/97, Circulars 2/97 and 9/01 also refer.

A new circular on adoptive leave arrangements for civil servants will be issued when the Adoptive Leave Bill is enacted currently scheduled for the end of 2004.

### **3. Maternity Protection**

The provisions of the Maternity Protection (Amendment) Act 2004, other than section 24, came into effect on 18 October 2004. (Section 24 refers to the Redundancy Payments Act). The following are the main changes that impact on maternity leave arrangements for civil servants, together with their application in the civil service.

#### **(1) Compulsory pre-confinement period reduced to 2 weeks**

The compulsory pre-confinement period of maternity leave is reduced from four weeks to two weeks. There is no change to the 4 week notification requirement.

#### **(2) Time off for fathers for ante-natal classes**

There is a once-off right for fathers to paid time off from duty to attend the two ante-natal classes immediately prior to the birth. Evidence of attendance will be required, as currently required for mothers.

**(3) Protection of employment rights on additional maternity leave**

An officer on additional maternity leave is deemed for all purposes (other than the right to remuneration and superannuation benefits) to be in employment. The absence will therefore count as service and will reckon as qualifying service for annual leave, public holidays and privilege days. This change came into effect on 18 October 2004 and applies to additional maternity leave commencing on or after 18 October 2004, as well as to staff already on additional maternity leave on that date. This change gives the same protection of employment rights to staff on additional maternity leave as applies currently to parental leave.

**(4) Termination of additional maternity leave in the event of illness of mother**

Employees may seek to have additional maternity leave terminated in the event of illness, subject to the agreement of the employer. The balance of untaken additional maternity leave is forfeit if this entitlement is exercised.

Requests to terminate the leave and move to sick leave must be made in writing and be accompanied by medical evidence supporting the request, and should be dealt with in the same way as other applications for sick leave. This sick leave is treated in the same way as any other sick leave.

**(5) Postponement of leave due to hospitalisation of the child**

Employees may postpone the period of maternity leave/additional maternity leave in the event of hospitalisation of the child, subject to the agreement of the employer. Leave may only be postponed after 14 weeks maternity leave has been taken. Leave may be postponed for a maximum of 6 months.

Requests to postpone the leave must be made in writing and be accompanied by evidence from the hospital of the child's hospitalisation. The leave may be resumed not later than 7 days after the discharge of the child from hospital – evidence of the discharge will also be required.

**(6) Breastfeeding breaks**

A mother who is breastfeeding her child is entitled, without loss of pay, to either:

(a) one hour off from work each day as a breastfeeding break, where breastfeeding facilities are provided by the employer, or

(b) a reduction of her working hours of one hour each day,

until that child is 6 months old (26 weeks).

The break or reduction in hours may be taken as one break of 60 minutes, two breaks of 30 minutes each or three breaks of 20 minutes each or in such other manner agreed between the employer and employee.

Such arrangements should be calculated on a *pro rata* basis for part-time staff.

‘Breastfeeding’ in this context means: breastfeeding a child, or expressing breast milk and feeding it to a child immediately or storing it for the purpose of feeding it to the child at a later time.

Employers are not required to provide facilities for breastfeeding in the workplace, if the provision of such facilities would give rise to a cost, other than a nominal cost, to the employer.

Requests to avail of breastfeeding breaks or a reduction of hours must be notified in writing at the time of the notification of the date of return to work and should be accompanied by the birth certificate of the child concerned.

Pending a decision on the provision of such facilities generally, Departments and Offices are requested to offer a reduction of working hours, where breastfeeding facilities are not already available. Where staff have already returned to work, requests should also be accommodated.

#### **Circular**

4. A circular covering all the changes to the maternity leave arrangements for civil servants is currently being drafted. In advance of the issue of the circular, departments and offices are requested to bring these changes to the attention of all staff applying for maternity leave and those already on maternity and additional maternity leave.

#### **Queries**

5. If you have any queries please contact Deirdre MacRory at [deirdre.macrory@finance.gov.ie](mailto:deirdre.macrory@finance.gov.ie) or 604 5462

Yours sincerely,

Marie McLaughlin  
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