



Circular Letter 20/97

## **To the Board of Management of each Secondary and Community/Comprehensive School.**

### **ADOPTIVE LEAVE**

The Minister for Education wishes to bring to the attention of Boards of Management and teachers in Secondary and Community/Comprehensive Schools details of the amended adoptive leave procedures which have been agreed by the Conciliation Council for teachers.

This Circular provides a summary of the main provisions of the Adoptive Leave, Act, 1995 and agreements reached between the Managerial Authorities, the Teacher Unions, and the Department of Education.

This Circular supersedes all previous Circulars relating to adoptive leave.

You are requested to provide a copy of this letter to the parents' and teachers' representatives on the Board of Management where such exists, and to the parents' association/National Parents Council representatives or other appropriate representatives of the parents/teachers for transmission to individual parents and teachers.

#### **1. ADOPTIVE LEAVE**

- 1.1 All female teachers, and male teachers who are sole adopters, are entitled to 10 consecutive weeks adoptive leave subject to the conditions outlined below. For convenience, the term "adopting teacher" is used throughout this Circular to mean adopting mother or sole male adopter (as defined in Section 2 of the Adoptive Leave Act, 1995).
- 1.2 Adoptive leave will consist of ten consecutive weeks from the day of placement of the child with the adopting teacher.
- 1.3 The granting of adoptive leave is conditional on the adopting teacher, having:-
  - (a) as soon as is reasonably practicable, but not later than four weeks before the expected day of placement, notified the Board of Management, in writing of the intention to take adoptive leave and

- (b) as soon as is reasonably practicable notifying the Board, in writing of the expected day of placement and
  - (c) as soon as is reasonably practicable, but not later than four weeks after the day of placement, supplying the Board with the certificate of placement or other appropriate documentation, as specified in Section 7 of the Adoptive Leave Act, 1995.
- 1.4 If the day of placement is postponed, commencement of the period of adoptive leave shall also be postponed subject to the adopting teacher informing the Board of Management of the expected new day of placement as soon as it is reasonably practicable.
- 1.5 Where the placement of the child with the adopting teacher is for a period of less than fourteen weeks (other than as a result of the death of the child), the adopting teacher shall inform the Board of Management in writing of the date of termination of placement as soon as is reasonably practicable but not later than seven days after the date of termination of placement. The teacher shall then be required to return to work on a date specified by the Board of Management, but no later than the date on which the adoptive leave or additional adoptive leave would have expired.
- 1.6 Except as outlined in paragraphs 1.7 and 1.8 below, a teacher on adoptive leave is deemed for all purposes (other than remuneration) to be in employment. The absence is, therefore, fully reckonable for all purposes including seniority, determination of panel rights etc. A teacher on adoptive leave is entitled to receive notification regarding vacant Posts of Responsibility which are to be filled in the school. Absence on adoptive leave cannot be treated as part of any other leave including sick leave.
- 1.7 In the case of a teacher who is on probation at the start of adoptive leave, the period of probation will stand suspended during the absence on adoptive leave and will be completed by the teacher on return to work.
- 1.8 Persons applying for Registration as Secondary Teachers will be required to complete one year's teaching experience exclusive of any absence on adoptive leave.

## **2. LEAVE IN LIEU**

- 2.1 Where adoptive leave overlaps with the school vacation, a teacher shall be entitled to leave in lieu for the vacation days which overlap subject to a maximum of 19 days in any calendar year.
- 2.2 The leave in lieu must follow on immediately from the end of the period of adoptive leave (or additional adoptive leave as appropriate) or the end of the school vacation period concerned where the adoptive leave expires within such vacation period.
- 2.3 The overlapped days for which a teacher will be entitled to leave in lieu are general school vacation days including public and church holidays, where applicable, and other school closures. Days on which schools are closed in exceptional circumstances, e.g. inclement weather or polling, do not count in calculating the number of days leave in lieu due.

### 3. PAYMENT WHILE ON ADOPTIVE LEAVE

- 3.1 With the exception of substitute teachers and part-time (non EPT) teachers, and subject to Paragraph 3.2 and .3. below, a teacher on adoptive leave or leave in lieu is entitled to full pay for the duration of the leave. Substitute and part-time (non EPT) teachers are not entitled to payment while on adoptive leave and should confirm their entitlements to Adoptive Benefit if any, with the Department of Social Welfare.
- 3.2 A teacher who is, or who was, fully insured under the Social Welfare Acts and who fulfils certain contribution conditions may be entitled to Adoptive Benefits from the Department of Social Welfare whilst absent on adoptive leave.
- 3.3 A teacher on adoptive leave, who is entitled to Adoptive Benefit from the Department of Social Welfare will be paid full salary by the Department of Education **or** an amount equivalent to the full rate of benefit to which s/he is entitled, whichever is the greater, provided s/he:
- (A) signs a mandate authorising the Department of Social Welfare to pay any benefits due to him/her directly to this Department.
  - (B) makes the necessary claims for social welfare benefit within the require time limits,
  - (C) complies with whatever requirements are laid down by the Department of Social Welfare as a condition of claiming benefit.

### 4. ADDITIONAL ADOPTIVE LEAVE

- 4.1 At the end of adoptive leave, a teacher is statutorily entitled to take further leave, referred to as "additional adoptive leave", of up to four consecutive weeks immediately following adoptive leave.
- 4.2 The granting of additional adoptive leave is **conditional** on a teacher, who intends to avail of same, notifying the Board of Management at least four weeks before the date on which the adoptive leave is due to end.
- 4.3 Absences on additional adoptive leave are not reckonable for any purpose. As a matter of good practice, a teacher on additional adoptive leave should be notified regarding vacant Posts of Responsibility which are to be filled in the school.
- 4.4 In the case of a teacher who is on probation at the start of adoptive leave, the period of probation will stand suspended during the absence on additional adoptive leave and will be completed by the teacher on return to work.
- 4.5 Persons applying for Registration as Secondary Teachers will be required to complete one year's teaching experience exclusive of any absence on non-statutory adoptive leave to the end of the school year.

## **5. FOREIGN ADOPTIONS**

- 5.1 In the case of a foreign adoption, where the adopting teacher requires a period of additional adoptive leave before the day of placement, for the purposes of familiarisation with the child who is to be adopted, some or all of the additional adoptive leave may be taken before the day of placement (Ref Section 8 of Adoptive Leave Act, 1995).

## **6. RETURN TO WORK FOLOWING ADOPTIVE LEAVE**

- 6.1 A teacher who intends to return to work following adoptive leave, or additional adoptive leave must notify her/his Board of Management in writing of her/his intention not later than four weeks before the date on which s/he expects to return.

## **7. FATHER'S ENTITLEMENT TO LEAVE**

- 7.1 Under certain circumstances, if the adopting mother dies within fourteen weeks of placement, the adopting father (who is not a sole male adopter as defined in the Act) may be entitled to leave of up to fourteen weeks. The conditions governing the granting of leave to fathers on the adoption of a child are laid down in Sections 9-11 of the Adoptive Leave Act, 1995. A man who is granted leave under those sections is entitled to the same employment protection as an adopting teacher on adoptive leave or additional adoptive leave as appropriate. The arrangements for payment while on such leave will be similar to those described in Paragraphs 3.1, 3.2 and 3.3 above.

## **8. NON-STATUTORY ADOPTIVE LEAVE TO THE END OF THE SCHOOL YEAR**

- 8.1 A teacher who, on completion of adoptive leave, additional adoptive leave and leave in lieu, as appropriate, may avail of further unpaid adoptive leave referred to as "non-statutory adoptive leave to the end of the school year" subject to obtaining written sanction from the managerial authority of the school, which body should be notified four weeks in advance.
- 8.2 Absences on non-statutory adoptive leave to the end of the school year are not reckonable for any purpose. As a matter of good practice, a teacher on such leave should be notified regarding vacant Posts of Responsibility which are to be filled in the school.
- 8.3 In the case of a teacher who is on probation at the start of adoptive leave to the end of the school year, the period of probation will stand suspended during the absence on non-statutory adoptive leave and will be completed by the teacher on return to work.
- 8.4 Persons applying for Registration as Secondary Teachers will be required to complete one year's teaching experience exclusive of any absence on additional adoptive leave.

## **9. RESOLUTION OF DISPUTES**

- 9.1 Except as specified in Section 32 of the Adoptive Leave Act, 1995 a dispute concerning an entitlement under the Act may be referred by either party to the dispute to a Rights Commissioner within six months of the commencement of the dispute and on appeal to the Employment Appeals Tribunal.

**Don Thornhill,  
Runáí  
May 1997.**

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