



Circular 17/99

To the Managerial Authority of each Secondary, Community and Comprehensive School

Parental Leave and Force Majeure Leave for Teachers in Second Level Schools

This Circular provides a summary of the main provisions of the Parental Leave Act, 1998 as it applies to teachers. It is not a legal interpretation of the Act.

1.0 Parental Leave Act:

- 1.1 The Parental Leave Act, 1998 became effective on the 3rd day of December, 1998. Under the terms of the Act a teacher who is the natural or adoptive parent of a child is entitled to parental leave for a period of fourteen working weeks.
- 1.2 The purpose of the leave is to enable a parent to take care of his/her child.

2.0 Entitlement to Parental Leave:

- 2.1 The entitlement to parental leave shall apply only to parents in respect of a child born on or after the 3rd June 1996 or adopted on or after that date.
- 2.2 A period of parental leave shall end-
 - (a) not later than the day on which the child concerned attains the age of five years, or
 - (b) in the case of a child who is the subject of an adoption order and who had attained the age of three years, but had not attained the age of eight years, on or before the date of the making of that order, not later than the expiration of the period of two years beginning on that date.
- 2.3 Each parent has a separate entitlement to parental leave from his/her job. However, the leave is not transferable, i.e. the mother cannot take the father's leave or vice-versa.

3.0 Eligibility for Parental Leave:

- 3.1 A teacher must have completed one year's continuous teaching service with a managerial authority before s/he can take parental leave. However, where a teacher will not have completed one year's continuous employment with the managerial authority on the latest day for commencing a period of parental leave, but has completed 3 months of such employment, the teacher shall be entitled to parental leave for a period of one week for each month of continuous employment that s/he has completed with the employer at the time of the commencement of the leave.
- 3.2 Teachers are not entitled to payment whilst absent on parental leave. Where a teacher opts to take parental leave prior to a vacation period s/he will only be paid from the date the

parental leave ends as confirmed in the “confirmation document”. Where a teacher commences parental leave immediately after a vacation period s/he will only be paid to the date the parental leave commences as confirmed in the “confirmation document” (See Para. 5.3). A copy of the “confirmation document” must be submitted to the Department in the case of teachers employed in Secondary, Community/Comprehensive schools or to VECs in the case of teachers employed in them.

Where a teacher is granted a period of parental leave prior to a vacation period and is granted a further period of parental leave after the same vacation period they are regarded as two separate periods of leave.

- 3.3 Where a teacher has been appointed for a fixed term and the employment would have terminated on the expiry of that fixed term had s/he not been on parental leave the period of parental leave shall not extend beyond the day on which the term expires. The granting or taking of parental leave shall not affect the date of termination of a fixed term appointment. A teacher resuming duty after an absence on career break of two full school years who applies for parental leave must submit a certificate of fitness to resume teaching duty before s/he may be granted parental leave.
- 3.4 Teachers absent on parental leave may not engage in any type of teaching.
- 3.5 The managerial authority may employ a replacement teacher for the period during which a teacher is absent on unpaid parental leave.

4.0 Period of Parental Leave available:

- 4.1 Parental leave shall consist of 14 weeks unpaid leave for each child born on or after 3 June 1996. Where a teacher is entitled to parental leave in respect of more than one child and the children concerned are not children of a multiple birth, the period of parental leave taken by him or her in any period of 12 months shall not, without the consent of the managerial authority, exceed fourteen weeks.
In the case of multiple births this restriction does not apply.
- 4.2 A teacher shall take the parental leave as follows
- (a) as one continuous period of fourteen weeks, or
 - (b) in two separate periods of seven weeks, or
 - (c) in a maximum of three separate periods with one of the periods being a minimum of two weeks and a second being a minimum period of four weeks. The combinations are outlined in Appendix A.
 - (d) in exceptional circumstances a teacher may avail of parental leave where a child has particular medical problems which require the attendance of a parent with the child at a hospital or clinic on a regular basis. In such cases certification from the hospital or clinic in respect of the absence must be submitted to the managerial authority. The terms of this circular must be adhered to in granting the leave for this special circumstance.
- 4.3 A teacher is not obliged to take the full fourteen weeks parental leave.
- 4.4 Where public holidays fall during the period of parental leave they are added to the period of parental leave which the teacher is entitled to take.

5.0 Notification required to avail of Parental Leave:

- 5.1 The granting of parental leave is conditional on a teacher notifying the managerial authority in writing as soon as is reasonably practicable but not later than six weeks prior to the proposed commencement date of parental leave.

- 5.2 The written notice must specify the date the teacher intends to commence parental leave, the duration of the leave and the manner in which the teacher proposes to take the leave and the name and date of birth of the child.
- 5.3 Not later than four weeks before the commencement of the parental leave, the managerial authority and teacher must prepare what is called a “confirmation document” specifying the date of commencement of the leave, its duration and the manner in which it will be taken. The managerial authority and the teacher must both sign the “confirmation document” and both parties retain a copy. Once signed, no amendment can be made to the “confirmation document” without the agreement of both parties.

6.0 Postponement of Parental Leave:

- 6.1 The managerial authority may postpone parental leave if such leave would have a substantial adverse effect on the operation of the school. An example of a reason why a managerial authority would postpone parental leave would be a difficulty in obtaining a replacement teacher for the duration of the absence. The postponement may be to an agreed date not later than 6 months from the date on which the teacher had specified that the parental leave was to commence. Before giving notice to postpone parental leave the managerial authority shall consult with the teacher in relation to the proposed postponement and advise the person in writing not later than four weeks before the intended commencement of the leave.

7.0 Maintenance of employment rights during Parental Leave:

- 7.1 In the case of a teacher who is on probation at the start of parental leave, the periods of probation will stand suspended during the absence on parental leave and will be completed by the teacher on his/her return to work. This applies where the managerial authority considers that the teachers' absence would not be consistent with the continuance of the probation.
- 7.2 Persons applying for Registration as a Secondary teacher will be required to complete one year's teaching experience exclusive of any absence on parental leave.
- 7.3 Except as outlined in paragraphs 7.1 and 7.2 a teacher on parental leave is deemed for all purposes (other than the right to remuneration and Superannuation benefits) to be in employment. The absence, is therefore, fully reckonable for all purposes including seniority, determination of panel rights etc. A permanent teacher on parental leave is entitled to receive notification regarding vacant Posts of Responsibility which are to be filled in the school.
- 7.4 Absence on parental leave cannot be treated as part of any other form of leave, including sick leave, maternity leave and adoptive leave.

8.0 Force Majeure Leave for family emergencies:

- 8.1 Force Majeure leave is paid and is separate from parental leave. It is limited to a maximum of 3 days in each 12 months or 5 days in each 36 months period. Force Majeure leave covers situations where, for urgent family reasons, owing to an injury to or the illness of a close family member, the immediate presence of the employee is indispensably required at the place where the family member is. For the purposes of the Act, “family member” is defined as the following: child or adoptive child, spouse or a person with whom the employee is living as husband or wife; a person to whom the employee is in loco parentis, brother or sister, parent or grandparent.
- 8.2 Teachers already have the facility of paid leave for the absences covered by Force Majeure leave as referred to in Para. 8.1. The existing arrangements in relation to special paid leave for approved absences will continue to apply but the number of days allowed will not be increased by the introduction of Force Majeure leave.

9.0 Disputes and Appeals:

- 9.1 Disputes about entitlements to parental leave (and also Force Majeure leave) may, in general, be referred to a Rights Commissioner. The Rights Commissioner is empowered to hear the parties to the dispute and to receive any relevant evidence tendered. Notice to a Rights Commissioner in relation to a dispute must be given as soon as reasonably may be after the occurrence of the dispute and in any event not later than 6 months after the occurrence of the dispute.
- 9.2 Where either party is dissatisfied with the decision of the Rights Commissioner, the Act provides for a right of appeal to the Employment Appeals Tribunal.
- 9.3 The Rights Commissioner or the Employment Appeals Tribunal can order such redress as is considered appropriate and which may be in the form of parental leave or in the form of an award of monetary compensation (to a maximum of 20 weeks remuneration for that particular employee).

10.0 Records:

- 10.1 A managerial authority must keep a record of the parental leave and Force Majeure leave taken by teachers, specifying the period of employment of each teacher and the dates and times of the parental leave and Force Majeure leave taken. Such records must be retained for 8 years. Under the terms of the Parental Leave Act, 1998 a managerial authority that fails to keep such records will be liable, on summary conviction, to a fine not exceeding £1,500.
- 10.2 Copies of all notices required by the Act must be retained by the teacher and the managerial authority for one year.

11.0 Termination of Parental Leave:

- 11.1 In granting parental leave the managerial authority should satisfy itself that the teacher is entitled to parental leave and that it has not already been granted. A managerial authority may terminate parental leave if it has reasonable grounds to believe that it is being used for a purpose other than taking care of the child concerned. However, before terminating the leave, the managerial authority must notify the teacher, in writing, of the intention to do so, and invite the teacher to make representations on the matter within 7 days. The managerial authority is obliged to consider the teacher's submission before deciding whether to terminate the leave.
- 11.2 The date of termination must not be later than the date of the end of the period of leave specified in the confirmation order nor earlier than 7 days after the date the notice is given. In a case where the leave is terminated the teacher shall return to work. Any period between the date of the teacher's return to work and the date on which the leave would have ended if the teacher had completed the leave, does not count as parental leave.

12.0 Social Welfare arrangements:

- 12.1 Teachers on parental leave, who are covered by social insurance, will be entitled to credited PRSI contributions from the Department of Social, Community and Family Affairs. This will preserve their record for social insurance purposes. Teachers should contact the Department of Social Community and Family Affairs directly to ensure that the appropriate credits are made.

13.0 Voluntary contributions:

- 13.1 Teachers should make the necessary arrangements with the relevant organisations for the payment of voluntary contributions during absences on parental leave.

14.0 Notification forms and the confirmation document:

14.1 Copies of

- (a) The application form for Parental leave,
 - (b) The notification form for Force Majeure Leave,
 - (c) Confirmation document
- are attached as Appendices B, C and D

15.0 Review:

- 15.1 The operation of the parental leave scheme may be reviewed in the future with the agreement of the Department, managerial and union.

16.0 Copies of the circular:

- 16.1 You are requested to ensure that copies of this circular are provided to the teaching staff and all Board of Management members.

J. Dennehy,
Secretary General,
June, 1999.

APPENDIX A

The combination of periods in which Parental Leave may be taken is as follows:

- i. 1 x 2 weeks; 1 x 4 weeks; 1 x 8 weeks**
- ii. 1 x 2 weeks; 1 x 5 weeks; 1 x 7 weeks**
- iii. 1 x 2 weeks; 1 x 6 weeks; 1 x 6 weeks**

