

Parental Leave and Benefit Bill 2019

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Part I – Parental Leave

Head 1: Definitions

‘Minister’ means the Minister for Justice and Equality.

‘relevant parent’ means, in relation to a child,

- (i) the mother of the child,
- (ii) the father of the child,
- (iii) the spouse, civil partner or cohabitant, as the case may be, of the relevant parent of the child, or
- (iv) a parent of the child under section 5 of the Children and Family Relationships Act 2015 where the child is a donor-conceived child within the meaning of Part 2 of that Act,

or, in relation to a child, who is, or is to be, adopted,

- (i) where the child is, or is to be, adopted jointly by a married couple of the same sex, the spouse chosen by that couple to be the relevant parent for the purposes of this Act, or
- (ii) in any other case, the spouse, civil partner or cohabitant, as the case may be, of the adopting mother or sole male adopter of the child.

Head 2: Regulations

1. The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.
2. Before making a regulation under this Act, the Minister shall consult with:
 - (a) the Minister for Employment Affairs and Social Protection; and
 - (b) the Minister for Public Expenditure and Reform.
3. In addition to subhead 2, the Minister may also consult with any other Ministers or other persons as he or she considers is relevant in relation to the making of regulations.
4. A regulation under this Act may contain such consequential, supplementary and ancillary provisions as the Minister considers necessary or expedient.
- 5 In making regulations under this section, the Minister shall have regard to
 - (1) the desirability of
 - (a) facilitating employees in balancing paid work with their responsibilities to their children,
 - (b) promoting the participation of women in the labour market,
 - (c) making it easier for men to share the responsibilities of caring for children on an equal basis with women, and
 - (d) not imposing an undue burden on employers; and
 - (2) the cost to the Exchequer.
6. Every regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made.

If a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.

Head 3: Entitlement to parental leave & criteria governing its taking

1. An employee who is a relevant parent in respect of a child shall be entitled to leave from his or her employment, to be known and referred to in this Act as 'parental leave', for a period of time to be prescribed by the Minister (by regulations under head 2).
2. The purpose of this parental leave is to enable him or her to provide, or assist in the provision of care to the child.
3. Each relevant parent in relation to a child shall be entitled to take an individual period of parental leave.
4. A period of parental leave shall not commence before a time when the employee concerned has completed one year's employment
5. The period of parental leave shall end not later 52 weeks after the birth of the child or in the case of adoption a period following the date of placement.
6. A period of parental leave may not be taken before the date of birth, or in the case of an adoption, before the date of placement.
7. In the case of multiple births or the adoption of multiple children at the same time, a person who is a relevant parent shall only be entitled to one period of parental leave.
8. A relevant parent who adopts a child shall not be prevented from taking parental leave in respect of that child, if the parents who gave the child up for adoption have already taken parental leave in respect of that child.
9. A relevant parent shall be entitled to take parental leave -
 - (a) in the case of a child who is, or is to be, adopted where the day of placement in respect of the child falls on or after 1 November 2019, or
 - (b) in any other case, where the date of birth of the child falls on or after 1 November 2019.
10. A relevant parent who has taken adoptive leave under section 6 of the Adoptive Leave Act 1995 shall also be entitled to take parental leave under this Act in respect of that child.

Head 4: Non-transferability of parental leave

1. Where a relevant parent in respect of a child is entitled to parental leave, except where a relevant parent has died, the relevant parents of that child shall not be entitled to transfer any part of his or her parental leave to the other relevant parent.

Head 5: Manner in which parental leave can taken

1. The period of parental leave provided for in head 3 must be taken in periods of not less than one week in duration.
2. A relevant parent may take their entitlement to parental leave before they take their entitlement to additional maternity or adoptive leave (under section 14 of the Maternity Protection Act 1994 or section 8 of the Adoptive Leave Act 1995).
3. Where any holiday (other than a public holiday) to which an employee is entitled falls during a period of parental leave of the employee and on a day when (but for the leave and the holiday) the employee would be working in the employment concerned, the holiday shall be taken at such other time as may be determined by the employer concerned pursuant to section 20 of the Organisation of Working Time Act 1997.
4. Where any public holiday to which an employee is entitled falls during a period of parental leave of the employee and on a day when (but for the leave and the holiday) the employee would be working in the employment concerned, a day shall be added to the period of parental leave that the employee is entitled to take.

Head 6: Notification to employer

1. Where a relevant parent proposes to take parental leave, he or she shall provide their employer with written notification of their intention to take parental leave.
2. A notification to take parental leave should be given as soon as reasonably practicable, but not later than four (4) weeks before the leave commences.
3. A person who has given notification to take parental leave:
 - (a) in the case of an adoption, shall provide their employer with:
 - i. A written notification of the expected date of placement, as soon as is practicable; and
 - ii. A copy of the certificate of placement as soon as is practicable but within four weeks following the date of placement.
 - (b) in the case of an intercountry adoption (to be effected either inside or outside the State) shall provide their employer with the following in writing:
 - i. notification of the expected date of placement, as soon as is practicable ; and
 - ii. a copy of an applicable declaration of eligibility and suitability, as soon as is practicable following the date of placement, and
 - iii. a copy of any details or particulars concerning the placement
- or
- (c) in any other case, at the time of the notification or as soon as reasonably practicable afterwards, give to his or her employer or produce for his or her employer's inspection a copy of the birth certificate of the child in question, a medical, or other appropriate certificate confirming the pregnancy of the expectant mother concerned and specifying the expected week of confinement of the expectant mother concerned that she has given to, or produced for the inspection of, her employer under section 9 of the Act of 1994.
4. A relevant parent who has given a notification to his or her employer shall -
 - (a) in the case of an adoption where the adopting mother or sole male adopter concerned is not an employee with the same employer, or the relevant parent concerned is a relevant parent referred to in paragraph (a)(i) of the definition of relevant parent shall cause his or her employer to be -
 - i. notified in writing as soon as reasonably practicable of the expected day of placement,
 - ii. supplied before the expected day of placement, if not already supplied, with a copy of an applicable declaration of eligibility and suitability, and

- iii. supplied as soon as reasonably practicable after the day of placement with particulars in writing of the placement,

or

- (b) in any other case, and where the expectant mother is not an employee (of the same employer as the relevant parent), at the time of the notification or as soon as reasonably practicable afterwards cause his or her employer to be supplied with a statement signed by a registered medical practitioner confirming the pregnancy of the expectant mother concerned and specifying the expected week of confinement of the expectant mother concerned.
- 5. An employee who has not provided their employer with a notification of their intention to take parental leave, or who having given notification has revoked it, may notify their employer concerned of their intention to take it, not later than four (4) weeks before the commencement of such leave.
 - 6. A relevant parent who has given a notification to their employer under subhead 5 shall at the time of the notification or as soon as reasonably practicable afterwards cause his or her employer to be supplied with—
 - (a) in the case of an adoption, other than an intercountry adoption effected or to be effected outside the State or an adoption to which subhead (4)(a) applies, a copy of the certificate of placement referred to in subhead (3)(a)(ii),
 - (b) in the case of an intercountry adoption effected or to be effected outside the State, other than an adoption to which subhead (4)(a) applies, the particulars referred to in subhead (3)(b)(iii),
 - (c) in the case of an adoption to which subhead (4)(a) applies, the particulars referred to in subhead (4)(a)(iii), or
 - (d) in any other case, a copy of the birth certificate in respect of the child concerned.
 - 7. A notification to take parental leave may be withdrawn / revoked in writing by the employee concerned to his or her employer.

Head 7: Allocation of parental leave

1. Where a relevant parent gives notification to take a period of parental leave, the period of parental leave shall commence no earlier than the date of birth or the date of placement (in the case of adoption), but no later than 52 weeks less the number of weeks equal to the maximum period of parental leave to be prescribed in regulation.
2. The last week that parental leave may be taken, as set out in sub head one (1) above, shall be subject to the exceptions set out in head 14.
3. Where a relevant parent is employed under a fixed term contract:
 - (a) their parental leave shall expire on the date their term of employment concludes;
and
 - (b) nothing in this Part shall affect the termination of their contract of employment on that day.

Head 8: Commencement of parental leave in the case of early confinement

1. Where the spouse or partner of a relevant parent gives birth more than 2 weeks before their expected date of confinement, the relevant parent shall be deemed to have complied with the notification requirements to take parental leave if they comply with the requirements of head 6 (Notification Requirements) within 7 days of the actual date of birth.

Head 9: Postponement of parental leave

1. Where a relevant parent has notified their employer of their intention to take parental leave, they shall be entitled to postpone that leave and notify their employer of another date on which it shall commence, following the date of birth or date of placement.

Head 10: Postponement of parental leave in event of sickness of relevant parent

1. Where a relevant parent has notified their employer of their intention to take parental leave, and becomes ill before the period of parental leave commences, the relevant parent may notify their employer in writing of their intention to postpone the leave until they are no longer ill.
 - This notification shall be provided to their employer as soon as reasonably practicable.
 - The relevant employee shall provide confirmation of their illness (medical certificate etc.) to their employer.
 - The relevant parent's entitlement to take any period of parental leave that has been postponed is conditional on that employee notifying their employer, no later than the date on which that period begins, of their intent to take the period of postponed leave
2. Any absence by the relevant parent from work due to the postponement of parental leave under this head shall be treated as if it were a regular sick leave absence.
3. Subject to the provisions of Head 14, any period of postponed leave shall end no later than 52 weeks less the period of parental leave following the date of birth or the date of placement of the child.
4. In the event of postponement of parental leave in the event of sickness of the relevant parent. the period of parental leave shall commence:
 - (a) no later than 7 days after they are no longer sick; or
 - (b) on any other date as agreed with their employer.
5. Employers shall have the discretion to waive the notification requirements under head 1.
6. A notification to postpone the taking of parental leave under head 1 may be withdrawn / revoked by a further notification in writing by that relevant parent before the date the period was due to commence.

Head 11: Postponement of parental leave in event of hospitalisation of child

1. Where a relevant parent has notified their employer of their intention to take parental leave, and the child in question is hospitalised, the relevant parent may submit a written request to postpone all or part of their parental leave to their employer.
2. An employer has the discretion to grant or refuse a request under subhead 1. Where such a request is received and granted by the employer:

- (a) The relevant parent shall continue to work in a normal working pattern or shall agree to return to work on a date agreed with their employer.

This agreed date shall be no later than the date provided to the employer when notification to take parental leave was submitted.

- (b) The leave shall be postponed with effect from the date agreed under (a);
- (c) The relevant parent shall be entitled to the portion of postponed leave that they did not take prior to its postponement.
- (d) The relevant parent shall take the period of unused postponed leave:
 - i. no later than seven days after the child in question has been discharged from hospital; or
 - ii. on a date as may be agreed between the relevant parent and their employer.

3. An employer who receives a postponement request from an employee shall notify that employee of their decision in relation to the request, as soon as reasonably practicable, following receipt of the request.
4. Where a relevant parent returns to work after a period of postponed leave and was ill during that period, the relevant parent shall be considered to have commenced the period of postponed leave on the first day of their absence unless they provide a written notification to their employer that they do not wish to commence their period of postponed leave. On receipt of that notification:
 - (a) The absence will be treated as if it were a normal sick leave absence; and
 - (b) the employee shall not be entitled to the period of postponed leave.
5. An entitlement to postponed leave shall be subject to the relevant employee providing their employer with written notification of their intention to commence such leave, as soon as reasonably practicable, but no later than the date the postponed leave begins.
6. An employer may waive the right to receive a notification under subhead 5.

7. A relevant parent may revoke / withdraw a notification under subhead 5, in writing to their employer. This notification must be provided as soon as reasonably practicable but no later than the date the postponed leave was due to begin.

Head 12: Relevant parent to whom section 16 of the Maternity Leave Act 1994 or section 9 of the Adoptive Leave Act 1995 applies.

1. A relevant parent who:
 - (a) is entitled to parental leave and has not taken such leave;
 - (b) becomes entitled to maternity leave under section 16(1) of the Maternity Leave Act 1994; or
 - (c) becomes entitled to adoptive leave under section 9(1)(a) of the Adoptive Leave Act 1995; and
 - (d) is entitled to paternity leave under the Paternity Leave and Benefit Act 2016

may take parental leave after the end of the leave referred to at points (b) to (d), or, where the maternity leave is postponed under section 16B of the Act of 1994, or adoptive leave is postponed under section 11C of the Act of 1995, the postponed leave taken by the relevant parent.

2. Thereafter a relevant parent may take any entitlement under section 14 of the Maternity Protection Act 1994 or section 8 of the Adoptive Leave Act 1995.
3. An entitlement to parental leave under this head shall be subject to the relevant parent providing their employer with written notification of their intention to commence such leave, as soon as reasonably practicable, but no later than the date the leave begins.
4. A relevant parent may revoke / withdraw a notification to take parental leave under this head, in writing to their employer. This notification must be provided as soon as reasonably practicable but no later than the date the leave is due to begin.

Head 13: Entitlement of employed surviving parent to parental leave on death of their partner

1. Where a relevant parent who is entitled to parental leave in relation to a child dies before the expiry of the fifty-second week following the date of birth or day of placement, the employed surviving relevant parent of the child shall be entitled to a period of “transferred parental leave” from his or her employment, to enable him or her to provide, or assist in the provision of, care to the child.
2. This period of transferred parental leave shall be equivalent to the period prescribed by the Minister, less any leave already taken by the deceased relevant parent. ”
3. The period of transferred parental leave shall commence:
 - (a) in the case of a surviving parent entitled to maternity leave under section 16 of the Maternity Protection Act 1994, immediately after the end of the maternity leave concerned; or
 - (b) in the case of a surviving parent entitled to adoptive leave under section 6 of the Adoptive Leave Act 1995, immediately after the end of the adoptive leave concerned; or
 - (c) in the case of a surviving parent entitled to paternity leave under section 15 of the Paternity Leave and Benefit Act 2016, immediately after the end of the paternity leave concerned; or
 - (d) in any other case, within 7 days of the death of the relevant parent concerned or, where applicable, on the day of placement, whichever is the later.
4. Entitlement to transferred parental leave shall be subject to the surviving parent concerned—
 - a. notifying his or her employer in writing (or causing his or her employer to be so notified) not later than the day on which the transferred parental leave begins of—
 - i. the death of the relevant parent,
 - ii. his or her intention to take transferred parental leave, and
 - iii. the length of the leave to which he or she believes he or she is so entitled under this Act,and
 - b. if requested by his or her employer, causing his or her employer to be supplied, as soon as reasonably practicable, with a copy of the death certificate of the relevant parent.

5. A notification under subhead 3 may be revoked by a further notification in writing to their employer within the period specified in that subhead for the giving of the notification concerned.
6. A reference in subhead 1 to a relevant parent entitled to parental leave includes a reference to a relevant parent who would be so entitled but for the fact that he or she did not notify his or her employer in accordance with head 6(2) or 6(5), as the case may be.
7. Subject to subhead 7, the provisions applying to situations where parental leave has been postponed in the event of:
 - i. A parent being ill (head 10); or
 - ii. The child being sick or hospitalised (head 11)

shall apply to a surviving parent who is entitled to, or is on, transferred parental leave as they apply to a relevant parent who is entitled to, or is on, parental leave and a reference in those sections to notification by a relevant parent to his or her employer in accordance with the various notification provisions in these heads (6(2), 6(5) and 12(2)), shall be construed as including a reference to notification by a surviving parent under subhead 3(a).

8. If the surviving parent is on sick leave (under head 10) and receives a period of transferred leave under this head, the period of transferred leave shall commence:
 - i. no later than 7 days after the date the surviving parent's sick leave ends; or
 - ii. on a date to be agreed between the surviving parent and their employer.

Head 13A: Entitlement to leave on the death of a child

1. Notwithstanding head 3(2), where the child of a relevant parent dies, and the relevant parent has not taken their entitlement to parental leave, the relevant parent shall be entitled to take the leave.
2. Subject to head 14, a period of leave under this head must be taken within 52 weeks of the date of birth of the deceased child.
3. A relevant parent retains their entitlement to take leave, even if they had not applied to take their leave before the child died.
4. A relevant parent who is on leave when their child dies, shall be entitled to remain on leave until their remaining entitlement to leave expires.
5. A relevant parent who is not on leave when their child dies retains their entitlement to parental leave, if they had applied for leave prior to the date of death of the child or apply for parental leave within six (6) weeks of the death of their child.

Head 14: Entitlement to parental leave beyond 52 weeks

1. Where a relevant parent cannot take their entitlement to paid parental leave within 52 weeks of the date of birth or placement of their child because of the operation of Heads 10 to 12, that parent shall be entitled to take their full allocation of parental leave.
2. In the situation dealt with by Head 13A, any period between the death of the child and the giving of notice of intention to take leave, shall be disregarded in calculating the period of 52 weeks.

Head 15: Abuse of parental leave

3. Where an employer has reasonable grounds to suspect that an employee on parental leave is not using that leave for the purposes set out under head 3(2), that employer may issue a written notification to that employee, terminating the period of parental leave.

The notification should include the following information:

- i. a statement outlining the reasons for terminating the employee's period of parental leave; and
- ii. the date by which the employee must return to work.

As per (ii) above, the date of the employee's return to work should be:

- i. no later than the date originally provided by the employee under the notification requirements in these heads; and
 - ii. within 7 days of the employee receiving notice of termination under these heads.
4. Where an employer terminates a period of parental leave under this head, the employee concerned shall return to their employment on the date specified in the notice of termination.

If the employee is absent for any period between the specified date of return and the date the leave was supposed to end, as per the notification requirements under these heads), that period of absence shall not be designated as parental leave.

5. Where an employee has provided their employer with written notification of their intention to take parental leave, and the employer has reasonable grounds to believe that the employee is not entitled to the parental leave concerned, the employer may, in writing given to the employee, refuse to grant the leave to the employee and, if the employer does so, the employee shall not be entitled to take the parental leave concerned.
6. Any refusal to approve parental leave by an employer shall include a written statement setting out the grounds for the refusal.
7. Where an employer proposes to give a notice under subheads (1) or (3) to an employee, the employer shall, before giving the notice, give notice in writing of the proposal to the employee and the notice shall contain a statement in summary form of the grounds for terminating, or, as the case may be, refusing to grant, the parental leave concerned and a statement that the employee may within 7 days of the receipt of the notice make representation to the employer in relation to the proposal; and any such representations made by an employee to an employer within the period aforesaid shall be considered by the employer before he or she decides whether to give a notice under subsection (1), or as the case may be, subsection (3) to the employee.
8. An employee shall retain a notice given to him or her under these heads.

9. An employer who gives a notice of termination under these heads shall retain a copy of that notice.
10. A reference in this section to parental leave includes a reference to transferred leave and accordingly —
 - (a) the reference in subhead(1) to purpose shall be construed as a reference to the purpose specified in section 14(1), and
 - (b) a reference in subhead (1), (2) or (3) to a notification by the employee shall be construed as a reference to a notification by the employee under section 14(3).

Head 16: Maintenance of records

1. An employer shall maintain a record of parental leave which should include information relating to the period each employee has been employed and the dates and times in respect of which each employee was on parental leave.
2. The employer shall retain each record of paid leave for a period of 8 years after the relevant period of parental leave is taken.
3. An employer who contravenes (1) or (2) shall be guilty of an offence and shall be liable, on summary conviction, to a class B fine.
4. Where a body corporate commits an offence and it is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
5. Where the affairs of a body corporate are managed by its members, subhead 4 shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.
6. Proceedings for an offence under this head may be brought and prosecuted by the Workplace Relations Commission.
7. If a person is convicted of an offence under this head the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the prosecutor the costs and expenses, measured by the court, reasonably incurred by the prosecutor in relation to the investigation, detection and prosecution of the offence, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers.
8. Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under this head may be instituted within 12 months from the date of the offence.

Part II – Protection of Employees

Head 17: Preservation or suspension of employment rights while on parental leave

1. An employee who is a relevant parent and is on parental leave from their employment shall be treated as if they were still in the active employment of their employer and their absence shall not affect any of their employment rights.
2. An absence while on a period of parental leave shall not be treated as any other kind of absence.
3. Where an employee takes parental leave while on probation, during an apprenticeship or while undergoing training, that employee shall not be penalised for the taking of their leave by their employer.
4. In the circumstances outlined above, an employer may suspend any period of probation, apprenticeship or training while their employee is absent on parental leave and may require the employee to complete the period following their return to work.
5. An employee shall be deemed not to be an employed contributor for the purposes of the Social Welfare Consolidation Act 2005 for any contribution week within the meaning of that Act in a period of absence from work on parental leave if the employee does not receive any reckonable earnings within the meaning of that Act in respect of that week.

Head 18: Protection from termination of employment etc. while on parental leave

1. An employee who is a relevant parent and is on parental leave from their employment may not:
 - (a) Be terminated from their employment while on parental leave;
 - (b) Be put on a period of suspension from their employment while on parental leave; or
 - (c) Be given a notification of termination while they are on parental leave

Head 19: Matters relating to notices of suspension or termination of employment

1. Any notice of suspension or termination of employment issued:

- (a) before an employee commences a period of parental leave; or
- (b) before the employer received notification of their employee's intention to take parental leave

and where that notice is due to expire while the employee is on parental leave shall be extended for a period equivalent to the employee's absence while on parental leave.

Head 20: Protection from penalisation

1. An employer is prohibited from penalising or threatening to penalise an employee for their intention to take parental leave.
2. Penalisation of an employee shall include:
 - (a) dismissal or the threat of dismissal;
 - (b) unfair treatment;
 - (c) selection for redundancy; or
 - (d) an unfavourable change in the employee's terms or conditions of employment.
3. If a penalisation by means of dismissal is alleged, the employee may institute proceedings under the Unfair Dismissals Act 1977 in respect of that dismissal.

Head 21: Right to return to work after period of parental leave expires

1. Subject to head 23, an employee who is absent from work while on parental leave shall be entitled to return to work:
 - (a) with the employer with whom the employee was working immediately before the commencement of the period of absence, or where during the employee's absence from work there was a change of ownership of the undertaking in which the employee was employed immediately before the absence, with the owner (in this Act referred to as the "successor") of the undertaking at the expiry of the period of absence;
 - (b) in the job which the employee held immediately before the commencement of that period;
 - (c) under the contract of employment under which the employee was employed immediately before the commencement of that period or, where a change of ownership such as is referred to in paragraph (a) has occurred, under a contract of employment with the successor which is identical to the contract under which the employee was employed immediately before the commencement of that period, and (in either case) under terms or conditions:
 - i. not less favourable than those that would have been applicable to the employee; and
 - ii. that incorporate any improvement to the terms or conditions of employment to which the employee would have been entitled;if he or she had not been so absent from work, and
 - (d) on the date specified in subhead 3.
2. For the purposes of subhead (1)(b), where the job held by an employee immediately before the commencement of the period of absence concerned was not the employee's normal or usual job, the employee shall be entitled to return to work, either in his or her normal or usual job or in the job so held as soon as practicable without contravention by the employee or the employer of any provision of a statute or instrument made under statute.
3. Without prejudice to an employee who returns to work under head 11(2)(a), the date referred to in subhead (1)(d) shall be the first working day following the date notified under subhead (1), (2) or (3), as appropriate, of head 23.
4. In this head "job", in relation to an employee, means the nature of the work which he or she is employed to do in accordance with his or her contract of employment and the capacity and place in which he or she is so employed.

Head 22: Notification of intention to return to work

1. Subject to subhead (2), where an employee intends to take parental leave, the employee shall cause the employer (or, if aware of a change of ownership of the undertaking concerned, the successor) to be notified in writing, at the same time as the employee notifies the employer of intention to take the leave, in accordance with subheads 6(2), 6(5), 12(2) or 13(3), as the case may be, of the length of the leave that the employee intends to take.

2. Where an employee intends to take postponed leave within the meaning of heads 10 or 11, the employee shall cause the employer (or, if aware of a change of ownership of the undertaking concerned, the successor) to be notified in writing—

(a) at the same time as the relevant notification is given by the employee under head 10(1) or 11(5), as the case may be, or

(b) if the employer, under heads 10(5) or 11(6), waives the right to receive such notification, not later than the day on which the employee expects to return to work,

of the employee's intention to return to work and of the date on which the employee expects to do so.

3. Where an employee is absent from work and has been deemed under section 11(4) to be on postponed leave, the employee shall cause the employer (or, if aware of a change of ownership of the undertaking concerned, the successor) to be notified in writing, as soon as reasonably practicable after the beginning of the absence from work of the employee owing to sickness but not later than the date on which the employee expects to return to work, of the employee's intention to return to work and of the date on which the employee expects to do so.

4. Where, in the opinion of an adjudication officer or the Labour Court, there are reasonable grounds—

(a) for an employee's failure to give notification under subhead (1), (2) or (3), as the case may be, or

(b) for an employee giving such notification otherwise than within the specified time limits,

the adjudication officer or the Labour Court, as the case may be, shall extend the time for giving the notification.

5. In the absence of reasonable grounds—

(a) failure to give notification under subhead (1), (2) or (3), as the case may be, or

(b) the giving of such notification otherwise than within the specified time limits,

are matters that may be taken into account by an adjudication officer or the Labour Court in determining the employee's rights under the Act of 1977, this Act or any other relevant enactment, so far as the remedies of re-instatement, re-engagement or compensation are concerned.

Head 23: Postponement of return to work

1. Where, because of an interruption or cessation of work at an employee's place of employment, existing on the date specified in a notification under head 22 given by the employee or at the time of the expiration of a period of parental leave taken by the employee, it is unreasonable to expect the employee to return to work on the date specified in the notification concerned or on such expiration, the employee may return to work instead when work resumes at the place of employment after the interruption or cessation, or as soon as reasonably practicable after such resumption.

Head 24: Provisions applying where employee not permitted to return to work

1. This section applies to an employee who, having duly complied with head 22, is entitled under this Part to return to work but is not permitted to do so by the his or her employer, within the meaning of head 25(3), and, in this section, in relation to such an employee, “the expected date of return” means the date notified under head 22 as the date on which the employee expected to return to work.
2. For the purposes of the Redundancy Payments Acts 1967 to 2014, an employee to whom this section applies who is also an employee to whom those Acts apply shall be deemed to have been dismissed by reason of redundancy, the date of dismissal being deemed to be the expected date of return.
3. For the purposes of the Minimum Notice and Terms of Employment Act 1973, the contract of employment of an employee to whom this section applies who is also an employee to whom that Act applies shall be deemed to have been terminated on the expected date of return.
4. For the purposes of the Unfair Dismissals Act 1977:
 - (a) an employee to whom this section applies who is also an employee to whom that Act applies shall be deemed to have been dismissed on the expected date of return; and
 - (b) the dismissal shall be deemed to be an unfair dismissal unless, having regard to all the circumstances, there were substantial grounds justifying the dismissal.

Part III – Resolution of Disputes

Head 25: Disputes regarding entitlements under Act

To provide for the same protections in circumstances as set out in section 27 of the Paternity Leave and Benefit Act 2016.

1. The part does not apply to the dismissal of an employee;
2. This part does not apply to a person employed as a member of the Defence Forces;
3. A relevant employer in relation to an employee, means the employee's employer; and
4. Employee, employer and contract of employment are to be interpreted as per their definitions in the Parental Leave and Benefit Act 2016, while the term dismissal shall be interpreted as per the Unfair Dismissals Act 1977

Head 26: Decision under section 41 or 44 of the Workplace Relations Act 2015

Where there is a dispute between an employer and an employee concerning that employee's entitlement to parental leave and related matters, this head shall provide for the same adjudication and resolution provisions under sections 41 and 44 of the Workplace Relations Act 2015, as is provided for in section 28 of the Paternity Leave and Benefit Act 2016.

Head 27: Burden of proof

Where there is a dispute between an employer and an employee concerning that employee's entitlement to parental leave and related matters, this head shall provide for the necessary definitions and requirement for an employee to establish a prima facie case of discrimination by the employer concerned.

Once that the employee's case been established on the facts of the complaint, the burden of proof shall shift to the respondent employer to prove the contrary.

Part IV – Parental Benefit

Head 28 – Interpretation

X. In this Part –

‘the Principal Act’ means the Social Welfare Consolidation Act 2005.

Head 29 – Rates of self-employment contributions and related matters

X. The Principal Act is amended in section 21(1)(e) by the insertion of “parental benefit,” after “paternity benefit,”.

Head 30 – Description of benefits

X. Section 39(1) of the Principal Act is amended by the insertion of the following paragraph after paragraph (da)

“(db) Parental Benefit,”

Head 31 - Parental Benefit

X. Part 2 of the Social Welfare Consolidation Act 2005 is amended by the insertion of the following Chapter after Chapter 11A:

“CHAPTER 11B *Parental Benefit*”

Interpretation

61F. In this Chapter, save where the context otherwise requires-

‘Act of 1995’ means the Adoptive Leave Act 1995;

‘adopting mother’ has the same meaning as it has in the Act of 1995;

‘certificate of placement’ has the meaning assigned to it by section 13 of the Act of 1995;

‘relevant day’ means the first day for which parental benefit is claimed;

‘relevant parent’ means, in relation to a child,

(iv) the mother of the child,

(v) the father of the child,

(vi) the spouse, civil partner or cohabitant, as the case may be, of the relevant parent of the child, or

(iv) a parent of the child under section 5 of the Children and Family Relationships Act 2015 where the child is a donor-conceived child within the meaning of Part 2 of that Act,

or, in relation to a child, who is, or is to be, adopted,

(i) where the child is, or is to be, adopted jointly by a married couple of the same sex, the spouse chosen by that couple to be the relevant parent for the purposes of this Act, or

(ii) in any other case, the spouse, civil partner or cohabitant, as the case may be, of the adopting mother or sole male adopter of the child.

Entitlement to and duration of benefit.

61G (1) Subject to this Act, a relevant parent shall be entitled to parental benefit where

- (a) that person is providing care, or is assisting in the provision of care, to the child,
- (b) that person, subject to subsection (4), satisfies the contribution conditions in section 61(H),
- (c) that person is
 - (i) an employed contributor in employment or in insurable self-employment in the week immediately before the period of parental leave, or
 - (ii) is in receipt of maternity benefit, paternity benefit or adoptive benefit, or such other scheme as may be prescribed by the Minister, in the week before the period of parental leave,
- (d)(i) that person is an employee, and it is certified by that person's employer that the person is entitled to parental leave under part 3 of the [Parental Leave and Benefit Act 2019]
or
- (ii) that person is self-employed and certifies that he or she will not engage in self-employment for the period that they are in receipt of parental benefit.

(2) Each relevant parent shall be entitled to parental benefit.

(3) In the case of multiple births, or the adoption of multiple children at the same time, a relevant person shall only be entitled to one period of parental benefit as defined in [Part x of the Parental Leave and Benefit Act 2019].

(4) Nothing in this section shall prevent parental benefit being paid to a relevant parent who adopts a child and parental benefit has been paid in respect of that child to the parent or parents who gave up the child for adoption.

(5) Regulations may provide for entitling to parental benefit, subject to the conditions and in the circumstances that may be prescribed, the class or classes of persons who would be entitled to that benefit but for the fact that the contribution conditions in Section 61H are not satisfied.

(6) Subject to this Chapter, parental benefit, for the period as set out in [Head 3 of the Parental Leave and Benefit Act 2019], may be paid in respect of a continuous period of leave or individual periods of leave, each such period consisting of not less than 1 week.

(7)(i) In the case of a person referred to in subsection (1)(c)(i), parental benefit shall be payable for the period of parental leave to which that person is entitled under [Head 3 of the Parental Leave and Benefit Act 2019].

(ii) In the case of a person referred to in subsection (1)(c)(ii), parental benefit shall be payable for the period beginning not earlier than the day of the birth of the child or the day of placement of the child within the meaning of [Head 3 of the Parental Leave and Benefit Act 2019], and ending not later than the day on which the child concerned attains the age prescribed for this purpose by the Minister for Justice or, in the case that the child has been adopted, not later than the final day of the period following the date of placement prescribed for this purpose by the Minister for Justice [within the meaning of Head 7 of the Parental Leave and Benefit Act other than in the circumstances as set out in Head 14 of the Parental Leave and Benefit Act.]

(8)(i) Subject to subsection (ii), parental benefit shall not be transferrable between relevant parents.

(ii) Where a relevant parent who is entitled to parental benefit dies, any remaining period of parental benefit entitlement may be transferred to the other relevant parent where –

(a) in the case of an employed contributor, it is certified by the person's employer that they are entitled to parental leave under part 3 of the Parental Leave and Benefit Act 2019 or

(b) in the case of a self-employed contributor, it is certified by that person that he or she will not engage in self-employment for the period that he or she is in receipt of parental benefit.

(9) Where a relevant parent who is entitled to parental benefit dies, the payment of parental benefit to the other relevant parent may be postponed where that person is entitled to a period of transferred leave under the maternity, paternity or adoptive leave schemes or as set out in [Head 9 of Parental Leave and Benefit Act 2019].

(10) The payment of parental benefit may be postponed in the event of sickness of the relevant parent or the hospitalisation of the child as set out in [Heads 10 & 11 of the Parental Leave and Benefit Act 2019].

(11) The Minister may disclose to an employer/any other person and an employer/any other person may disclose to the Minister, information (including personal data) relating to an applicant for the purposes of making or determining a claim for parental benefit

(12) Regulations may provide for requiring an employer or any other person to furnish any information that may be required for the purposes of this Chapter.

(13) This chapter applies

(a) the case of a child who is, or is to be, adopted, where the day of placement in respect of the child falls on or after 1 November 2019, or

(b) in any other case, where the date of birth of the child falls on or after 1 November 2019

Conditions for receipt.

61H(1) The contribution conditions for parental benefit are—

(a) in the case of an employed contributor—

(i)(I) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with their entry into insurance and ending immediately before the relevant day, and

(II)(A) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year in which the relevant day occurs or in a subsequent complete contribution year before the relevant day,

or

(B) that the claimant has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year in which the relevant day occurs,

or

(ii) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day, or having been in insurable self-employment, satisfies the contribution conditions in paragraph (b),

and

(b) in the case of a person in insurable self-employment—

(i) that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the second last complete contribution year or in the third last complete contribution year before the beginning of the benefit year in which the relevant day occurs, or in a subsequent complete contribution year before the relevant day, or

(ii) where the claimant was previously an employed contributor, that they satisfy the contribution conditions in paragraph (a)(i) or that they have employment contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day.

(2) A person who has qualified for maternity benefit, paternity benefit or adoptive Benefit in respect of the child may be deemed to have satisfied the requirements of subsection (1).

Rate of benefit.

61I(1) Subject to this Act, the weekly rate of parental benefit shall be—
an amount equal to the greater of—

- (i) the amount of illness benefit, including any increases of that benefit, which the person would otherwise receive if she was entitled to that benefit, or
- (ii) €245.

Disqualifications.

61J Regulations may provide for disqualifying a person for receiving parental benefit where during the period for which the benefit is payable, they engage in any form of insurable employment, insurable (occupational injuries) employment, insurable self-employment, any employment referred to in paragraph 1, 2, 3 or 6 of Part 2 of Schedule 1 or any self-employment referred to in paragraph 1 or 5 of Part 3 of Schedule 1.

Head 32 - Claims

X. The Principal Act is amended in section 241(2)(c) by the insertion of “parental benefit,” after “paternity benefit,”.

Head 33 – Entitlement to Back To Work Family Dividend

X. The Social Welfare Consolidation Act 2005 is amended in Section 238B (3)(a)(i) by the insertion of “parental benefit payable in accordance with Chapter 11B of Part 2,” after “paternity benefit payable in accordance with Chapter 11A of Part 2,”.

Head 34 – Payments after death

X. The Principal Act is amended in section 248(1) -

(a) by the substitution of “allowance,” for “allowance;” in subparagraph (s), and

(b) by the insertion of the following subparagraph after subparagraph (s):

“(t) parental benefit;”

and

in section 248 (2) by the insertion of the following subsection after subsection (eb)

“(ec) where a relevant person is in receipt of parental benefit and the child in respect of whom that person is providing or assisting with their care dies, payment of parental benefit, subject to section 61(G), shall not be discontinued.

(ed) the provisions of subsection (ec) shall apply where the application for parental benefit was made prior to the date of death of the child or within 6 weeks after the date of death of the child.”

Part V – Adoptive Leave: Amendment of Child and Family Relationship Act 2015

Head 35: Repeal of section 177 of the Children and Family Relationships Act 2015

Provide for:

Repeal of section 177 of the Child and Family Relationships Act 2015.

Head 36: Modification and reintroduction of section 177 of the Child and Family Relationship Act 2015 or amendment of section 2 of the Adoptive Leave Act 1995.

Provide for:

- Modify the definition of “employed qualifying adopter” to include references to marriage and married persons, similar to those for cohabiting relationships and civil partnerships;
- In paragraph (1A)(a)(i), beginning with “a reference to ‘adopting father’”, to include references to marriage and married partners similar to those for cohabiting relationships and civil partnerships;
- In paragraph (1A)(a)(ii), beginning with “a reference to ‘adopting mother’”, to include a reference to a married partner similar to that for a civil partner or the cohabitant of the qualifying adopter;
- In paragraph (1A)(b) to include:
 - a reference to marriage, in addition to the other forms of recognised relationships already in paragraph (b);
 - to insert a new paragraph (b)(i) to allow married couples to choose which of them shall be the qualified adopter; and
 - to renumber the current (1A)(b)(i) and (ii) to (1A)(b)(ii) and (iii) respectively, as a result of the point above.

Head 37: Restriction on taking of adoptive leave and entitlement to adoptive benefit.

Provide for:

To insert a new section in the Adoptive Leave Act 1995 to provide for the following:

- i. Where a person (A) adopts the child of their married or cohabiting partner (B), (A) should be precluded from taking adoptive leave in respect of (B)'s child if (B) has already taken maternity leave in respect of the child.
- ii. Where person (A) adopts a child, takes adoptive leave and either gets married or enters into a cohabiting relationship with partner (B) at a later date, (B) should not be permitted to take adoptive leave in respect of the child.

Part VI – Adoptive Benefit

Head 38 – Interpretation

X. In this Part –

‘the Principal Act’ means the Social Welfare Consolidation Act 2005.

Head 39 – Entitlement to and duration of adoptive benefit

X. The Principal Act is amended in section 58(1)(b)(iii) by the deletion of “sole” after “a man, other than a man to whom subparagraph (ii) applies, in whose”

and the amendment of section 58(2) by the insertion of the following after “Subject to this Act, an adopting parent shall be entitled to adoptive benefit”

“other than in the case as set out in [Head 37 of the Parental Leave and Benefit Act 2019]”