

## Changes under Family Leave and Miscellaneous Provisions Act 2021 come into force signalling way of work life balance during Covid and beyond.

April 9, 2021

New provisions under the Family Leave and Miscellaneous Provisions Act 2021 have been passed by An Dáil following the signatory into law by the President on March 27, 2021. As a result of these changes, working parents are now entitled to additional time off under Parent's Leave and adoptive couples can choose which parent can avail of Adoptive Leave. Balancing family life and work life has become integral to society, not only from the perspective of managing life during covid, but also to ensure employees can avail of a work life balance for family reasons.

### ***What exactly do the changes mean for employees?***

#### **Parent's Leave**

Paid parent's Leave was initially introduced through the enactment of the Parent's Leave and Benefit Act 2019 and provided that 'relevant parents' of a child, born or adopted on or after 1<sup>st</sup> November 2019, were entitled to two weeks' paid leave.

The parent had to take their Parent's Leave entitlement within 52 weeks of the child's birth or, placement with their adoptive family. The benefit is paid, subject to eligibility, at a rate of €245 per week by the Department of Social Protection. Employers are not obliged to pay parents availing of Parent's Leave; however, they can top-up the Parent's Benefit if they wish.

As of April 1<sup>st</sup>, 2021 and following the enactment of the Family Leave and Miscellaneous Provisions Act 2021, parents are entitled to five weeks leave under Parent's Leave, an additional three weeks on the previous entitlement. The Act goes further and extends the period in which the leave can be taken to the first two years after the birth or adoptive placement of a child. Government have advised that the aim of the extension is to allow parents spend more time with their children during the first two years of the child's life.

***Who is entitled to Parent's Leave?*** A parent of a child born on or after 1<sup>st</sup> November 2019, a spouse, civil partner or cohabitant of the child's parent, a parent of a donor-conceived child as provided for under section 5 of the Children and Family Relationships Act 2015, an adopting parent or parents of a child or the spouse, civil partner or cohabitant of the adopting parent of the child.

If the parent has already taken their two-week entitlement, then they can take a further three weeks in 2021 (subject to the two-year limit).

#### **Adoptive leave**

Under the Adoptive Leave Acts 1995 and 2005, an adopting mother or sole male adoptive parent who is in employment is entitled to 24 weeks of adoptive leave from work beginning on the day of the child's placement, for which they can apply for an adoptive benefit payment from the Department of Social Protection. As part of this entitlement, an additional 16 weeks leave is

available but is not covered for state benefit. While employers are not obliged to pay employees who are on Adoptive Leave more favourable arrangements can be put in place.

The enactment of the Family Leave and Miscellaneous Provisions Act 2021 amends the Adoptive Leave Acts to enable adoptive couples to choose which parent may avail of adoptive leave thus removing the assumption that the adopting mother is the primary caregiver. The Act also makes Paternity Leave and Benefits available to the parent who is not availing of adoptive leave.

### What does this mean for employers?

There are now several options available to parents for leave some of which have proved vital in providing childcare provisions during the various stages of lockdown. Including the above, there is also maternity leave, paternity leave and parental leave. Given the varying requirements and obligations on the part of employers, there are challenges that need to be managed effectively in order to strike a balance of accommodating employees during the covid period and beyond, as well as ensuring the needs of the organisation are met.

Employees are fully covered by employment legislation while availing of these leave options and therefore subject to the same protections and cannot be penalised in any way.

Employers should now review their contracts of employment and the appropriate policies and procedures to ensure that the enhanced changes are applied. It is also essential that all staff working remotely or otherwise are advised of these changes so the usual communication channels should be used for this purpose and at the earliest opportunity.

### Summary chart

Leave	Who can avail of it	Length & Paid/ Unpaid
Maternity Leave	Female employees	<ul style="list-style-type: none"> <li>• 26 weeks – yes, Maternity Benefit paid</li> <li>• 16 weeks - unpaid</li> </ul>
Paternity Leave	Parents of a child under 6 months but not the mother of the child	<ul style="list-style-type: none"> <li>• 2 weeks – yes, Paternity Benefit paid</li> </ul>
Parental Leave	Parents and guardians of children under 12 years	<ul style="list-style-type: none"> <li>• 26 weeks - unpaid</li> </ul>
Parent's Leave	Parents of children under 2 years	<ul style="list-style-type: none"> <li>• 5 weeks currently – yes, Parent's Benefit paid</li> </ul>
Adoptive Leave	Either adopting parent or parent adopting alone	<ul style="list-style-type: none"> <li>• 24 weeks – yes, Adoptive Benefit paid</li> <li>• 16 weeks - unpaid</li> </ul>

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