

Reference No: E109/22/98; **Date:** 02/12/98

Circular 22/1998:- Parental Leave

A Dhuine Uasail

1. I am directed by the Minister for Finance to refer to the Parental Leave Act, 1998 and to say that the arrangements applying to civil servants in relation to parental leave are, in general, as specified in that Act. This Circular provides a summary of the main provisions of the Parental Leave Act, 1998 as it applies to civil servants.

General

2. The Parental Leave Act, 1998 becomes effective on 3 December, 1998. Under the terms of the Act, an officer who is the natural or adoptive parent of a child shall be entitled to parental leave for a period of fourteen working weeks. The purpose of the leave is to enable a parent to take care of his/her child.

Entitlement to Parental Leave:

3. The entitlement to parental leave shall apply only to parents in respect of a child born on or after 3 June 1996 or adopted on or after that date.

4. The leave must be taken before the child attains the age of five years, subject to the following modification in the case of an adopted child : where an adopted child is three or more years but less than eight years at the time of the adoption, the parental leave must be taken within two years of the date of the adoption order. In the case of an adopted child under three at the time of the adoption, the parental leave must be taken before the child is five years.

5. 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.

TO/ All Departments* etc

[*Department should be read as Department/Office throughout this Circular]

Eligibility for Parental Leave:

6. An officer must have completed one year's continuous service.

7. However, in circumstances where, on the latest day for commencing a period of parental leave, the officer has more than three months, but less than one year's continuous service, the officer shall be entitled to parental leave at the rate of one week for each month of continuous service which the officer has completed at the time of commencement of the leave.

Period of Parental Leave available:

8. Parental leave shall consist of 14 weeks unpaid leave for each child born on or after 3 June, 1996. Where an officer 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 Head of the Department concerned, exceed fourteen weeks. In the case of multiple births, this restriction does not apply.

9. An officer may take the parental leave as follows:

- (a) one continuous period of 14 weeks, or
- (b) subject to the agreement of the Head of the Department concerned-
 - (i) one or more days on which, but for the leave, the officer would be working in the Department concerned
 - (ii) one or more hours during which but for the leave, the officer would be working in the Department concerned
 - (iii) any combination of periods referred to in subparagraphs (i) and (ii) above e.g. weekly blocks, monthly blocks etc.

While an officer has an entitlement as defined under (a) and (b) above, he/she is not obliged to take the full entitlement. Where parental leave is availed of under 9(b), the entitlement will be calculated on the basis of the number of hours worked during a reference period of 14 weeks calculated in accordance with section 7 (2) of the Act.

Where public holidays (including privilege days and Good Friday) fall during the period of parental leave they are added on to the end of parental leave.

Notification required to avail of Parental Leave:

10. The granting of parental leave is conditional on an officer notifying his/her Personnel Officer as soon as is reasonably practicable but not later than six weeks prior to the proposed commencement date of parental leave. This should be accompanied by evidence of the date of birth or date of adoption order of the child.

11. The notice must specify the date the officer intends to commence parental leave, the duration of the leave and the manner in which the officer proposes to take the leave. The officer may revoke this at any point before the confirmation document (referred to at paragraph 13 below) is signed.

12. While staff will be facilitated as far as possible, the Head of a Department may postpone parental leave if such leave would have a substantial adverse effect the operation of the Department concerned, in accordance with section 11 of the Act. This must be notified in writing not later than 4 weeks before the intended date of commencement of the leave. The postponement may be to an agreed date, not later than 6 months from the date on which the officer had intended that the parental leave was to start. A second postponement, in respect of a particular child, is not permitted unless the ground for postponement is seasonal variation in the volume of work concerned. Parental leave will not be lost if, solely as a result of postponement, the child reaches the age thresholds set out at paragraph 4.

13. Not later than four weeks before the commencement of the parental leave, the Personnel Officer 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 Personnel Officer and the officer must both sign the "confirmation document" and a copy must be given to the officer. Once signed, no amendment can be made to this document without the agreement of both parties.

Maintenance of Employment Rights during Parental Leave:

14. An officer is not entitled to payment whilst absent on parental leave.

15. In the case of an officer who is on probation at the start of parental leave, the period of probation will stand suspended during the absence on parental leave and will be completed by the officer on his/her return to work. Likewise, officers on initial short term 'trial' contracts as AO, EO etc. will have the period of contract suspended during the absence on parental leave.

16. Except as outlined in paragraph 14 above, an officer on parental 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 for increment purposes and for qualifying service for annual leave and promotion.

17. Absence on parental leave cannot be treated as part of any other form of leave, including sick leave, annual leave, adoptive leave, maternity leave and force majeure leave to which the officer is entitled.

Social Welfare arrangements

18. Staff 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. Staff should contact the Department of Social, Community and Family Affairs directly (tel : 874 8444 ext 2233) to ensure that the appropriate credits are made.

Resolution of disputes

19. Any dispute in relation to entitlements under the Act may be referred by an officer, or their representative, to the parent Department in the first instance, who may in turn refer the matter to this Department. In addition, the Act provides for referral of a dispute by either party in relation to entitlements under the Act to a Rights Commissioner (Sections 17 - 22 of the Act refer). Reference must be not later than 6 months of the occurrence of the dispute. Where appropriate and where requested by the officer concerned, the grievance procedure may also be used for the resolution of such disputes.

Abuse

20. Parental leave is granted to enable working parents, both men and women, to take care of their young children. If the Personnel Officer has reasonable grounds for believing that an officer is not using the leave for this purpose, the leave may be terminated following the expiry of 7 days' notice and the officer concerned may be required to return to work. However, before any notice of termination can be given, the officer must be invited to make representations on the matter within a period of 7 days.

Refusal

21. An application for parental leave may be refused where the Personnel Officer has reasonable grounds for believing that the officer does not have a legitimate entitlement under the terms of the Act.

Replacement

22. Departments may, if they wish, replace staff on parental leave on a temporary basis.

Force majeure leave for family emergencies

23. The Parental Leave Act also gives all employees a limited right to time off for family emergencies caused by accident or illness ('force majeure' leave). Force majeure leave is paid and is separate from parental leave. The relevant sections of Circular 28/91 are accordingly amended to reflect these entitlements (Annex 1) and Circular 28/91 is now superseded by this Circular.

Queries

24. Queries in relation to this Circular should be addressed to the Personnel Section of your Department.

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J McGovern

Assistant Secretary

Annex 1.

Special leave for domestic circumstances, including force majeure leave under the Parental Leave Act, 1998.

The following arrangements apply with effect from the date of this Circular.

Paid Leave

1. Bereavement Leave

Special leave with pay may be allowed to an officer in the event of the death of an immediate relative up to a limit of

- (a) 5 working days in the case of a spouse or child, and
- (b) 3 working days in the case of other immediate relatives.

In exceptional circumstances (e.g. where the officer concerned has lived in the same house as the deceased or has taken charge of the funeral arrangements) an officer may be granted up to 3 working days' special leave on the death of a more distant relative. In a case where an officer has to travel abroad to make funeral arrangements in respect of an immediate relative, special leave with pay in excess of the limits prescribed above may be granted at the discretion of the Secretary General or equivalent of the Department/Office concerned.

2. Family Illness or Injury (including Force Majeure leave for family emergencies).

(a) Under the Parental Leave Act, 1998, an officer is entitled to force majeure leave which is leave with pay allowable for urgent family reasons owing to an injury to or the illness of an immediate relative - immediate relative is defined in paragraph 4 below. The Act provides that force majeure leave shall not exceed 3 days in any period of 12 consecutive months or 5 days in any period of 36 consecutive months and that an absence for part of a day is counted as one day for the purposes of force majeure leave. Accordingly, in the event of an injury to or the illness of an officer's immediate relative, s/he may be granted force majeure leave subject to the foregoing limits. The relevant periods for the purposes of calculating force majeure leave should commence from 3rd December 1998 in the case of serving staff and from the date of recruitment in respect of new entrants. Where leave is granted under paragraph (b) following prior to any leave being granted under this paragraph, it will count as force majeure leave subject to the conditions and overall limits set out in this paragraph. Officers who are precluded from availing of leave under paragraph (b) because of the restrictions set out in that paragraph, (viz the 26 day limit and the requirement for certain officers to have exhausted their annual leave allowance before becoming eligible for special leave), may be granted force majeure leave subject to the overall limits set out in this paragraph. Officers who avail of Force Majeure leave for family emergencies should be required to complete the attached schedule as soon as is reasonably practicable after the taking of such leave.

(b) In the event of the serious and unforeseen illness of or injury to an officer's immediate relative, an officer may be granted special leave with pay up to the limits prescribed at (a) and (b) of paragraph 1 above, as appropriate, provided that the amount of special leave granted to an officer in any one leave year, together with his/her annual leave allowance (excluding carryover leave) does not exceed a total of 26 days. This overall limit will not, however, apply if the annual leave allowance of the officer concerned has been exhausted. The provisions of this paragraph may also be applied, in exceptional circumstances, in the event of the serious and unforeseen illness or injury of a more distant relative.

(c) Special leave under paragraphs (a) and (b) above may not exceed five days in total in respect of a spouse or child and three days in total in respect of other immediate relatives in any particular leave

year. An officer may combine leave under paragraphs (a) and (b) above in respect of the same illness or injury to an immediate relative, provided (i) that the overall limits set out in this paragraph are not exceeded and (ii) that the Secretary General of the Department/Office concerned is satisfied that the leave is in compliance with the relevant conditions set out above.

Unpaid Leave

3. An officer may be granted special leave without pay for domestic reasons subject to the following conditions and upper limits:

(a) 6 months to (i) cope with difficulties arising from the death or serious illness of an immediate relative or (ii) care for an immediate relative during sickness or old age (provided no suitable person other than the officer is available to provide the care);

(b) 2 months to (i) travel abroad to visit an immediate relative suffering from serious and unforeseen illness (provided the officer is the only person who can make the visit) or (ii) deal with urgent domestic affairs other than those referred to elsewhere in this paragraph.

The provisions of this paragraph which relate to death, old age or illness of an immediate relative may also be applied, in exceptional circumstances, in respect of more distant relatives.

Officers who avail of special leave without pay for domestic reasons should be reminded that such leave does not reckon as service for the purposes of increments (other than age-related increments), annual leave or superannuation.

4. Definition of "immediate relative"

For the purposes of paragraphs 1 to 3 above, "immediate relative" means the spouse, child, father, step-father, mother, step-mother, brother, sister, father-in-law, mother-in-law, grandfather or grandmother of an officer.

"spouse" also includes a partner with whom the officer is co-habiting, but who is not the officer's legal spouse and "child" covers children in respect of whom the officer is the adoptive parent or is "in loco parentis".

5. Anticipation of Annual leave

An officer whose annual leave allowance has been exhausted and who, in the last three months of the leave year, is faced with a compelling but unforeseen social obligation involving absence from duty (e.g. the wedding of a relative or close friend) may for this purpose be allowed to anticipate up to 2 days of his/her annual leave allowance for the next leave year. However, this facility will not be granted if the Secretary General of the Department/Office concerned has reason to believe that the officer will not give sufficient future service to cover the annual leave which s/he wishes to anticipate.

6. General

Special leave under paragraphs 1 (bereavement) or 2 (b) (leave due to a sudden or unforeseen illness or injury to an immediate relative) is granted only at the time of the bereavement or illness respectively. An officer who wishes to avail of special leave in such circumstances who is absent on sick leave or maternity leave may not be granted special leave at the end of, or instead of, the sick leave or maternity leave. However, officers on annual leave at the time of a bereavement or a sudden and unforeseen illness or injury to a relative may be allowed special leave, subject to the limits and conditions applying to the grant of such leave, instead of annual leave and, hence, have their annual leave restored.

Subject to compliance with the Parental Leave Act, 1998, Departments/Offices should, in applying the foregoing provisions :

- (a) satisfy themselves that the circumstances which give rise to an application for special leave or anticipation of annual leave fully justify any concession granted;
- (b) grant the maximum period of paid or unpaid leave only where the situation warrants this course; and
- (c) ensure that the provisions of different paragraphs or subparagraphs of this Annex are not combined so as to exceed the maximum period of leave allowable in a particular situation.

Annex II

Schedule

Form of notice of Force Majeure leave under the Parental Leave Act, 1998)

An employee is entitled to force majeure leave under section 13(i) of the Act, where for urgent family reasons, owing to an injury or illness of a person as defined in section 13 (2), the immediate presence of the employee, at the place where the person was, was indispensable. The relevant provisions are set out at paragraph 2 (b) and 4 of Annex I of Circular 22 /98. This form must be completed by employees who avail of Force Majeure leave as soon as reasonably practicable after the taking of such leave.

Employee Details

Name : _____ RSI Number _____
Section: _____ Grade : _____

Employers Name and address:

I have availed of Force majeure leave as provided by Section 13 of the Act for the following reason(s)

: _____

Date(s) of Force Majeure Leave : _____

Declaration

I declare that the details above are true and complete and that I have not exceeded the statutory entitlement to force majeure leave, pursuant to Section 13 (4) of the Parental Leave Act, 1998 (i.e. not exceeding 3 days in any period of 12 consecutive months or 5 days in any period of 36 consecutive months).

Signed : _____

Address: _____

Date :
