

GUIDELINES FOR EMPLOYERS ON PARENTAL LEAVE

The Maternity & Parental Leave etc Regulations 1999 (as amended) provides employees, who qualify, with a right to unpaid leave for the purpose of looking after a child. What are these rights?

1. The Right to Leave

The right to parental leave applies to any employee who has, or expects to have, parental responsibility for a child. The provisions provide that:

- The employee is named on the child's birth certificate, or named on the child's adoption certificate, or has legal parental responsibility for the child.
- An employee can take up to 18 weeks unpaid leave for 'the purpose of looking after a child'
- The right to unpaid parental leave applies for each child.
- The employee's rights to parental leave lasts until the child's 18th birthday
- To qualify, an employee must have 12 months continuous service with their current employer.
- The minimum period of leave that can be taken is one week, or can be taken in blocks of one week; any period less than a week will be counted as a full week (except for a disabled child where individual days can be taken).
- The maximum period of leave that can be taken in any one year is four weeks.
- The employee's contract of employment remains in place during the leave period(s) and the employee has the right to return to the same job following any parental leave period.

2. Exercising the right

An employee may not exercise the right to parental leave unless:

- The employee has given the employer at least 21 days notice to take parental leave.
- The employee has confirmed the start and end dates in their request for parental leave; this should be in writing.
- The employee has produced evidence of entitlement to unpaid parental leave, including the purpose for taking the leave, child's date of birth or date of adoption.
- The employee has completed twelve months continuous employment with the present employer, and the employee has provided evidence of any parental leave taken under previous employment.

3. Purpose of leave

Parental leave should only be taken to care for the welfare of the child, for example to:

- stay with a child who is in hospital;
- to spend more time with the child;
- to make school / childcare arrangements and to help them settle in.

4. Responding to a request

Having received a request for unpaid parental leave:

- The employer can postpone the requested leave for a maximum of six months for essential business reasons. For example, during seasonal production, or another member of staff is off, or their absence would harm the business. However, the leave cannot be postponed so that the leave ends after the child's 18th birthday.
- If postponed, the employer must write giving objective business reasons why within 7 days of the original request, in this the employer must suggest a new start date and this must be within 6 months of the requested start date;
- The employer cannot change the amount of leave requested.
- The employer is free to make enquiries of a previous employer, or to seek a declaration from the employee about how much parental leave he or she has previously taken.
- The employee has the right to make a claim to the employment tribunal if the employer prevents or attempts to prevent them from taking parental leave.
- An employee is protected from victimisation, including dismissal, for taking parental leave.