**Guidance Note on HSE Form 108(k1) - Paternity Leave**

*This information note is intended to assist with the completion of the HSE Paternity Leave Form. A more detailed explanatory guide on the salient provisions of the* ***Paternity Leave and Benefit Act 2016*** *is available at* [***www.hse.ie***](http://www.hse.ie)*.*

The Paternity Leave and Benefit Act 2016 provides that an employee who is a “relevant parent” in relation to a child shall be entitled to “*2 weeks leave from his or her employment to enable him or her to provide, or assist in the provision of, care to the child or to provide support to the relevant adopting parent or mother of the child, as the case may be, or both”.*

An employee who is a relevant parent is entitled to paternity leave in respect of a child where the date of confinement falls on or after **1st September 2016**. In the case of a child who is, or is to be, adopted, an employee is entitled to paternity leave where the day of placement in respect of the child falls on or after **1st September 2016**. The leave can be taken at any time **within the first 6 months** following the birth of the child or the placement of the relevant child with their adoptive parents.

In general, paternity leave comprises a single period of 2 weeks’ continuous leave (special provisions may apply where the child is hospitalised or the employee becomes ill).

**Scope**

The leave entitlement will apply to:

* the father of the child,
* the spouse, civil partner or cohabitant[[1]](#footnote-1) of the mother of the child (regardless of gender),
* 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 that Act.

In the case of a child who is **adopted**the leave will apply to:

* a person (other than the mother of the child) who is the spouse, civil partner or cohabitant of the adopting mother or sole male adopter of the child,
* where the child is, or is to be, jointly adopted by a married couple of the same sex, the spouse chosen by that couple to be the relevant parent for the purposes of the Paternity Leave and Benefit Act 2016.

Only one person who is a relevant parent in relation to a child shall be entitled to paternity leave in respect of that child[[2]](#footnote-2).

An employee is only entitled to **one period** of paternity leave in respect of multiple births or where he or she adopts 2 or more children at the same time.

**Payment during Paternity Leave**

Employees on paternity leave may be eligible for Paternity Benefit paid by the Department of Social Protection (DSP). Paternity Benefit will be paid at the same rate as Maternity Benefit and will be based on the same PRSI contribution requirements. All employees applying for Paternity Benefit must have their paternity leave certified by their employer. A form **PB 2: Employer Certificate** is available for this purpose. <https://www.welfare.ie/en/pdf/PB2.pdf>

It is the employee’s responsibility to comply with any conditions set out by the Department of Social Protection for claiming Paternity Benefit. Further information on the arrangements relating to Paternity Benefit and frequently asked questions are set on the DSP website - <https://www.welfare.ie/en/Pages/Paternity-Benefit-FAQ.aspx>

Health service employees are entitled to receive the following payment from their employer during paternity leave: his or her normal basic remuneration plus normal fixed allowances **less** Paternity Benefit to which he/she may be entitled.

**Notification Requirements**

The employee is required to give written notification of his or her intention to take paternity leave, and the dates, as soon as reasonably practicable but not later than **4 weeks before the expected week of confinement** of the expectant mother concerned. In the case of a child who is, or is to be, adopted the employee is required to give written notification as soon as reasonably practicable but not later than **4 weeks before the expected day of placement**.

In the case of leave in respect of the birth of a child, paternity leave cannot be taken earlier than the “date of confinement” (as defined by the Social Welfare Consolidation Act 2005). For the purposes of paternity leave, references to the date of the confinement shall be taken as referring, where labour begun on one day results in the birth of a child on another day, to the date of the birth of the child or, where a woman is confined with twins or a greater number of children, to the date of the birth of the last child.

At the time of the notification, or as soon as reasonably practicable afterwards, the employee is required to provide a copy of relevant documentation to support their application and confirm his or her eligibility:

1. Copy of the medical certificate signed by a registered medical practitioner confirming the pregnancy of the expectant mother and specifying the expected week of confinement, or
2. **Domestic Adoption (within Ireland)** - Copy of the certificate of placement not later than 4 weeks after the day of placement, or
3. **Intercountry Adoption (Foreign)** - Copy of an applicable declaration of eligibility and suitability and, as soon a reasonably practicable after the day of placement, the particulars in writing of the placement.

An employee who wishes to request paternity leave following the birth or placement of the child may give notice of his or her intention to take leave not later than 4 weeks before the commencement of such leave. At the time of the notification or as soon as reasonably practicable afterwards, the employee must provide the relevant documentation.

1. Copy of the birth certificate, or
2. **Domestic Adoption (within Ireland)** - a copy of the certificate of placement
3. **Intercountry (Foreign) Adoption** – particulars in writing of the placement
4. Adoptions where the adopting mother or sole male adopter is not an employee or the child is (or is to be) adopted jointly by a married couple of the same sex and the employee is chosen to be the “relevant parent” – the particulars in writing of the placement.

1. Cohabitant is defined in accordance with section 172(1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010. In general, a cohabitant is one of 2 adults (whether of the same or the opposite sex) who live together as a couple in an intimate and committed relationship. [↑](#footnote-ref-1)
2. The only exception is in the case of adoptions where paternity leave was taken prior to the adoption of the child by a person other than the employee in question. [↑](#footnote-ref-2)