



Your **MATERNITY LEAVE** Rights Explained

Guide to the **Maternity Protection Acts 1994–2004**

PROGRESS

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The information contained in this publication does not necessarily reflect the position or opinion of the European Commission.

About the Maternity Protection Acts 1994–2004

This booklet sets out the main elements of the Maternity Protection Act 1994. The Act was amended by way of Statutory Instrument no.29 of 2001, Statutory Instrument no.51 of 2006, and by the Maternity Protection Act 2004. The Acts are now known as The Maternity Protection Acts 1998–2004.

Copies of the legislation are available from the Government Publications Office, Molesworth Street, Dublin 2
(Tel: 01 647 6879) or on www.oireachtas.ie

They are also available on www.equality.ie

The Maternity Protection Act 1994 (MPA 1994) was introduced to seek to give effect to Council Directive 92/85/EEC of 19th October 1992.

*This booklet is intended for information purposes only.
This is not a legal document.*

It is important to note that this is an information booklet on the provisions of the Maternity Protection Acts. It is not a legal interpretation of the provisions. You may need to seek legal advice for an interpretation of the provisions.

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1. What do the Maternity Acts 1994–2004 Provide for?

The Maternity Protection Acts give a pregnant female employee the right to

- 26 weeks of maternity leave (employees may be entitled to a social welfare payment or their employer may continue to pay them);
- 16 weeks of additional maternity leave (unpaid);
- time off for ante-natal and post-natal care;
- time off for ante-natal classes;
- health and safety leave;
- father's leave in the event of the death of the mother;
- time off from work or reduction of working hours to allow for breastfeeding;
- protection of certain employment rights;
- the right to return to work after taking the leave;
- protection against dismissal;
- a mechanism for resolving disputes and appeals about entitlements under the Act;
- termination of additional maternity leave if the mother becomes ill;
- postponement of maternity leave if the baby has to be hospitalised.

Some additional entitlements are provided for but need the employer's agreement.

A father may be entitled to this leave if the child's mother dies when giving birth or while on maternity leave. In these circumstances, he is also entitled to postpone the leave if the baby has to be hospitalised or to end the leave if he himself becomes ill.

1.1 Scope

The Act applies to a broad range of public and private sector employees. This includes members of the Garda Síochána, civil servants, local authorities and Health Service Executive employees.

Anyone employed under a “contract” of employment is entitled to protection under the Act. This is defined to include anyone employed under a contract of service, apprentices and employment agency workers.

Employees on probation, temporary employees and part-time employees are included.

There are a number of exceptions in relation to the Defence Forces and the Garda Síochána in terms of ante-natal and post-natal classes.

1.2 Time Off Work

Ante-natal or Post-natal Care

Pregnant employees and employees who have recently given birth are entitled to paid time off from work to receive ante-natal or post-natal care.

An employee who

- is pregnant; or
- who has given birth in the last 14 weeks; and
- who has a medical or related appointment;

is entitled to take time off work with pay to attend appointments.

1.3 Regulations

There are rules requiring an employee to notify her employer when seeking time off work for medical visits while pregnant or for post-natal care.

1.4 Notification Requirements

The employee must notify her employer in writing of the date and time of the appointment as soon as practicable and not later than two weeks before the appointment.

An employer can ask her to produce an appointment card or another appropriate document showing the date and time of the appointment, confirming the pregnancy and specifying the expected week or actual date that the baby is due. However, this rule does not apply to a first appointment.

In the event that an employee has to go for an unscheduled ante-natal visit or post-natal visit and cannot comply with (a) and (b) above, the employee should, give her employer, within a week, proof that she has kept the appointment and the reason why she could not notify the employer in advance of it.

2. Pregnant Employees and Expectant Fathers to Attend Ante-Natal Classes

A pregnant employee is entitled to paid time off work, to attend one set of ante-natal classes (other than the last 3 classes). The baby's father (if he is employed under a contract of employment) is entitled to paid time off work to attend the last 2 ante-natal classes in a set before the birth. This does not apply to members of the Defence Forces and the Garda Síochána.

2.1 Regulations

There are rules about taking time off for ante-natal visits.

2.2 Notification Requirements

A pregnant employee or the baby's father must

- (a) notify his or her employer in writing of the date and times of each class as soon as practicable, not later than 2 weeks before the date of the relevant class;
- (b) produce on request an appropriate document indicating the dates and time of the classes or the date and time of the relevant class.

If the employee through no fault of his/her own did not comply with (a) and (b) above, he/she must, not later than 1 week after the class give the employer evidence of him/her having attended the class and indicate why he/she could not notify the employer in advance.

2.3 Unable to Attend Ante-Natal Classes

If a pregnant employee is unable to attend one full set of classes (other than the last 3) during a pregnancy due to

- circumstances beyond her control (including miscarriage);
- the premature birth of the baby concerned; or
- the illness of the employee;

she is entitled during a subsequent pregnancy to paid time off work to attend the class.

3. Health and Safety Leave

Pregnant employees, employees who have recently given birth and employees who are breastfeeding may be entitled to health and safety leave in certain situations.

3.1 Assessment

The Safety, Health and Welfare at Work (Pregnant Employees etc.) Regulations 2000 (S.I.No.218 of 2000) require an employer to assess any risk to the safety or health of any pregnant employees, an employee who is breastfeeding or an employee who has recently given birth resulting from any activity at that employer's place of work is likely to involve a risk of exposure to certain agents, processes or working conditions, including but not limited to those specified in the Regulations.

Employers must take preventative and protective measures necessary to ensure the safety and health of such employees. If it is not possible for the employer to do this, the employee must be provided with other work.

3.2 Night Work

If a doctor certifies that it is necessary for the safety or health of an employee, employers may not require employees to perform night work. She should not be required to perform night work during pregnancy or for 14 weeks following childbirth.

3.3 Health and Safety Leave

The employee is entitled to be granted leave if

- it is not possible for the employer to move the employee to other work; or
- such a move cannot reasonably be required; or
- the other proposed work is not suitable for the employee.

(other work is of a kind which is suitable for the employee concerned and appropriate for the employee to do, in all the circumstances).

3.4 Health and Safety Leave Certificate

An employee who is granted health and safety leave is entitled to receive on request a certificate stating the reasons why she has been granted leave. It must also state the date on which the leave began and how long the leave is expected to last.

3.5 Payment to Women on Health and Safety Leave

An employee who is granted health and safety leave must be paid her usual wage by her employer for the first 21 days of her leave.

The leave period can be for a number of shorter periods and need not be one consecutive period.

A woman whose health and safety leave extends beyond 21 days may be entitled to a social welfare payment if she has enough P.S.R.I. contributions.

For further details regarding payment of Health and Safety benefit, please contact the Department of Social Protection, Health and Safety Benefit Section, Buncrana (address in Appendix C).

3.6 Ending Health and Safety Leave

Health and safety leave can end in a number of ways

- When maternity leave begins;
- If a breastfeeding mother stops breastfeeding;
- If she has not stopped breastfeeding, then 26 weeks after the birth of the child;
- If the employer takes whatever steps are necessary to ensure that the employee will no longer be exposed to any risk;
- If the employer becomes able to move the employee to suitable appropriate employment;
- If the employee is employed under a fixed-term contract, on the expiry of the fixed term.

3.7 Notices Required from the Employee

If an employee

- stops breastfeeding; or
- becomes aware that she is no longer at risk;

she must at the earliest practical time, notify her employer in writing that she is no longer breastfeeding or at risk.

3.8 Notices Required from an Employer

Where an employer receives such a written notification and has no reason to believe that the employee would be vulnerable to risk, the employer must take all reasonable steps to enable the employee to work in the job which she held immediately before the start of the leave.

The employer shall then notify her in writing that she can resume work in that job.

If the employer

- takes whatever steps are necessary to ensure that the employee will no longer be exposed to risk; or
- becomes able to move the employee to suitable appropriate work;

the employer must notify the employee in writing that she can return to work.

The leave granted ends seven days after the employee is notified by her employer or, if it is earlier, on the day she returns to work.



4. Maternity Leave and Additional Maternity Leave

A pregnant employee is entitled to

- 26 consecutive weeks of maternity leave;
- 16 consecutive weeks additional (unpaid) maternity leave beginning immediately after the end of her maternity leave.

The 26 and 16 weeks leave can be postponed if her child needs to be hospitalised.

A pregnant employee can begin and end her maternity leave on any day she selects but must

- take a minimum of two weeks leave before the end of the week that the baby is due;
- take 4 weeks leave dating from the end of the week that the baby is due.

4.1 Notification Requirements

A woman who wishes to take maternity leave must notify her employer in writing of this

- as soon as reasonably practicable; but
- not later than 4 weeks before the beginning of maternity leave;
- providing a medical certificate confirming the pregnancy and specifying the expected week that she is due to give birth.

An application for maternity leave may be revoked by a further notification in writing.

A woman who wishes to avail of her entitlement to additional maternity leave must

- notify the employer in writing by or on behalf of the employee of her intention to take additional maternity leave;
- not later than 4 weeks before the day on which her additional maternity leave is due to begin.

The employee can notify her employer in writing of her wish to take additional maternity leave at the same time as she requests maternity leave. This must be given to the employer not later than four weeks before the date which would have been her expected return date if she had not applied to take additional maternity leave.

4.2 Early Births

A pregnant employee is entitled to a minimum period of 18 weeks leave beginning on whichever is earlier

- the first day of maternity leave; or
- the date that she gives birth; or
- specified date (for certified medical reasons).

4.3 Notification Requirements – Early Births

If the employee gives birth 4 weeks before the expected due date, she must notify her employer within 14 days of giving birth.

4.4 Late Births

If an employee has less than 4 weeks maternity leave left when her baby is born, then she is entitled to have her maternity leave extended up to a maximum of 4 consecutive weeks.

If an employee has had her maternity leave extended because of a late birth, she is still entitled to take additional maternity leave.

4.5 Notification Requirements – Late Births

If an employee has less than 4 weeks of maternity leave left when her baby is born, in order to avail of her entitlement to an extension of up to 4 weeks maternity leave, she must

- as soon as practicable notify her employer in writing (or have the employer notified) of the proposed extension; and
- as soon as practicable after the after the baby is born, notify her employer in writing that she plans to take extended leave and inform her employer how long she will be on leave.

4.6 Still Births

In the event of a stillbirth occurring after the 24th week, the woman is still entitled to 26 weeks maternity leave.



5. Termination of Additional Maternity Leave in the Event of the Sickness of the Mother

An employee who is sick, who wishes to end additional maternity leave, may request her employer to terminate the additional maternity leave at any time during the last 4 weeks of maternity leave (where the employer has been notified of her intention to take additional maternity leave) or during the additional maternity leave.

There is no entitlement to end the mother's additional maternity leave if she becomes ill.

If the employer agrees, the additional maternity leave will end on a date agreed by the employer and employee.

Where additional maternity leave is terminated at the employee's request

- any absence from work (after the termination of the additional maternity leave) is treated in the same way as any absence from work of the employee due to sickness;
- the employee is not entitled to the additional maternity leave or any part of it not taken by her.

5.1 Notification Requirements

An employee who is sick and who wishes to terminate additional maternity leave, must request in writing (by her or on her behalf) her employer to terminate the additional maternity leave.

An employer must notify the employee concerned in writing of the employer's decision as soon as possible reasonably practicable.

6. Postponement of Leave Due to Hospitalisation of the Child

An employee on

- maternity leave (after 14 weeks maternity leave and at least 4 of those weeks being after the baby's birth);
- additional maternity leave;
- father's leave; or
- additional father's leave;

may request his/her employer to postpone part of the leave and/or additional leave (or part of it) if the baby is hospitalised. However, it is the employer who decides whether the leave can be postponed. The employee is not entitled to have leave postponed without the agreement of the employer.

If the employer agrees to postpone the leave, the employee will return to work on a date agreed with the employer and be entitled to take the postponed leave in one continuous period, beginning not later than 7 days after the child has left hospital.

If the employee takes sick leave, having postponed maternity leave, this leave is regarded as postponed maternity leave unless the employee notifies the employer that s/he does not wish to begin the postponed leave.

Once the employer has been notified

- the absence from work of the employee due to sickness is to be treated in the same manner as any absence due to sickness; but
- the employee loses the postponed leave.

Leave can be postponed for a maximum of 6 months.

6.1 Notification Requirements

An employee who wishes to postpone part of his/her leave because of the hospitalisation of the child must notify his/her employer in writing (or have the employer notified) of the request.

On request the employer must be given

- a letter or other appropriate document from the hospital confirming the hospitalisation of the child; and
- a second letter or other appropriate document from the hospital or the child's doctor confirming the date that the child leaves hospital.

An employer must notify the employee in writing of the employer's decision as soon as practicable.

An employee must notify the employer when s/he wishes to take the leave once again, as soon as practicable but no later than the date that s/he wishes the leave to begin.

An employer may waive the right to receive a notification.



7. Leave to which a Father is Entitled in the Event of the Death of the Mother

There is no entitlement under this legislation to paternity leave except in the event of the death of the mother within 40 weeks of the birth.

If the mother's death occurs within 24 weeks following the birth, then a father who is employed under a contract of employment is entitled to

- leave up until the end of the 24th week and, if he so wishes, to further leave of 16 consecutive weeks (additional leave).

All or part of the additional 16 weeks can be postponed in the event of hospitalisation of the child.

If the mother's death occurs after 24 weeks following the birth, then the father is entitled to leave up until the end of the 40th week.

The leave will commence within 7 days of the mother's death.

A father may be entitled to a social welfare benefit from the Department of Social Protection.

7.1 Notification Requirements

If a father wishes to avail of his entitlement to leave in the event of the death of the mother, he must

- notify his employer in writing (or have the employer notified not later than the day on which leave begins)
 - of the death of the mother;
 - his intention to take leave; and
 - the length of leave to which he believes he is entitled.

If asked, he must give his employer as soon as reasonably practicable

- a copy of the mother's death certificate; and
- the child's birth certificate.

If a father wishes to avail of his entitlement to further leave (where the mother has died within 24 weeks of confinement) he must

- notify his employer in writing (or have his employer notified) of his intention to take further leave, either
 - at the same time as the original application for leave is made; or
 - if later, not later than 4 weeks before the date which would have been the father's expected date of return if he had not applied for further leave. The father can change the date on which he returns to work.

Leave can be ended if the father falls ill. For further information on this or on other family leave entitlements for fathers, contact the Equality Authority on LoCall 1890 245 545 or check **www.equality.ie**

Information on parental and adoptive leave for fathers is available from the Equality Authority or from **www.equality.ie**

8. Breastfeeding

An employee who is breastfeeding is entitled, without loss of pay, for 26 weeks following the birth, as decided by her employer, to

- time off from her work to breastfeed in the workplace or
- a reduction of working hours for breastfeeding outside work.

Breastfeeding is defined to include expressing breast milk and feeding it to a child immediately or storing it for the purposes of feeding it to the child at a later time.

An employer is not required to provide facilities for breastfeeding in the workplace where it would cost more than nominal cost.

An employee who is breastfeeding in work is entitled, without loss of pay, to take 1 hour from her work, each working day, as a breastfeeding break, which may be taken in the form of

- one 60 minute break;
- two 30 minute breaks;
- three 20 minute breaks; or
- as agreed by her and her employer.

An employee who is breastfeeding outside work is entitled, without loss of pay, to have her working hours reduced by 1 hour each working day, which may be reduced in the form of

- one 60 minutes;
- two periods of 30 minutes;
- three periods of 20 minutes; or
- as agreed by her and her employer.

8.1 Notification Requirements

Where an employee who is breastfeeding proposes to take time off from her work or have reduced working hours she must

- notify her employer in writing of the proposal as soon as reasonably practicable and not later than the latest date for notifying her employer of her intention to return to work; and
- give, if asked, the birth certificate of the child (or any other document establishing the date of birth of the child).

9. Protection of Certain Employment Rights

An employee on

- maternity leave;
- additional maternity leave;
- father's leave (in event of mother's death);
- additional father's leave;
- health and safety leave;
- time off for ante-natal or post-natal care;
- time off or reduced hours for breastfeeding;
- time off for ante-natal classes;

is deemed to be in the employment of the employer while absent.

The employee is to be treated as if s/he is not absent. The absence will not affect any rights or obligations related to the employee's employment conferred by legislation, contract or otherwise.

- A period of absence from work for any of the above purpose is not to be treated as part of any other leave (including sick leave or annual leave);
- An employer cannot say that an employee must take a day's holidays to go on an ante-natal appointment;
- Similarly maternity leave or ante-natal visits must not be counted as part of the employee's sick record.

9.1 Pay

An employer is not obliged to pay an employee while on maternity leave. However, the employer is required to pay the employee while

- receiving ante-natal or post-natal care;
- attending ante-natal classes;
- taking time off / reduced hours for breastfeeding;
- during the first 21 days of health and safety leave.

9.2 Superannuation Benefits and Contributions

These do not have to be made while an employee is on

- additional maternity leave;
- father's leave (if mother dies after 24 weeks after confinement);
- additional father's leave.

9.3 Social Welfare Contributions

If an employee is not being paid while on leave, s/he is not regarded as contributing to the social welfare funds. This is the case as long as the Acts allow that s/he does not have to be paid by the employer. (This provision does not apply in relation to ante-natal and post-natal care, ante-natal classes, time off/ reduced hours for breastfeeding, first 21 days of health and safety leave).

9.4 Probation, Training and Apprenticeships

All periods of probation, training and apprenticeship are suspended during absence on leave under the maternity legislation and will have to be completed on his/her return to work.

9.5 Annual Leave

Annual leave continues to build up as normal while an employee is on both the standard maternity leave and the additional unpaid maternity leave.

9.6 Public Holidays

Employees on maternity leave and additional unpaid maternity leave are entitled to be credited for any public holiday that occurs during their leave. Employees must be given either an extra day's pay, or a set paid day off within a month, or an extra day's annual leave per public holiday that occurred during their leave. This also applies if the employer continues to provide full pay to the employee who is on such leave.

10. Right to Return to Work After Leave

An employee is entitled after maternity leave, additional maternity leave, father's leave, additional father's leave and health and safety leave

- to return to work;
- with the same employer, or the new owner (if there was a change of owner);
- to the same job;
- under the same contract; and
- under terms and conditions that are
 - (i) not less favourable than those that would have applied to the employee before she went on maternity leave; and
 - (ii) incorporate any improvement to the terms and conditions to which the employee would have been entitled if s/he had not been absent.

10.1 Usual / Normal Work

If an employee was not doing his/her normal or usual job before the leave, s/he is entitled to return to work, either in the job that s/he was doing before the leave or the employee's usual job.

10.2 Suitable Alternative Employment

Where it is not reasonably practicable for the employer (or the employer's successor) to allow the employee to return to their old job, the employee is entitled to be offered suitable alternative employment under a new contract by the employer (or the employer's successor or an associated employer).

Suitable alternative work is work which is

- suitable and appropriate for the employee to do in the circumstances; and
- the terms and conditions of the new contract are not less favourable than the original contract; and
- incorporate any improvement to the terms and conditions which the employee would have been entitled to if s/he had not been absent.

Where there is an interruption or stoppage of work at the workplace and it is unreasonable to expect the employee to return to work on the specified date, the employee may return to work instead when work resumes at the employment, or as soon as reasonably practicable after the resumption.

10.3 Written Notification of Intention to Return to Work

An employee must notify his/her employer (or the new owner) or make sure that the employer is notified

- in writing;
- not later than 4 weeks before expected return date of his/her intention to return to work; and
- of the expected date of return.

Special notification arrangements have to be followed by those who postpone leave. For information call the Equality Authority on LoCall 1890 245 545.

10.4 Extension of Time for Notification

A Rights Commissioner or the Tribunal will extend the time for giving the notification, where there are reasonable grounds for an employee's failure to give the notification or for failing to give the written notification within the requisite time.

However, a Rights Commissioner, Tribunal or Circuit Court will take into account the employee's failure to give notice or sufficient notice when deciding on whether the employee should be reinstated, re-engaged or given compensation.

11. Protection Against Dismissal

The employee is protected against suspension or dismissal when

- on maternity leave or additional maternity leave;
- on father's leave or additional father's leave;
- on health and safety leave;
- to attend ante-natal classes;
- to obtain ante-natal or post-natal care;
- for breastfeeding.

11.1 Unfair Dismissals

A dismissal of an employee is unfair if it is as a result of

- the employee's pregnancy, attendance at ante-natal classes, giving birth or breastfeeding (or any connected matters);
- the employee exercising or seeking to exercise rights provided in the Maternity Protection Acts 1994–2004 (for more information see Appendix A).

11.2 Discriminatory Dismissal

A claim under the Employment Equality Acts 1998–2008 in relation to discriminatory dismissal on grounds of gender, in relation to pregnancy or maternity leave, may be referred to the Equality Tribunal or to the Circuit Court (for further information see Equality Authority information booklet on Employment Equality Acts 1998–2008 or www.equality.ie).

11.3 Less Favourable Contractual Terms

A contract of employment or other agreement may contain terms which are more favourable to an employee than those required by the Act. However, an employer is not allowed to offer terms which are less favourable than those required by the Acts.

Appendix A: Disputes and Appeals

Either the employee or the employer can refer a dispute that relates to rights or entitlements under the Maternity Protection Acts to a Rights Commissioner except

- disputes which relate to dismissal must be referred under the Unfair Dismissals Acts 1977–2007 (see above);
- disputes which are within the competence of the Health and Safety Authority should be referred to it, such as a dispute as to whether or not a certain substance or work practice amounted to a risk in the workplace;
- disputes which involve employees in the Defence Forces.



A.1 Hearings of Disputes

Statutory Instrument No.17 of 1995 establishes the procedures to be followed in relation to the hearing of disputes by a Rights Commissioner and the hearing of appeals by the Employment Appeals Tribunal. The regulations also set out the requirements with respect to the contents of notices of dispute and appeal, notifications of decisions and determinations, the fixing of hearings and procedures at hearings and the awarding of costs and expenses.

Disputes must be initiated by the employer/employee giving a notice to the Rights Commissioner

- in writing;
- within 6 months from the date on which the employer is informed of the initial circumstances relevant to the dispute (e.g. that the employee is pregnant or that the child's mother has died); or
- within such period as the Rights Commissioner considers reasonable (but not exceeding 12 months) if the Rights Commissioner is satisfied that exceptional circumstances prevented the giving of the notice within the 6 months.

The notice must contain the following prescribed particulars

- name and address of the party referring the dispute;
- name and address of the other party to the dispute; and
- particulars of the facts or contentions which the party referring the dispute will put forward at the hearing.

Forms are available from The Labour Relations Commission, Tom Johnson House, Haddington Road, Dublin 4,
Tel: 01 613 6700. Website address: www.lrc.ie

The Rights Commissioner (or the Tribunal on appeal) may

- give directions to resolve the dispute;
- order leave for a specified period;
- order compensation as is just and equitable in the circumstances up to a maximum of 20 weeks remuneration.

Either party may appeal the decision of the Rights Commissioner to the Employment and Appeals Tribunal by giving notice in writing to the Tribunal, within 4 weeks of the decision being given to the parties.

The appeal must contain the following prescribed particulars

- name and address of the party referring the dispute;
- name and address of the other party to the dispute; and
- particulars of the facts; or
- contentions which the party referring the dispute will put forward at the hearing.

The hearing of an appeal by the Tribunal shall be in public unless the Tribunal decides in its discretion otherwise.

Appeal forms are available from the Secretary of the Employment Appeals Tribunal, 65 A Adelaide Road, Dublin 2, Tel. 01 631 2121.

Either party may appeal to the High Court on a point of law. The Tribunal may refer a question of law to the High Court.

A.2 Enforcement

A decision of the Rights Commissioner or the Tribunal may be enforced through the Circuit Court.

A.3 Dismissals

Under the Unfair Dismissals Act, it is unfair to dismiss an employee

- on the grounds of the employee's pregnancy;
- for attendance at ante-natal classes;
- giving birth;
- breastfeeding; or
- any connected matters.

It is also unfair to dismiss an employee for the exercise or proposed exercise of entitlements granted under the Maternity Protection Act 1994 and the Maternity Protection (Amendment) Act 2004.

Disputes relating to dismissal must be referred under the Unfair Dismissals Act 1977–2007 (UDA 1977 as amended). Alternatively a claim under the Employment Equality Acts 1998–2008 in relation to discriminatory dismissal on grounds of gender, in relation to pregnancy or maternity leave, may be referred to the Equality Tribunal or to the Circuit Court.

The following employees are excluded from the application of the provisions of this Act

- Members of the Defence Forces;
- Members of An Garda Síochána;
- Persons employed by the State;
- Managers of local authorities;
- Officers of vocational education committees or of the Health Service Executive.

An employee who is unfairly dismissed may seek redress from the

- Rights Commissioner;
- Employment Appeals Tribunal;
- Circuit Court.

Where a claim is brought before the Rights Commissioner or the Tribunal, it must be initiated by the employee giving notice to the Rights Commissioner or the Tribunal

- in writing;
- within 6 months from the date of the dismissal; or
- within such period as the Rights Commissioner or the Tribunal considers reasonable in the circumstances (but not exceeding 12 months) if the Rights Commissioner or the Tribunal is satisfied that exceptional circumstances prevented the giving of notice within the 6 months.

Either party may object to the proceedings being heard by the Rights Commissioner in which case it will be heard by the Tribunal.

Forms for the Rights Commissioner are available from the Labour Relations Commission, Tom Johnson House, Haddington Road, Dublin 4, Tel. 01 613 6700. Website address www.lrc.ie

Forms for the Employment Appeals Tribunal (EAT) are available from the Secretary of the Employment Appeals Tribunal, 65 A Adelaide Road, Dublin 2, Tel. 01 631 2121.

The forms of redress that may be ordered by the Rights Commissioner, the Employment Appeals Tribunal or the Circuit Court are the following:

- Re-instatement – the employee is awarded his/her old position as if never dismissed;
- Re-engagement – the employee is awarded his/her old position or a suitable alternative position on terms and conditions that are reasonable;
- Compensation for financial loss attributable to the dismissal as is just and equitable in all the circumstances but not to exceed 104 weeks remuneration;
- Where there is no financial loss, compensation as is just and equitable but not to exceed 4 weeks remuneration.

In all cases of unfair dismissal, there is a duty on the employee to mitigate his or her loss.

A.4 Appeals

Either party may appeal the decision of the Rights Commissioner to the EAT by giving a notice

- in writing to the Employment Appeals Tribunal;
- within 6 weeks of the decision being given to the parties;
- containing the prescribed particulars.

Notices given under this Act should contain the following:

- names and addresses of the person bringing the claim or appeal and of the other party;
- date of commencement of employment;
- date of dismissal; and
- weekly remuneration.

Either party may appeal the decision of the Tribunal to the Circuit Court within 6 weeks from the date on which the decision is communicated to the parties.

A.5 Enforcement

A decision of the Rights Commissioner may be enforced through the EAT. A decision of the Employment Appeals Tribunal (EAT) may be enforced through the Circuit Court.



Appendix B

B.1 The Equality Authority - Information and Support

The Equality Authority provides information only to the public on the Maternity Protection Acts. It has a series of published supports available including guides to the Equality Acts and training DVDs. The Public Information Centre of the Equality Authority which is based in Roscrea Co. Tipperary, provides information in various formats

- (i) additional information through www.equality.ie;
- (ii) an automated telephone voice message service (LoCall 1890 245 545) which; also
- (iii) refers the caller directly to a Communications Officer who may provide more detailed information on their enquiry;
- (iv) guides to the legislation in various languages and formats.

B.2 Equality Information

Further information, publications and training DVDs on aspects of the legislation are available from

The Equality Authority
Public Information Centre
Birchgrove House
Roscrea, Co. Tipperary
Ireland

The Equality Authority
(Dublin Office)
2 Clonmel Street
Dublin 2
Ireland

Contact:

LoCall: 1890 245545
Tel: +353 0505 24126
Fax: +353 0505 22388
Text phone: +353 01 417 3385
Website: www.equality.ie

1890 245545
+353 01 417 3333
+353 01 417 3331
Email: info@equality.ie

Times:

Monday to Thursday

9.15am–5.30pm

Friday

9.15am–5.15pm

Other booklets available in this series include:

Guide to the Adoptive Leave Acts 1995–2005

Guide to the Parental Leave Acts 1998–2006

Guide to the Employment Equality Acts 1998–2008

Guide to the Equal Status Acts 2000–2008



Appendix C

C.1 Other Useful Contacts and Addresses

Equality Tribunal

3 Clonmel Street

Dublin 2

Telephone: 01 477 4100

Fax: 01 477 4141

LoCall: 1890 344 424

Website: www.equalitytribunal.ie

Email: info@equalitytribunal.ie

The Health and Safety Authority

The Metropolitan Building

James Joyce Street

Dublin 1

Telephone: 01 614 7000

Fax: 01 614 7020

LoCall: 1890 289 389

Website: www.hsa.ie

Department of Social Protection

Maternity Benefit Section & Records Update Section

McCarter's Road

Ardarvan

Buncrana

Co. Donegal

LoCall: 1890 690 690

E-mail: maternityben@welfare.ie

Telephone: +353 1 471 5898

(from Northern Ireland or overseas)

**NERA National Employment
Rights Authority**
O'Brien Road
Carlow
Telephone: 059 917 8990
Fax: 059 917 8909
LoCall: 1890 80 80 90
Email: info@employmentrights.ie
Website: www.employmentrights.ie

Rights Commissioners
Tom Johnson House
Haddington Road
Dublin 4
Telephone: 01 613 6700
Fax: 01 613 6701
LoCall: 1890 220 227
Email: info@lrc.ie
Website: www.lrc.ie

**Department of Community,
Equality & Gaeltacht Affairs**
Equality Division
Bishop's Square
Redmond's Hill
Dublin 2
Telephone: 01 479 0200
LoCall: 1890 555 509

Appendix D

D.1 Frequently Asked Questions

How long do I have to be employed before I can take maternity leave?

There is no minimum length of service required. Every pregnant employee is entitled to maternity leave.

Am I entitled to be paid while out on maternity leave?

Normally you will be entitled to a Maternity Benefit payment from the Department of Social Protection but you will need to confirm this with the Maternity Benefit Section, LoCall 1890 690 690. Under the Maternity Protection Acts, there is no requirement for an employer to pay you while you are on maternity leave or the additional maternity leave. Some employers do choose to pay their employees while on maternity leave but this is at the employer's discretion. You should check this with your personnel section.

How late into the pregnancy can I work?

You must begin your maternity leave no later than 2 weeks before the end of the week that the baby is due.

Am I entitled to attend medical related appointments?

Yes. You are entitled to as much time as is necessary without loss of pay to attend any doctor or medical related appointment. However, you must give 2 weeks written notice to the employer before the appointment. In the event of an unscheduled visit the employee should, not later than one week after the date of the appointment, provide her employer with evidence of having kept the appointment.

Are ante-natal classes covered?

Yes. An employee is entitled to take paid time off to attend ante-natal classes (except the last 3 in a set). The employee must give her employer two weeks written notice.

Is my annual leave affected if I take maternity leave?

No. Annual leave is not affected by maternity leave. Annual leave continues to build up as normal while an employee is on both the standard 26 weeks maternity leave and the additional 16 weeks maternity leave.

Am I entitled to benefit from any public holiday that occurs while I am on maternity leave?

Yes. Employees on both the standard 26 weeks maternity leave and the 16 additional unpaid maternity leave are entitled to benefit from public holidays.

The Equality Authority

Public Information Centre,
Birchgrove House,
Roscrea, Co. Tipperary,
Ireland.

Tel: +353 0505 24126

Fax: +353 0505 22388

Text phone: +353 01 417 3385

Website: www.equality.ie

Dublin Office,
2 Clonmel Street,
Dublin 2,
Ireland.

+353 01 417 3333

+353 01 417 3331

Email: info@equality.ie

An **EMPLOYMENT**
RIGHTS Rule Book