



Irish Nurses and Midwives Organisation
Working Together

Adoptive Leave

**The largest Professional Union
for Nurses and Midwives in Ireland
representing over 45,000 members**

1. Introduction

This leaflet sets out guidelines on employee entitlements under the Adoptive Leave Act 1995-2005. It is not a legal interpretation of the Act. Paternity Leave entitlements for health service employees are also set out.

2. Who is covered by the Act

Under the Adoptive Leave Act, 1995-2005, adoptive leave is available to one parent of an adopting couple or a parent who is adopting alone.

3. Adoptive Leave Entitlement

One parent of an adopting couple or a parent who is adopting alone has the right to a minimum period of 24 consecutive weeks' adoptive leave beginning on the day of placement of the child.

You must give written notification to your employer of your intention to take adoptive leave as soon as is reasonably practicable but not later than 4 weeks before the expected placement of the child. If the day of placement is postponed the leave may be postponed until the new day of placement.

4. Additional Adoptive Leave Entitlement

One parent of an adopting couple or a parent who is adopting alone has the right to up to 16 weeks' additional adoptive leave without pay.

Additional adoptive leave must commence immediately after adoptive leave has ended.

In the case of a foreign adoption, some, or all of the period of additional leave may be taken before the day of placement, subject to certain notification requirements.

You must give written notification to your employer of your intention to take additional adoptive leave, at least 4 weeks before the end of your adoptive leave.

You may revoke notification of your intention to take additional adoptive leave by a further notification in writing to your employer.

5. Payment while on Adoptive leave

Under the Act, an employer is not obliged to pay an employee during adoptive leave or additional adoptive leave. However, both temporary and permanent nurses/midwives (working full-time or part-time), employed in the public health service who are on adoptive leave will receive their full normal pay (less any social welfare entitlements where applicable).

6. Adoptive Benefit

If you satisfy certain PRSI contribution conditions, you will be paid adoptive benefit directly from the Department of Social Protection.

You should apply for Adoptive Benefit 6 weeks before you intend to go on adoptive leave.

To apply fill in Form AB1 and return the form together with all relevant certificates to the Department of Social Protection. This form is also available from the Department of Social Protection Local office. Forms can be downloaded from www.welfare.ie

Adoptive Benefit is paid for a continuous period of 24 weeks from the date of placement of your child. If you are an EU citizen, you can continue to receive Adoptive Benefit for any period of your adoptive leave spent in another EU country or for any period of up to six weeks spent in a country outside the EU.

If you are not an EU citizen you can be paid Adoptive Benefit for any period of your Adoptive leave spent in the Republic of Ireland. You can continue to receive Adoptive Benefit for any period of up to six weeks of your adoptive leave spent in a country outside of

the Republic of Ireland (EU and Non-EU). If you exceed this period Adoptive Benefit will cease until such time as you return to the Republic of Ireland.

7. Time off to attend pre-adoption classes and meetings

An employee is entitled to paid time off work to attend preparation classes/meetings.

You must inform your employer at least 2 weeks before the dates of the classes/meetings and submit documentation to your employer to confirm the date(s) and time(s) of such classes/meetings, if so requested.

8. Transfer from Additional Adoptive Leave to Sick Leave

If you become ill while on additional adoptive leave and you have notified your employer of your intention to take additional adoptive leave, or if you are already on additional adoptive leave, you may **subject to the agreement of your employer**, terminate your additional adoptive leave and commence a period of sick leave. However, you will not be entitled to take any additional adoptive leave which was not taken at the date of termination of the leave.

9. Postponement of leave on hospitalisation of child

In the event that the child is hospitalised, it is possible to postpone part of your adoptive leave or additional adoptive leave, or part of it, provided your employer agrees to the request.

You can then return to work and take the remainder of your postponed leave in one continuous period, to commence within 7 days of the discharge of the child from hospital, or such other date as agreed with your employer.

You must notify your employer in writing of your intention to take postponed leave as soon as is reasonably practicable after you

become aware of the date of the child's discharge from hospital. This notification may be revoked by a further notification in writing to your employer. Your employer may waive the right to receive such notification.

10. Return to Work

While you are on adoptive leave/additional adoptive leave you must give written notification to your employer of your intention to return to work and stating the expected date of return at least 4 weeks before you expect to return to work.

If the proper notice is not given, it could affect your right to return to work.

11. Protection of Employment Rights

You have the right to job protection during adoptive leave, additional adoptive leave, and pre-adoption meetings.

While on leave described above, including additional adoptive leave, you are regarded as being in employment and therefore retain all employment rights, such as annual leave, public holidays, increments, seniority, etc. are protected.

You have the right to be paid while attending pre-adoption meetings or classes. You have the right to return to the same job or, if this is not possible, the right to suitable alternative work on no less favourable terms and conditions.

You have the right not to be dismissed, made redundant or suspended while on leave described above.

12. Paternity Leave

The parent who does not avail of adoptive leave is entitled to statutory Paternity Leave of 2 weeks together with a Paternity Benefit. Health service employees will receive their full normal pay (less any social welfare entitlements, where applicable), for the 2 weeks.

You can continue to receive Paternity Benefit for any period of your paternity leave spent in a country outside of the Republic of Ireland (EU and Non-EU).

13. Disputes and Appeals

Any complaints relating to the provisions of the Act can be made to the Adjudication Service of the WRC with the right of appeal to the Labour Court. If you believe your employer has failed to provide you with an entitlement to which you are due under the Act, you should contact your INMO official.

14. Further Information

Should you have any further queries in relation to your rights and entitlements under the Adoptive Leave Act 1995-2005, please contact the Information Office on 01 664 0610 or 01 6640619.

This leaflet is not a legal interpretation of the Adoptive Leave Act 1995-2005 (errors and omissions accepted).

Produced by Information Office, Irish Nurses & Midwives Organisation, The Whitworth Building, North Brunswick Street, Dublin 7, D07 NP8H Tel: 01 6640610/19
E-mail: catherine.hopkins@inmo.ie or catherine.oconnor@inmo.ie Website: www.inmo.ie
August 2022