



Irish Nurses and Midwives Organisation
Working Together

Maternity & Paternity Leave Entitlements

**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 Maternity Protection Act 1994-2004. 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?

Anybody under a contract of employment is entitled to protection under the Maternity Protection Act 1994-2004. There is no service qualification for any of the rights given under the Act which applies to all pregnant employees.

3. Maternity Leave

- You have the right to a minimum period of 26 consecutive weeks' maternity leave.
- A minimum of 2 weeks leave must be taken before the last day of the week during which the baby is expected to be born and a minimum of 4 weeks after this date.
- With effect from 1 October 2017, if the baby is born prematurely, maternity leave will be extended by the length of time between the actual date of birth of the premature baby and the expected start date of your maternity leave (i.e. ordinarily two weeks before the expected date of birth). Maternity Benefit in respect of the premature birth period will be payable by the Department of Social Protection (DSP). To make a claim for any additional period due to a premature birth, you will need to contact the Maternity Benefits Section of the DSP before the end of your 26 weeks of maternity leave. Nurses/Midwives employed in the public health service will receive their full normal pay, less any social welfare entitlements, where applicable, in respect of this premature birth period.
- Your employer must be notified in writing within two weeks of the birth.
- If the baby is born late and you have less than 4 weeks maternity leave left when your baby is born then your maternity leave may be extended so that you still have 4 weeks maternity leave after the week of the birth. Your employer must be notified in writing of such an extension and the reason for it as soon as possible.
- You must give written notification to your employer of your intention to take maternity leave, at least 4 weeks before starting maternity leave.

4. Additional Maternity Leave

- You have the right to up to 16 weeks additional maternity leave without pay.
- Additional maternity leave must commence immediately after maternity leave has ended.
- You must give written notification to your employer of your intention to take additional maternity leave, at least 4 weeks before starting the leave.

- You cannot revoke notice of additional maternity leave later than 4 weeks before the end of your maternity leave.

5. Ante-natal Classes & Medical Appointments

- You have the right to time off from work without loss of pay for the purpose of attending one set of ante-natal classes (other than the last 3 classes in such a set), and those classes may be attended by her during one or more pregnancies.
- Expectant fathers/partners also have a once-off entitlement to paid time off to attend the last 2 ante-natal classes immediately prior to the birth.
- At least two weeks' written notice must be given before the first class of dates/times of classes, or where all are not known, two weeks' before each class.
- You have the right to time off without loss of pay for ante-natal and post-natal medical care appointments.
- At least two weeks written notice must be given in advance of visits and proof must be produced if requested.

6. Payment while on Maternity Leave

Under the Act, an employer is not obliged to pay an employee during maternity leave, additional maternity leave, and paternity leave or after the first 21 days of health and safety leave. However, the following arrangements are applicable to nurses/midwives employed in the public health service.

- Both temporary and permanent nurses/midwives (working full-time or part-time), employed in the public health service who are on maternity leave will receive their full normal pay (less any social welfare entitlements, where applicable).

7. Maternity Benefit

- If you satisfy certain PRSI contribution conditions you will be paid maternity benefit directly from the Department of Social Protection.
- To claim maternity benefit, you must have the claim form for benefit completed correctly and returned to the DSP at least 6 weeks before maternity leave starts.
- If you are an EU citizen, you can continue to receive Maternity Benefit for any period of your maternity 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 Maternity Benefit for any period of your maternity leave spent in the Republic of Ireland. You can continue to receive Maternity Benefit for any period of up to six weeks of your maternity leave spent in a country outside of the Republic of Ireland (EU and Non-EU). If you exceed this period Maternity Benefit will cease until such time as you return to the Republic of Ireland.

8. Health and Safety Leave

- Your employer must assess your workplace for risks to pregnant workers, workers who have recently given birth or who are

breastfeeding. Where it is established that you are at risk if you continue to do your current job and the risk cannot be eliminated through adjusting your work or changing working hours, and no suitable alternative work can be found, then you must be granted health and safety leave.

- You are entitled to be paid by your employer for the first 21 days of this leave, which may arise in one continuous period or a number of shorter periods.
- If you satisfy certain PRSI contribution conditions you will be paid Health and Safety benefit by the DEASP

9. Breastfeeding

The Breastfeeding Policy, HR 006/2021, was approved by the HSE and is effective from 2nd February 2021 and will apply to all employees in the public health service. If you are breastfeeding, after returning from maternity leave, you are entitled to breastfeeding breaks at work for up to one hour per normal working day. This is in addition to your normal rest breaks. The breaks may be taken until the child's second birthday.

- Breastfeeding breaks may be taken in the form of one break of 60 minutes, two breaks of 30 minutes each, or three breaks of 20 minutes each, or, in such other manner as agreed by your employer.
- In relation to Breastfeeding facilities a room will be made available to you to express your breast milk. This room may be used for other uses provided that another room is available if that space is in use. For example, office, consultation room, treatment room, meeting room or staff room spaces. The room may be the place you normally work, provided the room: has adequate privacy, is clean and is comfortable for you. Toilets are not an appropriate place to breastfeed or to express breast milk.
- If no breastfeeding facilities exist in the workplace, you may reduce your working day by one hour without loss of pay, in accordance with service needs, in a manner to be agreed between you and your employer. Breastfeeding breaks can be taken on each working day. The breaks cannot be carried forward or banked as a further type of leave. Nurses/Midwives who are working reduced hours, or work longer days, can take the breaks on a pro-rata basis.
- The policy states you must apply to your line manager in writing as soon as possible but no later than four weeks prior to your return to work. Before you return to work, you and your employer will agree how the breastfeeding breaks will be taken. Your employer will need to see proof of your child's date of birth. This is part of the application process to identify when breastfeeding breaks will end.

10. Postponement of Maternity/Additional Maternity Leave

In the event that the baby is hospitalised, it is possible to postpone part of your maternity leave and/additional maternity leave (or part of it) **provided:**

- your employer agrees, and
- you have already taken at least 14 weeks maternity leave, 4 of which are after the end of the week of confinement.
- You can then return to work and take the remainder of your postponed leave (called resumed leave) in one continuous period, to commence within 7 days of the discharge of the baby from hospital.
- The maximum period during which leave can be postponed is 6 months.
- You must notify your employer in writing as soon as reasonably practicable of your intention to take resumed leave, but not later than the day on which the leave is to begin. Your employer may waive such notification.
- If you are absent from work because of illness during the period before you commence your resumed leave, the first day of such absence will be taken to commence your resumed leave, unless you notify your employer in writing that you do not wish to commence your resumed leave. **Your absence will then be treated as sick leave, but you will not be entitled to take the resumed leave.**

11. Return to Work

- While you are on maternity leave/additional maternity 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 you are taking 'resumed leave' you must give written notification to your employer of your intention to return to work and stating the expected date of return as follows: (a) if the period of resumed leave is 4 weeks' or less, notice to be given at the same time as giving notice of taking resumed leave, or (b) if the period of resumed leave is more than 4 weeks', not later than 4 weeks' before expected date of return to work.
- If the proper notice is not given, it could affect your right to return to work under the Act.

12. Transfer from Additional Maternity Leave to Sick Leave

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

13. Protection of Employment Rights

- You have the right to job protection during maternity leave, additional maternity leave, paternity leave, health and safety leave, attendance at ante-natal and post-natal medical appointments, attendance at ante-natal classes (described above) and breastfeeding breaks.
- While on leave described above, including additional maternity 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.
- While on health and safety leave you do not have entitlement to time off in lieu of public holidays falling within the period of such leave.
- You have the right to be paid while attending ante-natal and post natal medical care appointments, ante-natal classes (as above) and breastfeeding breaks.
- 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.
- You have the right not to be dismissed for any pregnancy related illness from beginning of pregnancy to end of Maternity Leave.

14. Paternity Leave

- From 1st September 2016, fathers/partners are entitled to statutory paternity leave of 2 weeks together with 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).

This leaflet is not a legal interpretation of the Maternity Protection Act 1994-2004 (errors and omissions accepted).

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