Number 30 *of* 1998

PARENTAL LEAVE ACT 1998

REVISED

Updated to 19 July 2019

This Revised Act is an administrative consolidation of the *Parental Leave Act 1998*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Local Government Rates and other Matters Act 2019* (24/2019), enacted 11 July 2019, and all statutory instruments up to and including *Parental Leave (Amendment) Act 2019 (Commencement) Order 2019* (S.I. No. 356 of 2019), made 16 July 2019, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 30 *of* 1998

PARENTAL LEAVE ACT 1998

REVISED

Updated to 19 July 2019

Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Parental Leave Acts 1998 to 2019: this Act is one of a group of Acts included in this collective citation (*Parental Leave (Amendment) Act 2019*, s. 8(2)). The Acts in the group are:

- *Parental Leave Act 1998* (30/1998)
- *Parental Leave (Amendment) Act 2006* (13/2006)
- *Parental Leave (Amendment) Act 2019* (11/2019)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Parental Leave (Amendment) Act 2019* (11/2019)
- *Workplace Relations Act 2015* (16/2015)
- *Children and Family Relationships Act 2015* (9/2015)
- *Education and Training Boards Act 2013* (11/2013)
- *Adoption Act 2010* (21/2010)
- *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008)
- *Parental Leave (Amendment) Act 2006* (13/2006)

All Acts up to and including *Local Government Rates and other Matters Act 2019* (24/2019), enacted 11 July 2019, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *European Union (Parental Leave) Regulations 2013* (S.I. No. 81 of 2013)
- *Equality, Integration, Disability and Human Rights (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 139 of 2011)
- *Equality, Integration, Disability and Human Rights (Transfer of Departmental Administration and Ministerial Functions) Order 2010* (S.I. No. 217 of 2010)
- *European Communities (Parental Leave) Regulations 2000* (S.I. No. 231 of 2000)

All statutory instruments up to and including *Parental Leave (Amendment) Act 2019 (Commencement) Order 2019* (S.I. No. 356 of 2019), made 16 July 2019, were considered in the preparation of this revision.

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PARENTAL LEAVE ACT 1998

REVISED

Updated to 19 July 2019

AN ACT TO IMPLEMENT COUNCIL DIRECTIVE 96/34/EC OF 3 JUNE 1996 ON THE FRAMEWORK AGREEMENT ON PARENTAL LEAVE CONCLUDED BY UNICE, CEEP AND THE ETUC, FOR THAT PURPOSE TO AMEND CERTAIN ENACTMENTS AND TO PROVIDE FOR RELATED MATTERS. [8*th July*, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Dispute resolution mechanism provided (1.08.2015) by *Workplace Relations Act 2015* (16/2015), s. 41(1), (2) and sch. 5 part 3, S.I. No. 338 of 2015, art. 2(b).

Presentation of complaints and referral of disputes

41. (1) An employee (in this Act referred to as a "complainant") or, where the employee so consents, a specified person may present a complaint to the Director General that the employee's employer has contravened a provision specified in Part 1 or 2 of Schedule 5 in relation to the employee and, where a complaint is so presented, the Director General shall, subject to section 39, refer the complaint for adjudication by an adjudication officer.

(2) An employee or an employer (in this Act also referred to as a "complainant") or, where the complainant so consents, a specified person, may refer a dispute as to the entitlements of the employee under an enactment specified in Part 3 of Schedule 5 to the Director General, and, where a dispute is so referred, the Director General shall, subject to section 39, refer the dispute for adjudication by an adjudication officer.

...

C2 Functions transferred and references to Minister for and Department of Community, Equality and Gaeltacht Affairs construed (1.04.2011) by *Equality, Integration, Disability and Human Rights (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 139 of 2011), arts. 2, 3 and sch., in effect as per art. 1(2).

2.—(1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Justice and Law Reform.

(2) References to the Department of Community, Equality and Gaeltacht Affairs contained in any Act or instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be read as references to the Department of Justice and Law Reform.

3.—(1) The functions vested in the Minister for Community, Equality and Gaeltacht Affairs by or under any of the Acts mentioned in the Schedule are transferred to the Minister for Justice and Law Reform.

...

SCHEDULE

Article 3(1)

Enactments, functions under which are transferred from the Minister for Community, Equality and Gaeltacht Affairs to the Minister for Justice and Law Reform

...

Parental Leave Acts 1998 and 2006

C3 Functions in relation to Act transferred (1.01.2005) by *Health Act 2004* (42/2004), s. 59 and sch. 3 item 58, S.I. No. 887 of 2004.

Transfer of functions of specified bodies to Executive.

59.—(1) The functions that, immediately before the establishment day, were the functions of a specified body under or in connection with the enactments referred to in Schedule 3 are, by this Act, transferred to the Executive on that day.

...

SCHEDULE 3

Transfer of Functions and References to Functional Areas

Section 59 and 67.

...

58. Parental Leave Act 1998

...

Editorial Notes:

E1 Act and *European Communities (Parental Leave) Regulations 2000* (S.I. No. 231 of 2000) included in definitions of "employment enactment" and "relevant enactment" (1.08.2015) by *Workplace Relations Act 2015* (16/2015), s. 2 and sch. 1 part 1 item 6, part 3 item 1, S.I. No. 338 of 2015, with the following effects:

- Authorised officers or inspectors under employment enactments deemed to be appointed under *Workplace Relations Act 2015* (16/2015), s. 26(2) and subject to termination under s. 26(4).
- Powers of inspectors for purposes of relevant enactments defined in *Workplace Relations Act 2015* (16/2015), s. 27.
- Workplace Relations Commission, an inspector or an adjudication officer authorised to disclose employer's registered number or employee's PPSN to enable Labour Court to perform functions under relevant enactments by *Workplace Relations Act 2015* (16/2015) s. 31(5).
- Power of Workplace Relations Commission and official body to disclose information to each other concerning the commission of offence under relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 32.
- Power of Workplace Relations Commission and contracting authority to disclose information to each other concerning the commission of offence under employment enactment/ relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 33.
- Powers of Minister to prosecute under relevant enactments transferred to Workplace Relations Commission and references construed by *Workplace Relations Act 2015* (16/2015), s. 37.
- Functions of EAT to hear claims under employment enactments transferred to Workplace Relations Commission and references to EAT construed by *Workplace Relations Act 2015* (16/2015) s. 66(1), (2), not commenced as of date of revision.

E2 Previous affecting provision: functions transferred and references to Minister for and Department of Justice Equality and Law Reform construed (1.06.2010) by *Equality, Integration, Disability and Human Rights (Transfer of Departmental Administration and Ministerial Functions) Order 2010* (S.I. No. 217 of 2010), arts. 2, 3 and sch., in effect as per art. 1(2).

E3 Previous affecting provision: application of Act extended to certain parents (19.07.2000) by *European Communities (Parental Leave) Regulations 2000* (S.I. No. 231 of 2000) for period to 31 December 2001.

PART I

PRELIMINARY AND GENERAL

Short title and commencement.

1.—(1) This Act may be cited as the Parental Leave Act, 1998.

(2) This Act shall come into operation on the 3rd day of December, 1998.

Interpretation.

2.—(1) In this Act—

F1**[**'adoption order' means an adoption order within the meaning of section 3(1) of the Adoption Act 2010 or a recognition of an intercountry adoption effected outside the State within the meaning of that Act;**]**

"confirmation document" has the meaning assigned to it by *section 9*;

"contract of employment" means—

(*a*) a contract of service or apprenticeship, or

(*b*) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act, 1971, and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract),

whether the contract is express or implied and if express, whether it is oral or in writing;

"date", in relation to a confirmation document, means the date on which it is signed by the parties thereto or the later of the dates on which it is so signed;

"employee" means a person of any age who has entered into or works under (or, where the employment has ceased, entered into or worked under) F2**[**a contract of employment and includes a part-time employee and a fixed-term employee,**]** and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer; and for the purposes of this Act, a person holding office under, or in the service of, the State (including a member of the Garda Síochána or the Defence Forces or a civil servant within the meaning of the Civil Service Regulation Act, 1956) shall be deemed to be an employee employed by the head (within the meaning of the Freedom of Information Act, 1997), of the public body (within the meaning aforesaid) in which he or she is employed and an officer or servant of a local authority for the purposes of the Local Government Act, 1941, or of a harbour authority, health board or F3**[**a member of staff of an education and training board**]** shall be deemed to be an employee employed by the authority F3**[**or board**]**, as the case may be;

"employer", in relation to an employee—

(*a*) means the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment, subject to the qualification that the person who under a contract of employment referred to in *paragraph (b)* of the definition of "contract of employment" is liable to pay the remuneration of the individual concerned in respect of the work or service concerned shall be deemed to be the individual's employer, and

(*b*) includes, where appropriate, the successor or an associated employer of the employer;

F4**[**'fixed-term employee' has the meaning assigned to it by section 2(1) of the Protection of Employees (Fixed-Term Work) Act 2003;**]**

"*force majeure* leave" shall be construed in accordance with *section 13(1)*;

"job", in relation to an employee, means the nature of the work that the employee is employed to do in accordance with his or her contract of employment and the capacity and place in which he or she is employed;

"the Minister" means the Minister for Justice, Equality and Law Reform;

"parental leave" shall be construed in accordance with *section 6(1)*;

F4**[**'part-time employee' has the meaning assigned to it by section 7(1) of the Protection of Employees (Part-Time Work) Act 2001;**]**

"prescribed" means prescribed by the Minister by regulations;

F5**[**'specified Act' means the Parental Leave (Amendment) Act 2019;

'specified day' means the day on which the specified Act comes into operation;**]**

"successor", in relation to an employer, shall be construed in accordance with *section 15(1)*;

"the Tribunal" means the Employment Appeals Tribunal.

(2) For the purposes of this Act, two employers shall be taken to be associated if one is a body corporate of which the other (whether directly or indirectly) has control or if both are bodies corporate of which a third person (whether directly or indirectly) has control and "associated employer" shall be construed accordingly.

(3) In this Act—

(*a*) a reference to a Part or section is a reference to a Part or section of this Act unless it is indicated that reference to some other provision is intended,

(*b*) a reference to a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended, and

(*c*) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended, whether before or after the passing of this Act, by or under any subsequent enactment.

F6**[**(4) A word or expression used in this Act and also in Council Directive 2010/18/EU[1] of 8 March 2010 shall have the same meaning in this Act as in that Directive.**]**

1 OJ No. L 68, 18.3.2010, p.13

Annotations

Amendments:

F1 Substituted (1.11.2010) by *Adoption Act 2010* (21/2010), s. 169, S.I. No. 511 of 2010.

F2 Substituted (8.03.2013) by *European Union (Parental Leave) Regulations 2013* (S.I. No. 81 of 2013), reg. 3(a)(i), in effect as per reg. 1(2).

F3 Substituted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72 and sch. 6 item 26, S.I. No. 211 of 2013.

F4 Inserted (8.03.2013) by *European Union (Parental Leave) Regulations 2013* (S.I. No. 81 of 2013), reg. 3(a)(ii), in effect as per reg. 1(2).

F5 Inserted (19.07.2019) by *Parental Leave (Amendment) Act 2019* (11/2019), s. 2, S.I. No. 356 of 2019.

F6 Substituted (8.03.2013) by *European Union (Parental Leave) Regulations 2013* (S.I. No. 81 of 2013), reg. 3(b), in effect as per reg. 1(2).

Modifications (not altering text):

C4 Prospective affecting provision: functions transferred and Employment Appeals Tribunal construed by *Workplace Relations Act 2015* (16/2015), s. 66, not commenced as of date of revision.

Transfer of functions from Employment Appeals Tribunal

66.(1) (a) All functions that, immediately before the dissolution day, were vested in the Employment Appeals Tribunal are transferred to the Commission in so far as they relate to any claim for redress, dispute or complaint determined by the Employment Appeals Tribunal under an employment enactment before that day.

(b) All functions that, immediately before the dissolution day, were vested in the Employment Appeals Tribunal are transferred to the Labour Court in so far as they relate to appeals determined by the Employment Appeals Tribunal under an employment enactment before that day.

(2) (a) References in any enactment or instrument under an enactment to the Employment Appeals Tribunal in so far as they relate to a function transferred by paragraph (a) of subsection (1) shall be construed as references to the Commission.

(b) References in any enactment or instrument under an enactment to the Employment Appeals Tribunal in so far as they relate to a function transferred by paragraph (b) of subsection (1) shall be construed as references to the Labour Court.

(3) This section shall come into operation on the dissolution day.

Regulations.

3.—(1) The Minister may—

(*a*) by regulations provide for any matter referred to in this Act as prescribed or to be prescribed, and

(*b*) make regulations generally for the purpose of giving effect to this Act and, if in any respect any difficulty arises during the period of two years after the commencement of this section in bringing into operation this Act, by regulations do anything which appears to be necessary or expedient for enabling this Act to have full effect.

(2) Before making a regulation under this Act, the Minister shall consult with persons whom he or she considers to be representative of employers generally and persons whom he or she considers to be representative of employees generally in relation to the regulation.

(3) A regulation under this Act may contain such consequential, supplementary and ancillary provisions as the Minister considers necessary or expedient.

(4) Every regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.

Annotations

Editorial Notes:

E4 Power pursuant to section exercised (10.02.1999) by *Parental Leave (Maximum Compensation) Regulations 1999* (S.I. No. 34 of 1999), in effect as per reg. 1.

E5 Power pursuant to section exercised (20.01.1999) by *Parental Leave (Disputes and Appeals) Regulations 1999* (S.I. No. 6 of 1999), in effect as per reg. 1.

E6 Power pursuant to section exercised (3.12.1998) by *Parental Leave (Notice of Force Majeure Leave) Regulations 1998* (S.I. No. 454 of 1998), in effect as per reg. 1.

Voidance or modification of certain provisions in agreements.

4.—(1) A provision in any agreement shall be void in so far as it purports to exclude or limit the application of any provision of this Act or is inconsistent with any provision of this Act.

(2) A provision in any agreement which is or becomes less favourable in relation to an employee than a similar or corresponding entitlement conferred on the employee by this Act shall be deemed to be so modified as to be not less favourable.

(3) Nothing in this Act shall be construed as prohibiting the inclusion in an agreement of a provision more favourable to an employee than any provision in *Parts II* to *V*.

(4) References in this section to an agreement are to any agreement, whether a contract of employment or not and whether made before or after the passing of this Act.

Expenses.

5.—Any expenses incurred by the Minister or the Minister for Enterprise, Trade and Employment in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART II

Parental Leave and *Force Majeure* Leave

F7**[**Entitlement to parental leave.

6.— (1) Subject to this Act, an employee who is a relevant parent in respect of a child shall be entitled to leave from his or her employment, to be known and referred to in this Act as 'parental leave', for a period of F8**[**18 working weeks**]** to enable him or her to take care of the child.

F9**[**(1A) The reference in subsection (1) to a period of 18 working weeks shall be construed—

(*a*) in the period from 1 September 2019 to 31 August 2020, as a reference to a period of 22 working weeks, and

(*b*) on and from 1 September 2020, as a reference to a period of 26 working weeks.**]**

(2) Subject to *sections 10(4)* and *11(6)*, a period of parental leave shall end—

(*a*) subject to *paragraphs (b)* and *(c)*, not later than the day on which the child concerned F10**[**attains the age of 12 years**]**,

(*b*) subject to *paragraph (c)*, in the case of a child who—

(i) is the subject of an adoption order, and

(ii) has, on or before the date of the making of that order, F10**[**attained the age of 10 years but not 12 years**]**,

not later than the expiration of the period of 2 years beginning on that date, or

(*c*) if the child concerned has a disability F11**[**or a long-term illness**]**, not later than the day on which the child—

(i) attains the age of 16 years, or

F8**[**(ii) ceases to have that disability or long-term illness or any other disability or long-term illness,**]**

whichever first occurs.

(3) A period of parental leave shall not commence before a time when the employee concerned has completed one year's continuous employment with the employer from whose employment the leave is taken.

(4) Subject to this Act, an employee shall be entitled to parental leave in respect of each child of which he or she is a relevant parent.

(5) A person who is a relevant parent in more than one capacity in respect of a child shall not be entitled to parental leave in more than one such capacity in respect of the child.

(6) Where 2 or more relevant parents in respect of a child are entitled to parental leave in respect of the child, none of the parents shall be entitled to—

(*a*) the parental leave of any other parent in respect of the child, or

(*b*) transfer any part of the period of his or her parental leave to any other parent in respect of the child.

F8**[**(6A) Notwithstanding *subsection (6)*, where 2 or more relevant parents in respect of a child are entitled to parental leave in respect of the child and the parents are each employed by the same employer, then each relevant parent shall, subject to the consent of the employer concerned, be entitled to transfer part, not exceeding 14 working weeks, of the period of his or her parental leave to any other relevant parent in respect of the child.**]**

(7) Notwithstanding *subsection (3)*, where an employee—

(*a*) will not have completed one year's continuous employment with his or her employer on the latest day for commencing a period of parental leave having regard to *subsection (2)*, but

(*b*) has completed 3 months of such employment on the latest day for commencing a period of such leave provided for by this subsection,

the employee shall, subject to this Act, be entitled to parental leave for a period of one week for each month of continuous employment that he or she has completed with the employer at the time of the commencement of the leave.

(8) Where, before the relevant day, a person who is a relevant parent in respect of a child—

(*a*) has taken 14 weeks parental leave in respect of the child (and irrespective of whether the leave consisted of a continuous period or a number of periods), or

(*b*) has not taken 14 weeks parental leave in respect of the child (and irrespective of whether the person was prevented from taking all or any of the parental leave by the operation of *subsection (3)* of this section as in force before the relevant day),

then, on and after the relevant day—

(*c*) if *paragraph (a)* is applicable, nothing in this Act as amended by the relevant Act shall entitle the person to any further period of parental leave in respect of that child, and

(*d*) if *paragraph (b)* is applicable, this Act as amended by the relevant Act shall apply to so much of the 14 weeks of parental leave referred to in that paragraph as was not taken before the relevant day in respect of that child.

F9**[**(8A) Where, before the specified day, a person who is a relevant parent in respect of a child has not taken 18 weeks parental leave in respect of the child (and irrespective of whether the person was prevented from taking all or any of the parental leave by the operation of *subsection (2)* as in force before the specified day) then on and from the specified day this Act, as amended by the specified Act, shall apply to so much of the 18 weeks of parental leave as was not taken before the specified day in respect of that child.**]**

(9) In this section—

'adopting parent' means an adopting father, adopting mother or sole male adopter within the meaning of the definitions of 'adopting father', 'adopting mother' and 'sole male adopter' respectively in section 2 of the Adoptive Leave Act 1995 but as if, in each of those definitions, the words 'or is to be placed' were omitted;

'adoptive parent', in relation to a child, means a person in whose favour an adoption order in respect of the child has been made and is in force;

F11**[**'continuous employment' includes employment completed by an employee under two or more continuous fixed-term contracts with the same employer;**]**

F11**[**'continuous fixed-term contract' has the same meaning as it has in section 9(2) of the Protection of Employees (Fixed-Term Work) Act 2003;**]**

'disability', in relation to a child, means an enduring physical, sensory, mental health or intellectual impairment of the child such that the level of care required for the child is substantially more than the level of care that is generally required for children of the same age who do not have any such impairment;

F11**[**'long-term illness', in relation to a child, means a long-term illness, the effect of which is that the level of care required for the child is substantially more than the level of care that is generally required for children of the same age who do not have any such long term illness;**]**

'relevant Act' means the Parental Leave (Amendment) Act 2006;

'relevant day' means the day on which *section 2* of the relevant Act comes into operation;

'relevant parent', in relation to a child, means a person who is—

F12**[**(*a*) the parent, the adoptive parent or the adopting parent in respect of the child, or**]**

(*b*) acting *in loco parentis* to the child.**]**

Annotations

Amendments:

F7 Substituted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 2, commenced on enactment.

F8 Substituted (8.03.2013) by *European Union (Parental Leave) Regulations 2013* (S.I. No. 81 of 2013), reg. 4, in effect as per reg. 1(2).

F9 Inserted (19.07.2019) by *Parental Leave (Amendment) Act 2019* (11/2019), s. 3(a), (d), S.I. No. 356 of 2019.

F10 Substituted (19.07.2019) by *Parental Leave (Amendment) Act 2019* (11/2019), s. 3(b), (c), S.I. No. 356 of 2019.

F11 Inserted (8.03.2013) by *European Union (Parental Leave) Regulations 2013* (S.I. No. 81 of 2013), reg. 4, in effect as per reg. 1(2).

F12 Substituted (18.01.2016) by *Children and Family Relationships Act 2015* (9/2015), s. 178, S.I. No. 12 of 2016.

Editorial Notes:

E7 Previous affecting provision: subs. (6) amended (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 3(a), commenced on enactment. This 2006 amendment which contained a small error was in turn repealed (20.07.2008) by *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), s. 3 and schedule, S.I. No. 274 of 2008.

E8 Previous affecting provision: *Parental Leave Act 1998*, s. 6(2), repealed (19.07.2000) by *European Communities (Parental Leave) Regulations 2000* (S.I. No. 231 of 2000), reg. 3(3).

E9 Previous affecting provision: application of Act extended to certain parents (19.07.2000) by *European Communities (Parental Leave) Regulations 2000* (S.I. No. 231 of 2000) for period to 31 December 2001.

Manner in which parental leave may be taken.

7.—(1) Subject to this Act, parental leave may consist of—

(*a*) a continuous period of F13**[**equal to the period referred to in *section 6(1)*, F14**[**...**]**

F15**[**(*aa*) subject to *subsection (1A)*, 2 separate periods—

(i) each consisting of not less than 6 weeks, and

(ii) not exceeding F13**[**the number of weeks referred to in *section 6(1)* in total,**]]**

(*b*) with the agreement of the employer or representatives of the employer and other employers and the employee or representatives of the employee and other employees, a number of periods each of which comprises—

(i) one or more days on which, but for the leave, the employee would be working in the employment concerned,

(ii) one or more hours during which, but for the leave, the employee would be working in the employment concerned, or

(iii) any combination of periods referred to in F13**[***subparagraphs (i)* and *(ii)*, or**]**

F16**[**(*ba*) where an employee has taken leave pursuant to *paragraph (a)*, *(aa)* or *(b)*, periods each consisting of not less than 1 week.**]**

F15**[**(1A) Subject to *subsection (1B)*, where parental leave in respect of a child is taken by an employee pursuant to *subsection (1)(aa)*, then in respect of that child the employee is not entitled to take the second period of parental leave unless not less than 10 weeks have elapsed since the first period of parental leave ended.

(1B) The employer concerned (or representatives of the employer and other employers) and the employee concerned (or representatives of the employee and other employees) may agree to a shorter period than the 10 weeks referred to in *subsection (1A)*, either in a particular case or a class of cases.**]**

(2) (*a*) Parental leave taken by an employee pursuant to *subsection (1) (b)* shall be such that the number of hours during which, but for the leave, the employee would be working in the employment concerned equals—

(i) the number of hours during which the employee worked in the employment concerned in such continuous period of F13**[**equal to the period referred to in *section 6(1)***]** before the commencement of the leave as may be determined by the employee concerned and the employer, or

(ii) if the employee and the employer fail to determine a period for the purposes of *subparagraph (i)*, F13**[**the relevant number times**]** the average number of hours per week during which the employee worked in the employment in each of the periods of F13**[**equal to the period referred to in *section 6(1)***]** ending immediately before the commencement of each week in which he or she takes any of the leave.

(*b*) In determining a period F17**[**referred to in *paragraph (a)* F13**[**, *(aa)* or *(ba)* of *subsection (1)***]]**, holidays (including public holidays) to which the employee concerned is entitled or days on which he or she is absent from work on sick leave, maternity leave, adoptive leave, or *force majeure* leave shall be excluded and a corresponding number of days immediately before the commencement of the period shall be included and time spent on parental leave by the employee shall be deemed to be time spent by him or her at work in the employment concerned.

(3) F17**[**Subject to F16**[***subsection (3A)* and *(3B)*, where**]** an employee is entitled to parental leave in respect of more than one child and the children concerned are not children of a multiple birth, the period of parental leave taken by him or her in any period of 12 months shall not, without the consent of the employer, exceed that provided for in *subsection (1)*.

F15**[**(3A) *Subsection (3)* shall not apply to—

(*a*) any period of parental leave proposed to be taken by an employee—

(i) in respect of a child who has attained the age of 7 years before or on the date of commencement of this subsection, and

(ii) before the 1st anniversary of that date,

if the operation of *section 6(2)(a)* would prevent the employee from taking all or any part of that parental leave after that date, or

(*b*) any period of parental leave proposed to be taken by an employee—

(i) in respect of a child who has attained the age of 15 years before or on the date of commencement of this subsection, and

(ii) before the 1st anniversary of that date,

if the operation of *section 6(2)(c)* would prevent the employee from taking all or any part of that parental leave after that date.**]**

F16**[**(3B) *Subsection (3)* shall not apply to—

(a) any period of parental leave proposed to be taken by an employee—

(i) in respect of a child who has attained the age of 11 years before or on the specified day, and

(ii) before the 1st anniversary of that day,

if the operation of *section 6(2)(a)* would prevent the employee from taking all or any part of that parental leave after that day, or

(b) any period of parental leave proposed to be taken by an employee—

(i) in respect of a child who has attained the age of 15 years before or on the specified day, and

(ii) before the 1st anniversary of that day,

if the operation of *section 6(2)(c)* would prevent the employee from taking all or any part of that parental leave after that day. **]**

(4) (*a*) Where any holiday (other than a public holiday) to which an employee is entitled falls during a period of parental leave of the employee and on a day when (but for the leave and the holiday) the employee would be working in the employment concerned, the holiday shall be taken at such other time as may be determined by the employer concerned pursuant to section 20 of the Organisation of Working Time Act, 1997.

(*b*) Where any public holiday to which an employee is entitled falls during a period of parental leave of the employee and on a day when (but for the leave and the holiday) the employee would be working in the employment concerned, a day shall be added to the period of parental leave that the employee is entitled to take.

F16**[**(5) In this section, 'relevant number' means the number equivalent to the number of weeks referred to in *section 6(1)*.**]**

Annotations

Amendments:

F13 Substituted (19.07.2019) by *Parental Leave (Amendment) Act 2019* (11/2019), s. 4(a), (b), (c), (e), (f), S.I. No. 356 of 2019.

F14 Deleted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 4(a)(i), commenced on enactment.

F15 Inserted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 4(a)(ii), (b) and (e), commenced on enactment.

F16 Inserted (19.07.2019) by *Parental Leave (Amendment) Act 2019* (11/2019), s. 4(d), (g), (h), (i), S.I. No. 356 of 2019.

F17 Substituted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 4(c) and (d), commenced on enactment.

Editorial Notes:

E10 Previous affecting provision: subs. (1)(a), (aa)(ii), (2)(a) amended (8.03.2013) by *European Union (Parental Leave) Regulations 2013* (S.I. No. 81 of 2013), reg. 5, in effect as per reg. 1(2); substituted as per F-note above.

E11 Previous affecting provision: application of Act restricted in relation to certain parents (19.07.2000) by *European Communities (Parental Leave) Regulations 2000* (S.I. No. 231 of 2000), reg. 6, for period to 31 December 2001.

Notice of parental leave.

8.—(1) When an employee proposes to take parental leave, he or she shall, as soon as reasonably practicable but not later than 6 weeks before the commencement of the leave, give notice in writing of the proposal to his or her employer.

(2) A notice under *subsection (1)* shall specify the date of commencement of the parental leave concerned and its duration and the manner in which it is proposed to be taken and shall be signed by the employee concerned.

(3) Before the date of the confirmation document concerned, an employee may, by notice in writing signed by him or her and given to his or her employer, revoke a notice under *subsection (1)* given by him or her and, if the employee does so, he or she shall not be entitled to take parental leave at the time specified in the latter notice.

(4) Notwithstanding *subsection (1)*, where leave purporting to be parental leave is taken by an employee who is entitled to parental leave but who has not complied with *subsection (1)* in relation to the leave, the employer may, at his or her discretion, treat the leave as parental leave and this Act shall apply accordingly.

(5) An employer shall retain a notice given to him or her under this section and shall give a copy of it to the employee concerned who shall retain it.

F18**[**(6) An employee who has given a notice to his or her employer under *subsection (1)* shall, if the employer so requests, furnish to the employer such evidence as the employer may reasonably require in relation to—

(*a*) the date of birth of the child in respect of whom the parental leave is sought,

(*b*) the employee being a relevant parent, within the meaning of *section 6(9)*, of the child, and

(*c*) if relevant, the disability, within the meaning of *section 6(9)*, of the child.

(7) Where an employee proposes to take parental leave in respect of a child pursuant to *section 7(1)(aa)*, then the notice under *subsection (1)* required to be given by the employee shall, for the purposes of this Act, be treated as—

(*a*) one such notice if the employee complies with that requirement by giving one notice specifying the 2 periods of parental leave proposed to be taken, and

(*b*) 2 such notices if the employee complies with that requirement by giving 2 notices each specifying one of the periods of parental leave proposed to be taken,

and the other provisions of this Act (including *section 11*) shall be construed accordingly.**]**

F19**[**(8) Where an employee proposes to take parental leave in respect of a child pursuant to *section 7(1)(ba)*, then the notice under *subsection (1)* required to be given by the employee shall, for the purposes of this Act, be treated as—

(*a*) one such notice if the employee complies with that requirement by giving one notice specifying a continuous period of parental leave proposed to be taken,

(*b*) one such notice if the employee complies with that requirement by giving one notice specifying the periods of parental leave proposed to be taken, or

(*c*) such number of notices equivalent to the number of periods of parental leave proposed to be taken if the employee complies with that requirement by giving such number of notices each specifying one of the periods of parental leave proposed to be taken,

and the other provisions of this Act (including *section 11*) shall be construed accordingly.**]**

Annotations

Amendments:

F18 Substituted and inserted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 5, commenced on enactment.

F19 Inserted (19.07.2019) by *Parental Leave (Amendment) Act 2019* (11/2019), s. 5, S.I. No. 356 of 2019.

Confirmation of parental leave.

9.—(1) Where an employee has given a notice under *section 8(1)* to his or her employer, they shall, not less than 4 weeks before the commencement of the parental leave concerned, prepare and sign a document (referred to in this Act as "a confirmation document") specifying the date of commencement of the leave, its duration and the manner in which it will be taken.

(2) Where leave is treated as parental leave pursuant to *section 8(4)*, a confirmation document in relation to the leave shall be prepared and signed by the employer and the employee concerned as soon as may be.

(3) An employer shall retain a confirmation document signed by him or her and shall give a copy of it to the employee concerned who shall retain it.

Postponement, curtailment and variation of parental leave by parties concerned.

10.—(1) Subject to this Act, when a confirmation document has been prepared and signed in accordance with *section 9*, the employee concerned shall not be entitled to work in the employment concerned during the period of parental leave specified in the document.

F20**[**(2) Notwithstanding *subsection (1)*, if, after the date of a confirmation document (whether or not the period of parental leave to which it relates has commenced)—

(*a*) the employer concerned or his or her successor and the employee concerned so agree, the leave or part of it may be postponed to such time as may be so agreed upon, the period of such leave may be curtailed in such manner and to such extent as may be so agreed upon or the form of the leave may be varied in such manner as may be so agreed upon, and in such a case the confirmation document shall be amended accordingly, or

(*b*) the employee concerned becomes sick such that the employee is unable to care for the child the subject of the parental leave to which the confirmation document relates, then the employee may, by notice in writing given to the employer concerned or his or her successor, as soon as is reasonably practicable after becoming sick, and accompanied by the relevant evidence in respect of the sickness—

(i) if the period of parental leave has not commenced, postpone the taking of the leave to such time as the employee is no longer sick, or

(ii) if the period of parental leave has commenced, suspend the taking of the balance of the leave to such time as the employee is no longer sick,

and in such a case the confirmation document shall be deemed to be amended accordingly.**]**

(3) Where parental leave is curtailed under F20**[***subsection (2)(a)***]** or *Part IV*, the parental leave not taken by reason of the curtailment may be taken at such other time as may be agreed upon by the parties concerned.

F21**[**(4) If, solely because of the postponement or suspension under *subsection (2)(b)* of the taking of parental leave, or of the taking of the balance of parental leave, as the case may be, the period of the parental leave ends by virtue of the operation of *section 6(2)*, then the event which causes that period to so end shall be deemed, for the purposes of this Act, to have occurred after the end of that period.

(5) In *subsection (2)(b)*, 'relevant evidence', in relation to an employee, means—

(*a*) a medical certificate—

(i) stating that the employee named in the certificate is, by reason of the sickness specified in the certificate, unable to care for the child named in the certificate, and

(ii) signed by a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 1978,

or

(*b*) if the employee does not have a medical certificate referred to in *paragraph (a)*, such evidence as the employer concerned or his or her successor may reasonably require in order to show that the employee is, by reason of sickness, unable to care for the child concerned.**]**

Annotations

Amendments:

F20 Substituted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 6(a) and (b), commenced on enactment.

F21 Inserted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 6(c), commenced on enactment.

Editorial Notes:

E12 The reference in subs. (5)(a)(ii) to a medical practitioner has been amended to refer to a medical practitioner within the meaning of the *Medical Practitioners Act 2007* (3.07.2008) by *Medical Practitioners Act 2007* (25/2007), s. 108(1), S.I. No. 231 of 2008.

E13 Previous affecting provision: application of Act restricted and modified in relation to certain parents (19.07.2000) by *European Communities (Parental Leave) Regulations 2000* (S.I. No. 231 of 2000), reg. 7 (a) and (b) for period to 31 December 2001.

Postponement by employer of parental leave.

11.—(1) Subject to this section, where an employee has given a notice under *section 8(1)* to his or her employer and the employer is satisfied that the taking of parental leave at the time specified in the notice would have a substantial adverse effect on the operation of his or her business, profession or occupation by reason of seasonal variations in the volume of the work concerned, the unavailability of a person to carry out the duties of the employee in the employment, the nature of those duties, the number of employees in the employment or the number thereof whose periods, or parts of whose periods, of parental leave will fall within the period specified in the said notice or any other relevant matters, the employer may, by notice in writing given to the employee not later than 4 weeks before the intended commencement

of the leave, postpone the commencement of the leave to such time not later than 6 months after the date of commencement specified in the relevant notice under *section 8(1)* as may be agreed upon by the employer and the employee.

(2) Before giving a notice under this section to an employee, an employer shall consult with the employee in relation to the proposed postponement of parental leave.

(3) A notice under *subsection (1)* shall contain a statement in summary form of the grounds for the postponement of the commencement of the parental leave concerned.

(4) The commencement of parental leave in respect of a particular child may not be postponed more than once under this section unless a ground for the postponement is seasonal variation in the volume of the work concerned; and, where that is a ground for the postponement, such commencement in respect of a particular child may not be postponed more than twice.

(5) *Subsection (1)* does not apply to parental leave in relation to which a confirmation document has been signed by the parties concerned.

F22**[**(6) If, solely because of the postponement under this section of the commencement of parental leave, the period of the parental leave ends by virtue of the operation of *section 6(2)*, then the event which caused that period to so end shall be deemed, for the purposes of this Act, to have occurred after the end of that period.

(6A) Where a notice under *section 8(1)* by an employee to his or her employer falls within *section 8(7)(a)*, then, subject to any agreement between the employee and the employer, any postponement under this section of the commencement of parental leave must apply to both periods of proposed parental leave the subject of the notice.**]**

F23**[**(6B) Where a notice under *section 8(1)* by an employee to his or her employer falls within *section 8(8)(b)*, then, subject to any agreement between the employee and the employer, any postponement under this section of the commencement of parental leave must apply to each period of proposed parental leave the subject of the notice.**]**

(7) An employer shall retain a copy of a notice under this section given by him or her to an employee of his or hers and the employee shall retain the notice.

(8) In this section, references to parental leave include references to a period of parental leave specified in *section 7(1)(b)*.

Annotations

Amendments:

F22 Substituted and inserted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 7, commenced on enactment.

F23 Inserted (19.07.2019) by *Parental Leave (Amendment) Act 2019* (11/2019), s. 6, S.I. No. 356 of 2019.

Editorial Notes:

E14 Previous affecting provision: application of Act restricted and modified in relating to certain parents (19.07.2000) by *European Communities (Parental Leave) Regulations 2000* (S.I. No. 231 of 2000), reg. 7 (a) and (b) for period to 31 December 2001.

Abuse of parental leave.

12.—(1) The entitlement to parental leave is subject to the condition that it is used to take care of the child concerned.

(2) Where an employer has reasonable grounds for believing that an employee of his or hers who is on parental leave is not using the leave for the purpose of taking care of the child concerned, the employer may, by notice in writing given to the employee, terminate the leave and the notice shall contain a statement in summary form of the grounds for terminating the leave and shall specify the day (being a day not later than the date of the end of the period of the leave specified in the confirmation document concerned nor, subject to the foregoing requirement, earlier than 7 days after the date of the receipt by the employee concerned of the notice).

(3) Where parental leave is terminated under *subsection (2)*, the employee concerned shall return to his or her employment on the day specified in the notice under that subsection concerned and any period between the date of such return and the date of the end of the period of the leave specified in the confirmation document concerned shall be deemed not to be parental leave.

(4) Where an employee gives his or her employer a notice under *section 8(1)* and the employer has reasonable grounds for believing that the employee is not entitled to the parental leave concerned, the employer may, by notice in writing given to the employee, refuse to grant the leave to the employee and, if the employer does so, the employee shall not be entitled to take the parental leave concerned.

(5) A notice under *subsection (4)* shall contain a statement in summary form of the grounds for refusing to grant the parental leave concerned.

(6) Where an employer proposes to give a notice under *subsection (2)* or *(4)* to an employee of his or hers, the employer shall, before giving the notice, give notice in writing of the proposal to the employee and the notice shall contain a statement in summary form of the grounds for terminating, or, as the case may be, refusing to grant, the parental leave concerned and a statement that the employee may within 7 days of the receipt of the notice make representation to the employer in relation to the proposal; and any such representations made by an employee to an employer within the period aforesaid shall be considered by the employer before he or she decides whether to give a notice under *subsection (2)*, or as the case may be, *subsection* (*4*) to the employee.

(7) A person shall retain a notice under this section given to him or her and a copy of a notice under this section given by him or her.

Leave on grounds of *force majeure*.

13.—(1) An employee shall be entitled to leave with pay from his or her employment, to be known and referred to in this Act as "*force majeure* leave", where, for urgent family reasons, owing to an injury to or the illness of a person specified in *subsection (2)*, the immediate presence of the employee at the place where the person is, whether at his or her home or elsewhere, is indispensable.

(2) The persons referred to in *subsection (1)* are—

(*a*) a person of whom the employee is the parent or adoptive parent,

(*b*) the spouse of the employee or a person with whom the employee is living as husband or wife,

(*c*) a person to whom the employee is in *loco parentis*,

(*d*) a brother or sister of the employee,

(*e*) a parent or grandparent of the employee, and

F24**[**(*f*) a person other than one specified in any of paragraphs (*a*) to (*e*), who resides with the employee in a relationship of domestic dependency.**]**

F25**[**(2A) For the purposes of subsection (2)(*f*)—

(*a*) a person who resides with an employee is taken to be in a relationship of domestic dependency with the employee if, in the event of injury or illness, one reasonably relies on the other to make arrangements for the provision of care, and

(*b*) the sexual orientation of the persons concerned is immaterial.

(2B) Paragraph (*b*) of subsection (2A) is not to be taken to limit in any way the classes of persons in respect of whom an employee is entitled to *force majeure* leave by virtue of subsection (2)(*f*).**]**

(3) When an employee takes *force majeure* leave, he or she shall, as soon as reasonably practicable thereafter, by notice in the prescribed form given to his or her employer, confirm that he or she has taken such leave and the notice shall specify the dates on which it was taken and contain a statement of the facts entitling the employee to *force majeure* leave.

(4) *Force majeure* leave shall consist of one or more days on which, but for the leave, the employee would be working in the employment concerned but shall not exceed 3 days in any period of 12 consecutive months or 5 days in any period of 36 consecutive months.

(5) A day on which an employee is absent from work on *force majeure* leave in an employment for part only of the period during which he or she is required to work in the employment on that day shall be deemed, for the purposes of *subsection (4)*, to be one day of *force majeure* leave.

Annotations

Amendments:

F24 Substituted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 8(a), commenced on enactment.

F25 Inserted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 8(b), commenced on enactment.

PART III

Employment Rights

Protection of employment rights.

14.—(1) An employee shall, while on parental leave, be regarded for all purposes relating to his or her employment (other than his or her right to remuneration or superannuation benefits or any obligation to pay contributions in or in respect of the employment) as still working in the employment and none of his or her other rights relating to the employment shall be affected by the leave.

(2) Absence from employment while on parental leave shall not be treated as part of any other leave from employment (including sick leave, annual leave, adoptive leave, maternity leave and *force majeure* leave) to which the employee concerned is entitled.

(3) Where—

(*a*) an employee who is on probation in his or her employment or is undergoing training in relation to that employment or is employed under a contract of apprenticeship takes parental leave, and

(*b*) his or her employer considers that the employee's absence from employment while on parental leave would not be consistent with the continuance of the probation, training or apprenticeship,

the employer may require that the probation, training or apprenticeship be suspended during the period of the parental leave and be completed by the employee at the end of that period.

(4) An employee shall, while on *force majeure* leave, be regarded for all purposes relating to his or her employment as still working in the employment concerned and none of his or her rights relating to the employment shall be affected by the leave.

(5) Absence from employment while on *force majeure* leave shall not be treated as part of any other leave from the employment (including sick leave, annual leave, adoptive leave, maternity leave and parental leave) to which the employee concerned is entitled.

Return to work.

15.—(1) On the expiration of a period of parental leave (being, in a case where parental leave has been terminated under *section 12*, the period specified in the confirmation document concerned) ("the period"), the employee concerned shall be entitled to return to work—

(*a*) with the employer with whom he or she was working immediately before the start of the period or, where during the employee's absence from work there was or were a change or changes of ownership of the undertaking in which he or she was employed immediately before the absence, the owner on the expiration of the period ("the successor"),

(*b*) in the job that the employee held immediately before the commencement of the period, and

F26**[**(*c*) under the contract of employment under which the employee was employed immediately before the commencement of the period or, where a change of ownership such as is referred to in paragraph (*a*) has occurred, under a contract of employment with the successor that is identical to the contract under which the employee was employed immediately before such commencement, and (in either case) under terms or conditions—

(i) not less favourable than those that would have been applicable to the employee, and

(ii) that incorporate any improvement to the terms or conditions of employment to which the employee would have been entitled,

if he or she had not been so absent from work.**]**

(2) For the purposes of *subsection (1)(b)*, where the job held by an employee immediately before the commencement of a period of parental leave to which he or she is entitled was not the employee's normal or usual job, he or she shall be entitled to return to work, either in his or her normal or usual job or in that job as soon as is practicable without contravention by the employee or the employer of any provision of a statute or provision made under statute.

(3) Where, because of an interruption or cessation of work at an employee's place of employment, existing on the expiration of a period of parental leave taken by the employee, it is unreasonable to expect the employee to return to work on such expiration, the employee may return to work instead when work resumes at the place of employment after the interruption or cessation, or as soon as reasonably practicable after such resumption.

Annotations

Amendments:

F26 Substituted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 9, commenced on enactment.

F27**[**Right to request changes when returning from parental leave.

15A. (1) An employee who exercises or proposes to exercise an entitlement under section 15 may request, in accordance with subsection (2), changes to his or her working hours or patterns, or both, to apply for a set period of time following his or her return to work.

(2) An employee who proposes to request changes referred to in subsection (1) shall, as soon as reasonably practicable but not later than 6 weeks before the proposed commencement of the set period concerned, give to his or her employer a request in writing signed by the employee, which shall specify the nature of the changes requested and the date of commencement and duration of the set period requested.

(3) An employer who receives a request made in accordance with subsection (2) shall consider that request, having regard to his or her needs and the employees needs and, as soon as reasonably practicable but not later than 4 weeks after such receipt, shall—

(*a*) inform the employee in writing that the request has been refused, or

(*b*) comply with subsection (4).

(4) An employer complies with this subsection where he or she and the employee concerned prepare and sign an agreement setting out—

(*a*) the changes to the employees working hours or patterns, or both, as the case may be, and

(*b*) the date of the commencement and duration of the set period,

as may be agreed between them.

(5) An employer shall retain the agreement referred to in subsection (4) and shall give a copy of it to the employee concerned who shall retain it.

(6) Before the date on which an agreement referred to in subsection (4) is signed, the employee may, by notice in writing signed by him or her and given to the employer, revoke a request under subsection (2) given by him or her.**]**

Annotations

Amendments:

F27 Inserted (8.03.2013) by *European Union (Parental Leave) Regulations 2013* (S.I. No. 81 of 2013), reg. 6, in effect as per reg. 1(2).

Right to alternative employment.

16.—(1) Where an employee is entitled to return to work pursuant to *section 15* but it is not reasonably practicable for the employer to permit the employee to return to work in accordance with that section, the employee shall be entitled to be offered by his or her employer suitable alternative employment under a new contract of employment.

(2) Work under a new contract of employment constitutes suitable alternative work for the purposes of this Act if—

(*a*) it is of a kind that is suitable in relation to the employee concerned and appropriate for the employee to do in the F28**[**circumstances,**]**

F29**[**(*b*) the terms or conditions of the contract—

(i) relating to the place where the work under it is required to be done, the capacity in which the employee concerned is to be employed and any other terms or conditions of employment are not less favourable to the employee than those of his or her contract of employment immediately before the start of the period of absence from work while on parental leave, and

(ii) incorporate any improvement to the terms or conditions of employment to which the employee would have been entitled if he or she had not been so absent from work during that period,

and

(*c*) the continuity of service is preserved.**]**

Annotations

Amendments:

F28 Substituted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 10, commenced on enactment.

F29 Substituted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 10, commenced on enactment.

F30**[**Protection of employees from penalisation.

16A.— (1) An employer shall not penalise an employee for proposing to exercise or having exercised his or her entitlement to parental leave or *force majeure* leave F31**[**or to make a request under section 15A(2)**]**.

(2) Penalisation of an employee includes—

(*a*) dismissal of the employee,

(*b*) unfair treatment of the employee, including selection for redundancy, and

(*c*) an unfavourable change in the conditions of employment of the employee.

(3) If a penalisation of an employee, in contravention of subsection (1), constitutes a dismissal of the employee, as referred to in subsection (2)(*a*), the employee may institute proceedings under the Unfair Dismissals Acts 1977 to 2005 in respect of that dismissal and such dismissal may not be referred to a rights commissioner under Part IV.

(4) An employee who is entitled to return to work in the employment concerned in accordance with section 15 but is not permitted by his or her employer to do so—

(*a*) shall be deemed to have been dismissed on the date on which he or she was entitled to so return to work and the dismissal shall be deemed, for the purposes of the Unfair Dismissals Acts 1977 to 2005, to have been an unfair dismissal unless, having regard to all the circumstances, there were substantial grounds justifying the dismissal, and

(*b*) shall be deemed for the purposes of the Redundancy Payments Acts 1967 to 2003, to have had his or her contract of employment with his or her employer terminated on the date aforesaid.**]**

Annotations

Amendments:

F30 Inserted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 11, commenced on enactment.

F31 Inserted (8.03.2013) by *European Union (Parental Leave) Regulations 2013* (S.I. No. 81 of 2013), reg. 7, in effect as per reg. 1(2).

PART IV

RESOLUTION OF DISPUTES

Annotations

Editorial Notes:

E15 Redress and appeal procedures for disputes about entitlements under Act provided (1.10.2015) by *Workplace Relations Act 2015* (16/2015), ss. 41, 44 and sch. 5 part 3 item 3, sch. 6 part 1 item 11, S.I. No. 410 of 2015.

"Dispute".

17.F32**[**...**]**

Annotations

Amendments:

F32 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 ref. 11, S.I. No. 410 of 2015, subject to transitional provisions in subs. (2).

Reference of disputes to rights commissioner.

18.—(1) This Part does not apply to a member of the Defence Forces.

F33**[**(2) This Part does not apply to a dispute—

(a) relating to a dismissal from employment, including a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2007,

(b) consisting of a question to which section 39(15) of the Redundancy Payments Act 1967, applies.**]**

(3) F34**[**...**]**

(4) F34**[**...**]**

(5) F34**[**...**]**

(6) F34**[**...**]**

(7) F34**[**...**]**

Annotations

Amendments:

F33 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 52(1) and sch. 7 part 1 ref. 11, S.I. No. 410 of 2015, subject to transitional provisions in subs. (3).

F34 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 item 11, S.I. No. 410 of 2015, subject to transitional provisions in subs. (2).

Editorial Notes:

E16 Previous affecting provision: power pursuant to subs. (4) exercised (20.01.1999) by *Parental Leave (Disputes and Appeals) Regulations 1999* (S.I. No. 6 of 1999), in effect as per reg. 1; subsection repealed as per F-note above.

Appeal from decision of rights commissioner.

19.F35**[**...**]**

Annotations

Amendments:

F35 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 ref. 11, S.I. No. 410 of 2015, subject to transitional provisions in subs. (2).

Editorial Notes:

E17 Previous affecting provision: power pursuant to subs. (2) exercised (20.01.1999) by *Parental Leave (Disputes and Appeals) Regulations 1999* (S.I. No. 6 of 1999), in effect as per reg. 1; section repealed as per F-note above.

Appeal to High Court on point of law.

20.F36**[**...**]**

Annotations

Amendments:

F36 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 ref. 11, S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F37**[**Decision under section 41 or 44 of Workplace Relations Act 2015.

21. (1) A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a dispute between an employee and his or her employer relating to the entitlements of the employee under this Act (or any matter arising out of or related to those entitlements or otherwise arising under this Act) or a decision of the Labour Court under section 44 of the said Workplace Relations Act 2015 on appeal from the first-mentioned decision, may contain such directions to the parties concerned as the adjudication officer or the Labour Court, as the case may be, considers necessary or expedient for the resolution of the dispute or matter and such other redress as the adjudication officer or the Labour Court, as the case may

be, considers appropriate having regard to all of the circumstances and the provisions of this Act, and accordingly may specify—

(a) the grant to the employee of parental leave of such length to be taken at such time or times and in such manner as may be so specified,

(b) an award of compensation in favour of the employee concerned to be paid by the employer concerned, or

(c) both a grant referred to in paragraph (a) and an award referred to in paragraph (b).

(2) An award of compensation referred to in subsection (1) (b) shall be of such amount as the adjudication officer or the Labour Court, as the case may be, considers just and equitable having regard to all the circumstances but shall not exceed 20 weeks' remuneration in respect of the employee's employment calculated in such manner as may be prescribed.

(3) A decision of an adjudication officer or the Labour Court referred to in subsection (1) may, if the adjudication officer or the Labour Court, as the case may be, considers it reasonable having regard to the illness or other incapacity of the employee concerned or any other circumstance, include a direction that parental leave be taken at a time that does not accord with section 6(3).

(4) Without prejudice to the generality of subsections (1) and (2), a decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a dispute referred to in subsection (1) may contain a direction that the commencement of parental leave be postponed for a specified period (whether or not being the period specified in the relevant notice under section 11(1)), provided that the adjudication officer—

(a) is satisfied that the taking of such leave at the time specified in the notice under section 8(1) concerned would have a substantially adverse effect by reason of any of the matters specified in section 11(1), and

(b) considers that it is reasonable to give such a direction in the circumstances.

(5) Without prejudice to the generality of subsections (1) and (2), a decision of the Labour Court under section 44 of the Workplace Relations Act 2015 on appeal from a decision of an adjudication officer referred to in subsection (1) may contain a direction that the commencement of parental leave be postponed for a specified period (whether or not being the period specified in the relevant notice under section 11(1)), provided that the Labour Court—

(a) is satisfied that the taking of such leave at the time specified in the notice under section 8(1) concerned would have a substantially adverse effect by reason of any of the matters specified in section 11(1), and

(b) considers that it is reasonable to give such a direction in the circumstances.

(6) Without prejudice to the generality of subsections (1) and (2), a decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a dispute referred to in subsection (1) may contain a direction that—

(a) the period of parental leave concerned be curtailed or that its form be varied or its commencement postponed for a specified period, or

(b) parental leave taken by reason of being so curtailed be taken at a specified time,

provided that the adjudication officer considers that the giving of such direction is reasonable due to there being a serious and substantial change in circumstances affecting the employer or the employee.

(7) Without prejudice to the generality of subsections (1) and (2), a decision of the Labour Court under section 44 of the Workplace Relations Act 2015 on appeal from a decision of an adjudication officer referred to in subsection (1) may contain a direction that—

(a) the period of parental leave concerned be curtailed or that its form be varied or its commencement postponed for a specified period, or

(b) parental leave not taken by reason of being so curtailed be taken at a specified time,

provided that the Labour Court considers that the giving of such direction is reasonable due to there being a serious and substantial change in circumstances affecting the employer or the employee.

(8) Where appropriate, the confirmation document concerned shall be amended by the parties concerned so as to accord with a decision under this section.

(9) In this section 'remuneration' includes allowances in the nature of pay and benefits in lieu of or in addition to pay.**]**

Annotations

Amendments:

F37 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 52(1) and sch. 7 part 1 ref. 11, S.I. No. 410 of 2015, subject to transitional provisions in subs. (3).

Editorial Notes:

E18 Relevant redress provision specified (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 41(5)(b)(ii), 44(1)(b)(i), sch. 6 parts 1 and 2 item 11, and sch. 7 part 1 item 11, S.I. No. 410 of 2015.

E19 Previous affecting provision: power pursuant to subs. (3) exercised (10.02.1999) by *Parental Leave (Maximum Compensation) Regulations 1999* (S.I. No. 34 of 1999), in effect as per reg. 1; subsection substituted as per F-note above.

Enforcement of decisions of rights commissioner and determinations of Tribunal.

22.F38**[**...**]**

Annotations

Amendments:

F38 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 ref. 11, S.I. No. 410 of 2015, subject to transitional provisions in subs. (2).

PART V

Miscellaneous

F39**[**Codes of practice.

22A.— (1) The Equality Authority may, or if requested to do so by the Minister shall, prepare for submission to the Minister a draft code of practice for the purposes

of providing practical guidance as to the steps that may be taken for complying with one or more provisions of this Act.

(2) Before submitting a draft code of practice under subsection (1) to the Minister, the Equality Authority shall consult such other Minister of the Government or other person or body as the Equality Authority considers appropriate or as the Minister may direct.

(3) After a draft code of practice has been submitted under subsection (1), the Minister may by order declare that the draft—

(*a*) is an approved code of practice for the purposes of this Act, or

(*b*) as amended by the Minister after consultation with the Equality Authority, is an approved code of practice for the purposes of this Act,

and an order under this subsection shall set out the text of the approved code of practice to which it relates.

(4) In any proceedings under this Act before a court, the Employment Appeals Tribunal or a rights commissioner, an approved code of practice shall be admissible in evidence and, if any provision of the code appears to be relevant to any question arising in the proceedings, it shall be taken into account in determining that question.

(5) The Minister may, by order, after consultation with the Equality Authority, revoke or amend an approved code of practice.

(6) Every order made under subsection (3) or (5) shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(7) In this section, 'Equality Authority' means the Equality Authority as construed in accordance with section 38(1) of the Employment Equality Act 1998.**]**

Annotations

Amendments:

F39 Inserted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 12, commenced on enactment.

Modifications (not altering text):

C5 Prospective affecting provision: functions transferred and Employment Appeals Tribunal construed by *Workplace Relations Act 2015* (16/2015), s. 66, not commenced as of date of revision.

Transfer of functions from Employment Appeals Tribunal

66.(1) (a) All functions that, immediately before the dissolution day, were vested in the Employment Appeals Tribunal are transferred to the Commission in so far as they relate to any claim for redress, dispute or complaint determined by the Employment Appeals Tribunal under an employment enactment before that day.

(b) All functions that, immediately before the dissolution day, were vested in the Employment Appeals Tribunal are transferred to the Labour Court in so far as they relate to appeals determined by the Employment Appeals Tribunal under an employment enactment before that day.

(2) (a) References in any enactment or instrument under an enactment to the Employment Appeals Tribunal in so far as they relate to a function transferred by paragraph (a) of subsection (1) shall be construed as references to the Commission.

(b) References in any enactment or instrument under an enactment to the Employment Appeals Tribunal in so far as they relate to a function transferred by paragraph (b) of subsection (1) shall be construed as references to the Labour Court.

(3) This section shall come into operation on the dissolution day.

C6 "Equality Authority" construed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 44(2), S.I. No. 450 of 2014.

Transfer of functions to Commission

44. (1) All functions that, immediately before the establishment day, were vested in a dissolved body are transferred to the Commission.

(2) References in any enactment or instrument under an enactment to the Human Rights Commission or the Equality Authority, as the case may be (howsoever described) shall be construed as references to the Commission save where other provision is made as respects the construction of the first-mentioned references by any enactment passed before the passing of this Act.

(3) This section shall come into operation on the establishment day.

Notices.

23.—(1) The giving of a notice or other document to a person for the purposes of proceedings under this Act may be effected by delivering it to the person or by sending a copy of it by registered prepaid post in an envelope addressed to the person at the person's last known residence or place of business.

(2) In the case of a company to which the Companies Act, 1963, applies, such a document may be given by delivering it, or sending a copy of it by registered prepaid post in an envelope addressed to the company at its registered office.

(3) In the case of a body corporate to which *subsection (2)* does not apply or an unincorporated body of persons, such a document may be given by sending a copy of it to the body at any place in the State where it carries on business or in such other manner as an originating summons may be served on the body under rules of court.

(4) A rights commissioner may, if he or she considers it reasonable to do so having regard to all the circumstances, extend by a specified period (not exceeding 6 weeks) the period of time within which a notice under this Act (other than *section 19(2)*) is required to be given.

(5) The Tribunal may, if it considers it reasonable to do so having regard to all the circumstances, extend by a specified period the time within which a notice under *section 19(2)* is required to be given.

(6) Time may be extended under *subsection (4)* or *(5)* after the expiration of the period of time concerned.

Winding up and bankruptcy.

24.F40**[...]**

Annotations

Amendments:

F40 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 ref. 11, S.I. No. 410 of 2015,subject to transitional provisions in subs. (2).

Amendment of enactments.

25.—(1) The Redundancy Payments Act, 1967, is hereby amended by the substitution in paragraph 5(1) of Schedule 3 of the following clause for clause (*d*) (inserted by the Maternity Protection Act, 1994):

"(*d*) a period during which the employee is absent from work while on protective leave, natal care absence within the meaning of Part IV of the Maternity Protection Act, 1994, parental leave or *force majeure* leave.".

(2) Section 6 of the Unfair Dismissals Act, 1977, is hereby amended—

(*a*) by the insertion in subsection (2), after paragraph (*d*), of the following paragraph:

"(*dd*) the exercise or proposed exercise by the employee of the right to parental leave or *force majeure* leave under and in accordance with the *Parental Leave Act, 1998*,",

and

(*b*) the insertion, after subsection (2A) (inserted by the Maternity Protection Act, 1994), of the following subsection:

"(2B) Sections 3 and 4 do not apply to a case falling within subsection (2)(*dd*) and, for the purpose of that paragraph, 'employee' includes a person who would otherwise be excluded from this Act by paragraph (*a*), (*c*), (*f*) or (*g*) of section 2(1).".

(3) An employee who is entitled to return to work in the employment concerned in accordance with *section 15* but is not permitted by his or her employer to do so—

(*a*) shall be deemed to have been dismissed on the date on which he or she was entitled to return to work as aforesaid and the dismissal shall be deemed, for the purposes of the Unfair Dismissal Acts, 1977 to 1993, to have been an unfair dismissal unless, having regard to all the circumstances, there were substantial grounds justifying the dismissal,

(*b*) shall be deemed for the purposes of the Redundancy Payments Acts, 1967 to 1991, to have been dismissed by reason of redundancy on the date aforesaid, and

(*c*) shall be deemed for the purposes of the Minimum Notice and Terms of Employment Acts, 1973 to 1991, to have had his or her contract of employment with his or her employer terminated on the date aforesaid.

(4) The Organisation of Working Time Act, 1997, is hereby amended—

(*a*) in section 15, by the insertion in subsection (4), after paragraph (*a*), of the following paragraph:

"(*aa*) any period during which the employee was absent from work while on parental leave or *force majeure* leave,",

and

(*b*) in section 16, by the insertion in subsection (5), after paragraph (*c*), of the following paragraph:

"(*cc*) any period during which the employee was absent from work while on parental leave or *force majeure* leave,".

(5) The Employment Equality Act, 1998, is hereby amended by the insertion in section 39, after paragraph (*b*), of the following paragraph:

"(*bb*) to provide information to the public on the working of the *Parental Leave Act, 1998*,".

Annotations

Editorial Notes:

E20 The amendment to the *Redundancy Payments Act 1967* in subs. (1) above was substituted (2.07.2001) by *Carer's Leave Act 2001* (19/2001), s. 26, commenced on enactment and substituted again (10.04.2005) by *Redundancy Payments Act 2003* (14/2003), s. 12, S.I. No. 77 of 2005.

E21 The amendment to the *Unfair Dismissals Act 1977* in subs. (2)(a) above was substituted (2.07.2001) by *Carer's Leave Act 2001* (19/2001), s. 27(2), commenced on enactment.

E22 The amendments to the *Organisation of Working Time Act 1997* in subs. (4) above were substituted (2.07.2001) by *Carer's Leave Act 2001* (19/2001), s. 28, commenced on enactment.

Extension of Protection of Employees (Employers' Insolvency) Act, 1984.

26.—(1) Section 6 of the Protection of Employees (Employers' Insolvency) Act, 1984 (as amended by the Maternity Protection Act, 1994) shall be amended in accordance with this section.

(2) In subsection (2)(*a*)(v), for clause (II) there shall be substituted—

"(II) a decision, determination or order under Part V of the Maternity Protection Act, 1994, or *Part IV* of the *Parental Leave Act, 1998*,".

(3) In subsection (4)(*c*)—

(*a*) for subparagraph (iv) (other than clauses (I) and (II) thereof) there shall be substituted—

"(iv) A payment shall not be made under this section in respect of an amount to which a decision under Part V of the Maternity Protection Act, 1994, or *Part IV* of the *Parental Leave Act, 1998*, relates unless—",

and

(*b*) for subparagraph (v) (other than clauses (I) and (II) thereof) there shall be substituted—

"(v) A payment shall not be made under this section in respect of an amount to which a determination under Part V of the Maternity Protection Act, 1994, or *Part IV* of the *Parental Leave Act, 1998*, relates unless—".

Annotations

Editorial Notes:

E23 The amendments to the *Employees (Employers' Insolvency) Act 1984* above were substituted (2.07.2001) by *Carer's Leave Act 2001* (19/2001), s. 30, commenced on enactment.

Records.

27.—(1) An employer shall make a record of the parental leave and *force majeure* leave taken by his or her employees showing the period of employment of each employee and the dates and times upon which each employee was on parental leave or *force majeure* leave.

F41**[**(2) A record under this section shall be retained by the employer concerned—

(*a*) where the record is in respect of parental leave, for a period of 12 years, and

(*b*) where the record is in respect of *force majeure* leave, for a period of 8 years,

in such form as the Minister may specify.**]**

(3) Notices, or copies of notices, required by this Act to be retained by a person shall be retained by the person for a period of one year.

(4) An employer who contravenes *subsection (1)* or F42**[***paragraph (a)* or *(b)* of subsection**]** *(2)* of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

(5) F43**[**...**]**

(6) Proceedings for an offence under this section may be brought and prosecuted by the Minister.

Annotations

Amendments:

F41 Substituted (19.07.2019) by *Parental Leave (Amendment) Act 2019* (11/2019), s. 7(a), S.I. No. 356 of 2019.

F42 Inserted (19.07.2019) by *Parental Leave (Amendment) Act 2019* (11/2019), s. 7(b), S.I. No. 356 of 2019.

F43 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 ref. 11, S.I. No. 410 of 2015, subject to transitional provisions in subs. (2).

Modifications (not altering text):

C7 Application of subs. (4) affected (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 6(2), (3), S.I. No. 662 of 2010. The Euro equivalent of £1,500 is €1,904.61.

Definitions.

3.— In this Part— ...

"class C fine" means a fine not exceeding €2,500;

...

Class C fines.

6.— ...

(2) Subject to subsection (3), where an enactment enacted during a period specified in column (2) of the Table opposite a particular reference number specified in column (1) of the Table provides that a person who commits an offence under the enactment shall be liable, upon summary conviction, to a fine not exceeding an amount that falls within the range of amounts specified in column (3) of the Table opposite the same reference number, a person who commits that offence after the commencement date shall, upon summary conviction, not be liable to that fine, but shall instead be liable to a class C fine.

(3) Where an enactment enacted before the commencement date provides that a person who commits an offence under the enactment shall be liable, upon summary conviction, to a fine not exceeding an amount that—

(*a*) was provided for by virtue of a subsequent enactment enacted during a period specified in *column (2)* of the Table opposite a particular reference number specified in column (1) of the Table, and

(*b*) falls within the range of amounts specified in *column (3)* of the Table opposite the same reference number,

a person who commits that offence after the commencement date shall, upon summary conviction, not be liable to that fine but shall instead be liable to a class C fine.

TABLE

Reference Number (1)	Period (2)	Range of amounts (3)

.	1 January 1997 to day immediately before commencement date	Not greater than €2,500 but greater than €1,000
...	...	...

...

Review of Act.

28.—The Minister shall, not earlier than 2 years and not later than 3 years after the commencement of this Act, after consultation with persons whom he or she considers to be representative of employers generally and persons whom he or she considers to be representative of employees generally, conduct a review of the operation of this Act and shall prepare a report in writing of the findings of the review and shall cause copies of the report to be laid before each House of the Oireachtas.