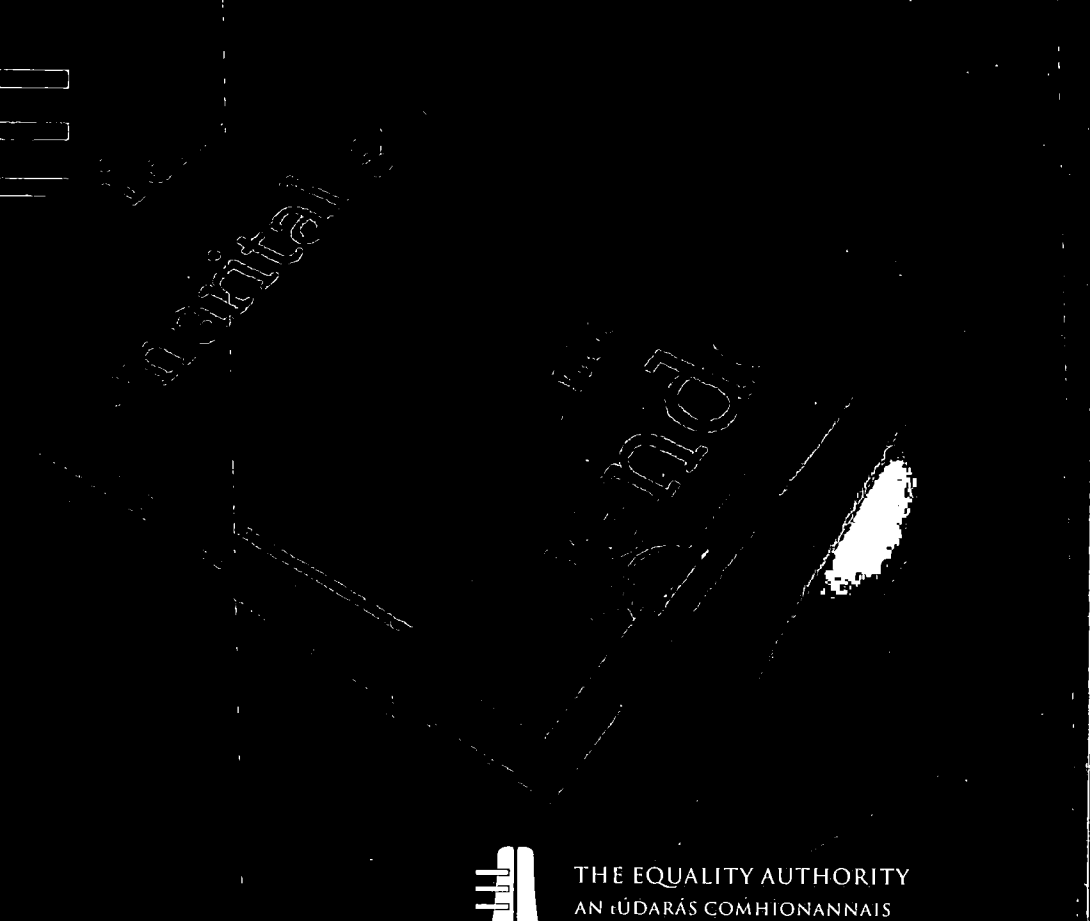


Equality in a Diverse Ireland

About the Maternity Protection Act, 1994



THE EQUALITY AUTHORITY
AN tÚDARÁS COMHIONANNAIS



CONTENTS

Introduction	2-3	Health and safety leave	16
Maternity leave	4-5	Health and safety certification	16-17
Employees on fixed term contracts	5-6	Payment and health and safety leave	17
Late Births	6	Ending health and safety leave	17-18
Early Births	6-7	Notice relating to health and safety leave	18
Stillbirths	7-8		
Additional maternity leave	9	Protection of employment rights	19-20
Time off without loss of pay for natal medical care visits	9-10	Public holidays and maternity leave	20
Father's leave in the event of the death of the mother	10-11	Probation training and apprenticeships	21
		Return to work after protective leave	21
		Protection against dismissal	22
		Contractual terms	22-23
Notification required under the Act:		Disputes and appeals under the Maternity Protection Act, 1994	23-24
Maternity leave	12		
Additional maternity leave	12	Appendix	
Ante-natal and post-natal medical visits	13	A - Examples of payment for the first 21 days of health and safety leave	25-30
Leave to which the father is entitled	14		
Return to work after maternity absences	14-15		

Introduction

The Maternity Protection Act, 1994 was introduced to update Irish legislation to the standard required by EC Directive 92/85. The Safety, Health and Welfare at Work (Pregnant Employees, etc.) Regulations, 1994 (S.I. 446 of 1994) were introduced at the same time. The purpose of these regulations is to outline the basic risks to workers who are pregnant, have recently given birth or are breast-feeding. In addition, the Maternity Protection Act, 1994 was amended with effect from 8th February 2001 by way of Statutory Instrument No. 29 of 2001.

Many of the entitlements provided by the Maternity Protection Act, 1994 as amended, already existed under the Maternity Protection of Employees Act, 1981.

However, there are several significant changes, notably with regard to who is covered by the Act, entitlement to health and safety leave under certain circumstances and new provisions regarding time off for natal care visits.

The purpose of this booklet is to provide information on the Act and its requirements. It is important to note that this is an information booklet and not an interpretation of the Act. The Maternity Protection Act, 1994 as amended, outlines the legal minimum terms relating to maternity at work. Higher standards may be provided or negotiated.

For the convenience of the reader, where an entitlement is outlined in this booklet, the relevant section of the Act will be indicated in brackets in the accompanying column.

It should be noted that while the Maternity Protection Act, 1994 as amended, provides details of leave entitlements etc., it does not cover maternity benefit (i.e. the payment a woman may be entitled to from the Department of Social Community and Family Affairs when she goes on maternity leave).

Should you have any enquiries about maternity benefit, please telephone the Department of Social Community and Family Affairs at 01-874 8444 or 043-45211 and ask for the Maternity Benefit Section or write to:

**Maternity Benefit Section,
Social Welfare Services Office,
Government Buildings,
Ballinalee Road,
Longford.**

Any queries about particular relevant health and safety risks should be addressed to the Health and Safety Authority (HSA) at 01-614 7000. The address of HSA is;

**Health and Safety Authority,
10 Hogan Place,
Grand Canal Street,
Dublin 2.**

**THE MATERNITY PROTECTION ACT, 1994,
AS AMENDED WITH EFFECT FROM 8TH FEBRUARY 2001**

[(S) Section]

The purpose of this Act is to provide pregnant employees with an entitlement to:

- maternity leave;
- additional maternity leave;
- time off for ante-natal and post-natal medical visits;
- father's leave in the event of the death of the mother
- if the death occurs within a set period after the birth of the child;
- health and safety leave;
- the right to return to work;
- protection of certain employment rights while on leave under the Act;
- protection against dismissal from the beginning of pregnancy to the end of maternity leave (if the dismissal results from pregnancy or connected matters);
- provide a mechanism for the resolution of disputes and appeals regarding entitlements under the Act.

[S.2(1)]

Anybody under a contract of employment is entitled to protection under the Maternity Protection Act, 1994. This includes apprentices, employees on probation and employment agency workers.

MATERNITY LEAVE

The Act as amended, entitles a pregnant employee who commences maternity leave at any time on or after 8th March 2001 to 18 consecutive weeks' maternity leave.

[S.8(1)]

In order to ensure this leave, an employee must inform her employer in writing, enclosing a medical certificate indicating the week during which it is expected the baby will be born. This notification must be given to the employer four weeks before the beginning of maternity leave, which includes the mandatory period of four weeks before the expected confinement. Essentially, this notification in writing should be given at a minimum of eight weeks before the expected date of confinement.

[S.9(1)(b)]

If a woman takes maternity leave, she must take a minimum of four weeks' leave before the last day of her expected week of confinement. She must also take a minimum of four weeks' leave after the last day of her expected week of confinement. She may take the other ten weeks' leave in what ever manner she desires as long as these weeks run consecutively with the core period. Usually, employees opt to take four weeks before the end of the confinement week and 14 weeks after it, but an employee could opt to take 14 weeks before and four after or ten weeks before and eight after, for example.

[S.8(1)]

[S.10(1)]

Maternity leave for women employed under fixed term contracts.

While all employed women are entitled to maternity leave, sometimes they may not be entitled to the full 18

[S.10(2)]

weeks' leave. Women employed on fixed term contracts are a case in point. If their contract ends while they are still on maternity leave, the leave ends on the same day. For example, an employee is contracted for a years' service. She goes on maternity leave eight weeks before her contract ends. In this case, her maternity leave ends after eight weeks. However, the State usually continues its payments for the full period of maternity leave subject to entitlement.

Exceptions to the normal rules governing maternity leave

Late Births

[S.12(1)] If an employee has less than four weeks' maternity leave left when her baby is born, then her maternity leave may be extended so that she still has four weeks' maternity leave after her confinement. The maximum extension is of four weeks. This means that statutory maternity leave can never exceed 22 weeks. For example, an employee opts to take 14 weeks' maternity leave before her expected confinement. However, the baby is two weeks' overdue. This means that she would then only have two weeks' maternity leave after the confinement. In this circumstance, the employee can have her maternity leave extended by two weeks so that she has four weeks' leave after the birth of the child.

[S.12(2)] **In such circumstances an employee must notify her employer in writing of such an extension as soon possible, stating the duration of the extension.**

Early Births

[S.13(2)]

In the event of a pregnant employee's date of confinement occurring more than four weeks before it is expected and if the employee has not already commenced maternity leave, she is entitled to take 18 weeks' maternity leave from that point. For example, a woman notifies her employer that she is due to go on maternity leave in six weeks' time. The following week, she gives birth pre-maturely. In this case, she is entitled to take 18 weeks' maternity leave from this point on.

In this instance, the employee must notify her employer in writing of her maternity leave within two weeks of the confinement. Another person can provide this notice on her behalf.

Stillbirths and Maternity Leave

[S.2(1)]

In the event of a stillbirth occurring after the 24th week of pregnancy, the mother is still entitled to 18 weeks' maternity leave. (Note: please refer to section 41 (1)(a) the Social Welfare (Consolidation) Act, 1993 and section 17(1)(b) of the Social Welfare Amendment Act, 1994).

A woman who goes on maternity leave may be entitled to maternity benefit from the Department of Social Community and Family Affairs, subject to her P.R.S.I. contributions. For further details, please contact the Department of Social Community and Family Affairs, Maternity Benefit Section.

Note: In order to avail of maternity leave, there are various notification requirements that must be met.

A good rule of thumb is to send in a minimum of four weeks' written notification in advance of your leave, stating your intention to take this leave and the date on which it commences. The same applies for your return to work. This will be dealt with in more detail in the section headed 'Notification required by the Act' in this booklet.

THE ENTITLEMENT TO ADDITIONAL MATERNITY LEAVE

All employees who have taken maternity leave have the right to take eight consecutive weeks additional maternity leave, if they so desire. This leave is commonly referred to as 'unpaid leave' or leave at your own expense. Additional maternity leave must commence immediately after maternity leave has ended. There can be no break between maternity leave and additional maternity leave if a woman wishes to ensure this entitlement. This means, for example, that a woman cannot return to work for a time, nor can she take her holidays or any period of sick leave, between maternity leave and additional maternity leave.

[S.14(1)]

In order to avail of additional maternity leave entitlement, you must notify your employer in writing a minimum of four weeks' before the additional maternity leave is due to commence. For further details, please refer to the section entitled Notification required by the Act.

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

[S.14(2)]

THE ENTITLEMENT TO TIME OFF WITHOUT LOSS OF PAY FOR ANTE-NATAL AND POST-NATAL MEDICAL CARE VISITS

Pregnant employees and employees who have recently given birth are entitled to time off work without loss of pay for ante-natal and post-natal medical visits. Regulations (S.I. 18 of 1995) have been made establishing the

[S.15(1)]

[S.I. 18 of 1995, (3)]

notification procedures required so that a woman may take time off work for such visits. There is no maximum or minimum amount of time off specified for these visits. Rather, the employee is entitled to as much time off as is necessary to attend each visit; that is, the time required to travel to and from the appointment and the time taken for the appointment itself.

[S.1.18 of 1995, (4)(b)]

After her first appointment, an employee must provide a medical certificate confirming both the visit and her pregnancy. Thereafter, an employer can ask to see her appointment card as proof of further scheduled visits. In the event of an employee having to undertake an unscheduled ante-natal or post-natal medical visit, she must provide a medical certificate confirming this visit.

LEAVE TO WHICH A FATHER IS ENTITLED IN THE EVENT OF THE DEATH OF THE MOTHER

In the event of the mother's death occurring within 22 weeks of the birth, the father is entitled to leave. This is usually a paid leave subject to the father qualifying by way of his social insurance contributions.

[S.16(2)(b)]

It is important to note that a father must produce a copy of the death certificate of the mother and the birth certificate of the child, if requested by his employer, in order to qualify for this leave.

[S.16(1)]

In the event of the mother's death occurring within 14 weeks of the birth, the father will be entitled to leave up to

the end of that 14th week. Thus, for example, if a mother dies two weeks after the week of confinement, the father is entitled to 12 weeks' leave. If she dies in childbirth, the father is entitled to 14 weeks' leave.

In the event of the mother's death occurring after the end of the 14th week, but before the end of the 22nd week after the week of confinement, the father is also entitled to leave. In this case, the period of leave ends at the end of the 22nd week following the week of confinement. For example, if the mother dies 16 weeks after the week of confinement, the father is entitled to six weeks' leave. For the purposes of this booklet, this leave will be referred to as additional father's leave. [S.16(1)(a)]

Leave to which the father is entitled must begin within seven days of the mother's death. [S.16(1)(b)]

If the mother died before the 14th week after the week of confinement and the father commenced leave within this period, the father is entitled to take a further eight weeks' leave if he so desires. This is similar to a mother's entitlement to additional maternity leave. For the purposes of this booklet, this leave will be referred to as further father's leave. [S.16(2)] [S.16(4)]

Details about notification necessary for father's leave, additional father's leave and further father's leave will be dealt with in the following section of this booklet.

If you are uncertain about any of your entitlements under this section, please telephone the Equality Authority for clarification.

If you are uncertain about your entitlements to payment, please contact the Department of Social, Community and Family Affairs.

NOTIFICATION REQUIRED UNDER THE ACT

[S.9(1)(a)] Maternity leave

In order to be entitled to maternity leave, a woman must submit notice of her intention to take this leave a minimum of four weeks before the leave begins. This **written** notice must state the date on which the leave is due to commence i.e. four weeks before the expected date of confinement.

[S.9(1)(b)] She also has to ensure that her employer has received a doctor's certificate confirming her pregnancy and the expected week of confinement.

[S.9(2)] If a woman has notified her employer that she intends to take maternity leave and then changes her mind, she may revoke this notice by sending a further written notice to her employer stating that she no longer wishes to take maternity leave from the date specified.

Notification relating to maternity leave may be written by another person on behalf of the woman.

Additional maternity leave

[S.14(4)] A woman who wishes to avail of her entitlement to additional maternity leave must notify her employer in writing. She must do this at least four weeks before the

day on which her additional maternity leave is due to commence.

She must inform her employer of the date on which she intends to start her additional maternity leave. This notification may be given to her employer at the same time as her notice of her maternity leave, if the employee wishes.

If a woman changes her mind and decides she does not want to take additional maternity leave after notifying her employer that she was going to take it, she must send further notice to her employer of this fact. She must do so no later than four weeks before the additional maternity leave would have been due to start. She cannot revoke notice of additional maternity leave later than four weeks before the end of her maternity leave.

Notification relating to additional maternity leave may be written by another person on behalf of the mother.

Notification required for ante-natal and post-natal medical visits.

Regulations (S.I. 18 of 1995) have been made by the Minister for Equality and Law Reform under section 15 of the Maternity Protection Act, 1994. These regulations specify the notification requirements in order to ensure entitlement to time off without loss of pay for ante-natal and post-natal medical visits. The employee must give notice at least two weeks in advance of a scheduled medical visit. This notice must state the date and time on which the visit is due to occur.

[S.15]

If the natal visit is unscheduled and it is impossible to give two weeks' notice, the employee must provide a medical certificate. She must also provide an explanation as to why it was not possible to give her employer two weeks' notice of the visit within seven days of the day the visit occurred.

Notification required for leave to which the father is entitled

[S.16(2)(a)] Notice of father's leave must be given no later than the day the leave commences. This must be written notice.

[S.16(5)] The father must also notify his employer if he wishes to take further father's leave. This notice must either be

[S.16(6)] given at the same time as the notice of father's leave or, if this is not possible, no later than four weeks' before the end of father's leave.

Further father's leave may be revoked with four weeks' notice. Notice of father's leave or further father's leave may be written by another person on behalf of the father.

Notice of an employee's intention to return to work after maternity leave or additional maternity leave

(Note: please refer to the subsection entitled 'return to work' on pages 21-22)

[S.28(1)] An employee must provide written notice if she intends to return to work after her maternity leave or her additional maternity leave. This notice must be given to her employer at least four weeks before her maternity leave or her additional maternity leave is due to end. This notice must state her return date. Notice of return to

work may be written by another person on behalf of the mother if so desired. [S.28(3)]

It should be noted that employees are entitled to all rights under the Act whether or not they intend to return to work. [S.28(3)]

If a woman does not provide proper notice of her return to work, this could affect her right to return to work contained in the Act. **Thus, it is very important that a woman sends in proper notice before the four week deadline laid down by the Act.** In certain exceptional circumstances, a rights commissioner or the Employment Appeals Tribunal may extend the time limit for giving notice of return.

HEALTH AND SAFETY LEAVE

[S.17] Health and safety leave may be provided to women who are pregnant, have recently given birth or are breast-feeding in certain situations.

[S.I. 446 of 1994] Regulations under the Safety, Health and Welfare at Work Act, 1989 (S.I. 446 of 1994) require that an employer must assess the workplace for risks to pregnant workers, workers who have recently given birth or who are breast-feeding. If a risk is established to a woman who fits into one of these categories, the employer must put in place measures to remove the risk. If it is not possible for the employer to do this, the employee must be granted suitable alternative work.

[S.18(1)] If it is not possible for the employer to transfer the employee to suitable alternative work, or the work to which the employee is being transferred is not suitable to her, then she must be granted health and safety leave.

[S.18(3)] Suitable alternative work is defined as being "appropriate to the employee in all circumstances".

Certification for women on health and safety leave

[S.18(2)] An employee who goes on health and safety leave must be granted a certificate by her employer if she asks for one. This health and safety certificate must state the reason she has been granted health and safety leave. It must also state when the leave commences and how long the leave is expected to last. The woman who has been granted leave may be required to present this certificate to the Department of Social Community and

Family Affairs so that she may receive health and safety benefit.

Examples of such certificates are available from the Equality Authority.

Payment to women on health and safety leave

An employee who is granted health and safety leave must be paid her usual wage by her employer for the first 21 days of her leave. For further details, please refer to Appendix (A) at the back of this booklet. [S.18(4)]

A woman whose health and safety leave extends beyond 21 days may be entitled to a social welfare benefit, subject to her P.R.S.I. contributions.

For further details regarding payment of Health and Safety benefit, please contact the Department of Social Community and Family Affairs, Health and Safety Benefit Section.

Ending health and safety leave

Health and safety leave for pregnant employees ends either if the risk is no longer an issue, suitable alternative work becomes available or on the commencement of maternity leave. [S.19(1)]

Health and safety leave ends for women on fixed term contracts on the day the contract finishes. [S.19(2)]

Health and safety leave for a breast-feeding mother ends if she ceases to breast-feed her child. [S.20(2)]

- [S.2(1)] If she has not ceased breast-feeding her child by the end of the 26th week following the birth of the child, then her leave ends after that week.

Notice relating to health and safety leave

- [S.20(2)] If a woman on health and safety leave ceases to be pregnant or ceases breast-feeding, she must give written notice to her employer straight away.
- [S.20(3)(a)] An employer who receives such notice must enable the employee to return to her usual job as soon as possible, notifying her that she can resume work. The employer must be satisfied that it is safe for the woman to return before sending this notice.
- [S.20(3)(b)] The employee must return to work no later than seven days after she receives notice to return from her employer.
- [S.20(4)] If the health risk to a woman is removed while she is on health and safety leave, the employer must immediately notify the woman of this. The woman must return to work within seven days of receiving such notice. The employer is also obliged to notify an employee who is on health and safety leave, should suitable alternative work become available. The woman must return within seven days of receiving this notice.

PROTECTION OF EMPLOYMENT RIGHTS

The Maternity Protection Act, 1994 collectively defines maternity leave, additional maternity leave, time off for ante-natal and post-natal medical visits, father's leave and health and safety leave as protective leave. [S.21(1)]

Employees availing of entitlements under the Act, other than 'additional' leave or 'further' leave, must be regarded as if they are in work. Thus, the period of maternity leave is **reckonable service**. Any benefits employees might be entitled to by virtue of being in work remain. For example, annual leave, seniority and credits towards pay increments are not affected. [S.22(1)]

An employer is not obliged to pay an employee during maternity leave, additional maternity leave, father's leave of any kind or after the first 21 days of health and safety leave.

If an employee is not being paid by an employer while on maternity leave she is not regarded as contributing to social welfare funds. This is the case as long as the Act allows that she does not have to be paid by the employer. This provision does not apply to natal care absences or the first 21 days of health and safety leave. [S.22(5)]

An employee on additional maternity leave, additional father's leave or further father's leave is not considered to be in work. The employee does not benefit from employment rights during such leave. This leave is not considered to be a break in service. The last day of [S.22(2)]

maternity leave (or father's leave) and the employees first day back at work are regarded as continuous service.

- [S.22(4)] Protective leave cannot be counted against any other leave entitlement an employee might have. Examples of such leave are annual leave or sick leave. Thus, an employer cannot say that an employee must take a day's holidays to go on an ante-natal medical appointment, for example. Similarly, maternity leave or natal visits must not be counted as part of the employee's sick leave record.

Public holidays and maternity leave

Employees on maternity leave (or father's leave) are entitled to be credited for any public holiday that occurs during their leave. They must receive the benefit of such leave. What this means in practice is that they must be given either

- (a) an extra day's pay, or
- (b) a set paid day off within a month, or
- (c) an extra day's annual leave

per public holiday that occurred during their leave. This also applies if the employer continues to provide full pay to the employee who is on such leave. She is still entitled to the benefit of public holidays occurring during her maternity leave.

- [S.22(6)] It should be noted that employees absent on health and safety leave do not have an entitlement to time off in lieu of public holidays that occur during such leave.

Probation, training and apprenticeships

All periods of probation, training and apprenticeship that are interrupted by protective leave are suspended until the end of the leave. For example, a woman is undergoing a four year apprenticeship. During this period she has 18 weeks' maternity leave. In this case, her apprenticeship is extended by eighteen weeks. [S.25]

Return to work after protective leave

An employee is entitled to return to work after protective leave. [S.26(1)]

She is entitled to return to work with the same employer or, if the workplace has changed ownership, the new owner. [S.26(1)(a)]

She is entitled to return to the same job that she had before her protective leave. [S.26(1)(b)]

She is entitled to the same contract of employment she possessed before her protective leave. If the employment is under new ownership, she is entitled to an identical contract with the new employer to the one she had prior to her protective leave. [S.26(1)(c)]

If the employee was not doing her usual work immediately before her protective leave began, she is entitled to return to her usual work on return from protective leave. [S.26(2)]

If it is impossible for the employee to return to her usual work following her protective leave, she is entitled to "suitable alternative work" which should not be substantially less favourable to her in respect of terms and conditions, responsibility or remuneration. [S.27]

- [S.29] If, for some reason, there is an interruption or cessation of work in her employment, an employee will not be expected to immediately return to work until such time as it is reasonable for her to do so.

Protection against dismissal

- [S.23] An employee who is on protective leave cannot be dismissed, made redundant or suspended while on such leave. Notice of any kind of dismissal or redundancy cannot be given to an employee while that employee is on protective leave.
- [S.24] Notice of dismissal, redundancy or suspension given **prior** to maternity leave, additional maternity leave, father's leave or time off for a natal care visit that is due **to take effect** during such leave is extended to the end of the relevant period of leave.
- [S.38(4)] An employee cannot be dismissed on grounds of pregnancy, for having recently given birth or for breast-feeding. An employee cannot be dismissed because she availed of rights allowed to her under the Maternity Protection Act, 1994. The Act amends the Unfair Dismissals Acts, 1977 to 1993 to that effect. See the Unfair Dismissals Act, 1977 to 1993 Section 6(2)(f) and (g).

Contractual terms less favourable than

entitlements under the Maternity Protection Act, 1994

- [S.24] Contracts of employment which provide for less favourable entitlements to those provided by the Act are made void by the Act. For example, if a woman's contract of employment says that she is only entitled to ten

weeks' maternity leave, this provision in her contract is invalid.

DISPUTES AND APPEALS RELATING TO RIGHTS UNDER THE MATERNITY PROTECTION ACT, 1994

Either the employee or the employer can refer a dispute that relates to entitlements under the Act to a Rights Commissioner. There are two exceptions to this rule. Disputes related to dismissal must be referred under the Unfair Dismissals Acts, 1977 to 1993. Disputes that relate to specific health risks in the workplace (that is to say, whether something constitutes a health risk or not) must be referred to the Health and Safety Authority. [S.30]

The dispute must be referred to a Rights Commissioner within six months of the issue arising. For example, if a woman returns to work after her maternity leave on January 3rd and is told that she will not be given the benefit of public holidays that occurred during her leave, she must refer this dispute to a Rights Commissioner before July 3rd. [S.31]

Disputes must be referred to a Rights Commissioner in writing. Details sent to a Rights Commissioner of a dispute must state the name and address of the person who is taking the dispute. The name and address of the other party to the dispute (called the respondent) must be included also. Finally, the details and facts of the issue and

the reason for the dispute must be included. Forms are available from **The Labour Relations Commission, Tom Johnson House, Haddington Road, Dublin 2. Tel: 01-6136700**

If the Rights Commissioner receives notice of a dispute, details will be sent out by the Rights Commissioner to the respondent. The respondent must reply to the Rights Commissioner within 14 days if the dispute is contested. If the respondent replies, a hearing will be arranged for the resolution of the dispute. The Rights Commissioner will make a decision regarding the dispute.

[S.33] Either party may appeal the Rights Commissioner's decision to the Employment Appeals Tribunal. This appeal must be lodged with the Tribunal within four weeks of the decision being issued. The Tribunal will consider the issue and make a determination on the case.

[S.34] Thereafter, either party may appeal from the Tribunal to the High Court on a point of law. In certain circumstances, the Tribunal may refer a question of law to the High Court for determination.

[S.32] A Rights Commissioner or the Tribunal may award an employee leave for a specified period and/or compensation. Compensation will not exceed 20 weeks' remuneration.

In all cases, the Rights Commissioner or the Tribunal can give directions to the parties in such a manner as will resolve the dispute.

APPENDIX A

Examples for the calculation of the amount of remuneration to which an employee is entitled from her employer for the first 21 days of health and safety leave.

An employer granting an employee health and safety leave under section 18 of the Act must pay remuneration to the employee for the first 21 days of this leave. **Although the 21 days include days of the week for which the employee does not normally work** (e.g. Saturdays, Sundays) these days are not taken into account in calculating the employee's daily pay and **no payment is received in respect of them.**

The following are examples of how the amount of remuneration is calculated. In calculating the amount to be paid during the 21-day period, remuneration an employee would receive for overtime, nightwork, shift work, working unsocial hours or being available on stand by or otherwise on call is excluded.

Employees paid at a fixed rate

In the case of an employee whose wages do not vary in relation to the amount of work she does – e.g. if she is paid by an hourly rate for a set period of time per week, months, etc. or by a fixed wage or salary – a week's pay will be taken to mean her earnings for her normal weekly working hours at the date she was granted health and safety leave (including any regular bonus or allowance which is not performance related). Any remuneration paid on a non-weekly basis is to be apportioned to that week on a pro rata basis. The 21 days is calculated by multiplying a week's pay by 3.

Example 1

An employee working a 5 day week Monday to Friday is paid weekly on Fridays. She was granted health and safety leave on Monday for five weeks. On the previous Friday she received remuneration consisting of £200 wage and £60 overtime. She also receives a monthly allowance of £100.

Her weekly pay is calculated as follows:

Weekly wage	£200
Allowance apportioned	£25 (i.e. 100/4)
	£225

21 days remuneration to be paid by the employers is $£225 \times 3 = £675$

Example 2

An employee is paid £800 monthly in arrears. On the 21st of February she was granted health and safety leave for 6 weeks.

Her weekly pay is calculated as follows: $£800/4 = £200$

21 days remuneration to be paid by the employers $£200 \times 3 = £600$

Example 3

An employee working for 2 days 1 week and 3 days the next week was granted 4 weeks health and safety leave. She receives wages of £100 per week on Fridays.

Her remuneration to be paid by the employer is calculated as follows: $£100 \times 3 = £300$

There may be exceptions to this general case, where the 21 days of health and safety leave are not consecutive:

If at least 14 days are taken consecutively the the employee is entitled to twice her weekly pay (as calculated above) for the first 14 days and, for each additional day, a sum equal to her weekly pay divided by the number of days she normally works in the week.

Example 4

An employee working on the same terms as in Example 1 (i.e. a 5 day week Monday to Friday, paid on Fridays). On the previous Friday she received £200 wages and £60 overtime. She also receives a monthly allowance of £100, was granted health and safety leave on a Tuesday (for 16 consecutive days), and then returned to work. However, having worked for 1 day it became clear that further leave was necessary and she was granted leave for 4 further days.

The remuneration to be paid by the employer is calculated as follows:

The first 14 days (Tue - Mon)	£450 (i.e. £225 x 2)
The remaining 7 days (Tue, Wed, Fri - Mon)	£180 (i.e. £225/5x4)
	£630

Note: In calculating the daily rate, days not normally worked (in this case Saturday and Sunday) are excluded.

If between 7 and 14 days are taken consecutively then the employee is entitled to her weekly pay for the first 7 days and, for each additional day which would normally have been worked, a sum calculated as in the previous example.

Example 5

An employee working a 5 day week Monday to Friday, paid on Fridays, was granted health and safety leave on a Wednesday for 12 consecutive days. On the previous Friday she received £250 wages and £50 overtime. On returning to work for 2 days it became clear that further leave was necessary and she was granted leave for 3 further days.

The remuneration to be paid by the employer is calculated as follows:

The first 7 days (Wed - Tue)	£250
The remaining 8 days (Wed - Sun, Wed - Fri)	£300 (i.e. £250/5 x 6)
	£550

Note: In the remaining 8 days a 'nil' health and safety leave payment for Saturday, Sunday not worked and Monday and Tuesday worked.

If less than 7 days are taken consecutively then the employee is entitled to receive for each day a sum equal to her weekly pay divided by the number of days she normally works in that week.

Example 6

An employee working a 5 day week Monday to Friday, paid on Fridays, was granted health and safety leave on a Monday for 3 consecutive days. On the previous Friday she received £250 wages and £50 overtime. On returning to work for a day it became clear that further leave was necessary and she was granted leave for a further 5 days.

The remuneration to be paid by the employer for the

8 days leave is calculated as follows: $£250/5 \times 6 = £300$

Note: A 'nil' health and safety leave payment for the Thursday worked and for the Saturday and Sunday.

Employees not paid at a fixed rate

Where an employee is not paid at a fixed rate, her weekly pay is equal to one twenty-sixth of her total remuneration, including any bonus, pay allowance or commission, for the last 26 weeks worked before she was granted health and safety leave.

Example 7

An employee who works on a commission basis was granted health and safety leave for 6 weeks. For the 26 weeks prior to taking this leave the employee received a total remuneration of £4,680.

The remuneration to be paid by the employer is calculated as follows:

Average weekly wage	£180 (i.e. £4,680/26)
---------------------	-----------------------

21 days remuneration	£540 (i.e. £180 x 3)
----------------------	----------------------

Example 8

An employee who works on a commission basis was granted health and safety leave for 5 weeks. In the sixth week prior to taking health and safety leave she did not work for the full week, due to illness so that week's earnings are excluded. For the 27 weeks prior to taking this leave she received total remuneration of £4,560. £300 of this is attributable to overtime and £100 relates to the week during which the employee was absent, giving earnings of £4,160 for the relevant 26-week period.

The remuneration to be paid by the employer is calculated as follows:

Average weekly wage	£160 (i.e. £4,560-£300-£100/26)
---------------------	---------------------------------

21 days remuneration	£480 (i.e. £160 x 3)
----------------------	----------------------

Example 9

An employee who works on a commission basis but without a regular number of working days in any week was granted health and safety leave for 10 days. In the sixth week prior to taking health and safety leave she did not work for the full week, due to illness so that week's earnings are excluded. For the 27 weeks prior to taking this leave she received total remuneration of £4,560. £300 of this is attributable to overtime and £100 relates to the week during which the employee was absent, giving earnings of £4,160 for the relevant 26-week period.


The remuneration to be paid by the employer is calculated as follows:

The first 7 days £160 (i.e. $\frac{£4,560 - £300 - £100}{26}$)

The remaining 3 days £96 (i.e. $\frac{£160}{5} \times 3$)

Note: Where an employee does not work a set number of days per week, the normal weekly pay is divided by 5.

This image shows a full page of a worksheet designed for handwriting practice. It features approximately 20 evenly spaced, horizontal dashed lines across the entire width of the page. The background is plain white, providing a clear guide for letter height and placement. There are no margins, text, or other markings present.



The Equality Authority
Clonmel Street
Dublin 2
Ireland

Lo Call: 1890 245545
Telephone: + 353 1 4173333
Text phone: + 353 1 4173385
Facsimile: + 353 1 4173366
Email: info@equality.ie
Website: www.equality.ie