



Comparison of Family Leave Entitlements: Maternity Leave, Paternity Leave and Adoptive Leave

In both Ireland and Great Britain (GB) there has been a significant shift towards ensuring a healthier work life balance and with that comes the implementation of family friendly policies in the workplace. As a starting point, employers with employees in both jurisdictions should familiarise themselves with the different basic family leave entitlements available to employees and workers.

In the below comparative table, we have summarised some of the key points in respect of maternity leave, paternity leave and adoptive leave. A further table will issue in respect of parental leave, shared parental leave (GB) and parent's leave (Ireland).

Please note that this is a non-exhaustive list of family related leave. There are additional types of family related leave, to include but not limited to carer's leave (in both GB and Ireland), parental bereavement leave (in GB) and force majeure leave (in Ireland).

Maternity Leave and Pay



Statutory Protection

Employment Rights Act, 1996, as amended; and Maternity and Parental Leave etc Regulations 1999

Maternity Protection Act, 1994, as amended



Eligibility for Leave

Pregnant employees including transgender men.
All rights to maternity leave and pay continue to apply in cases of stillbirth after 24 weeks' pregnancy.
No service requirement

Pregnant employees to include transgender men who have given birth.
In the event of a stillbirth occurring after 24 weeks of pregnancy, an employee is still entitled to 26 weeks leave.
No service requirement



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Maternity Leave and Pay



Duration

Up to 52 weeks consisting of 26 weeks' ordinary maternity leave (OML) and 26 weeks' additional maternity leave (AML).

All employees must take 2 weeks' compulsory maternity leave (4 weeks for those who work in a factory) following the birth of their child, or a still birth after 24 weeks' pregnancy.

Employees may start OML up to 11 weeks before the expected week of childbirth (EWC) and may return at any time other than during compulsory maternity.

Employees may also give up some entitlement to maternity leave to benefit from shared parental leave (see further comparative table regarding parental leave, shared parental leave and parent's leave).

Maternity benefit available from the State for 26 weeks subject to satisfying certain PRSI requirements

Remaining 16 weeks unpaid

Employer is free to "top up" benefit



Pay

39 weeks Statutory Maternity Pay ("SMP") (subject to certain criteria):

First 6 weeks: SMP is 90% of average weekly earnings;

Following 33 weeks: £184.03 (increasing to £187.18 from 6 April 2025) or 90% of average weekly earnings (whichever is lower);

Remaining 19 weeks of AML is unpaid

SMP is paid by the employer but can recoup 92% of amount

Employer is free to "top up" benefit

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Notification Requirements

By the end of the 15th week before the EWC (or if that is not reasonable practicable, as soon as is reasonably practicable) of:

- The pregnancy;
- The EWC; and
- Date of intended leave.

This need not be in writing unless specifically requested by employer.

If requested by the employer, the employee must produce a certificate from a doctor or midwife (a MAT B1) confirming the EWC. If the employee is claiming SMP, this certificate must be given to the employer whether requested or not.

In writing

As soon as reasonably practicable, but not later than 4 weeks before the commencement of the maternity leave

Notice must be accompanied by a medical certificate confirming the pregnancy and specifying the week of confinement



Postponement

An employee can change the start date of maternity leave by giving at least 28 days' notice before the proposed start date, (or a shorter period if not reasonably practicable).

Maternity leave cannot be postponed once it has begun.

A separate right to up to 12 weeks' neonatal care leave is expected to come into force in April 2025. That leave will be available to parents whose baby requires at least seven days' continuous neonatal care within 28 days of birth. It can be taken up to 68 weeks after the birth, to allow for it to be used after maternity leave /adoption leave/ shared parental leave.

Employee may postpone part of the leave due to the child being hospitalised subject to the agreement of the employer and provided the employee has been on maternity leave for more than 14 weeks with at least 4 of those weeks being after the baby's birth.

The Maternity Protection, Employment Equality and Preservation of Certain Records Act, 2024 introduces an entitlement for an employee who has a "serious health condition" to postpone their maternity leave for a period of between 5 and 52 weeks



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Statutory Protection

Employment Rights Act, 1996, as amended by the Employment Act, 2002; and The Paternity and Adoption Leave Regulations 2002

The Paternity, Adoption and Shared Parental Leave (Parental Order Cases) Regulations 2014

Paternity Leave and Benefit Act, 2016, as amended



Eligibility for Leave

Employees who have been continuously employed by their employer for a period of not less than 26 weeks ending with:

- the week immediately prior to the 14th week before EWC; or
- the week in which a child's adopter is notified that they have been matched with a child.

In birth cases, the employee must be the biological father of the child or be the spouse, civil partner or partner of the child's mother.

In surrogacy cases, the employee (as one of the intended parents under a parental order) must be either the child's biological parent or the spouse, civil partner or partner of the child's biological parent.

In adoption cases, the employee must be the spouse, civil partner or partner of the child's adopter.

In all cases, the employee must also have (or expect to have) responsibility for the child's upbringing.

No service requirement

Employees who are relevant parents. A "relevant parent" includes:

- a) The father of the child;
- b) The spouse, civil partner or cohabitant of the mother of the child; or
- c) The parent of a donor-conceived child.

And for an adopted child:

- d) The nominated parent in the case of a married same-sex couple; or
- e) The spouse, civil partner or cohabitant of the adopting mother or sole male adopter.



The father of a child born through surrogacy may qualify for paternity leave (and parent's leave) if he is the biological father of the child and declared to be the parent of the child. The father's partner may qualify for parent's leave if they are married to, or are in a civil partnership with the child's biological father, or have cohabited with the child's biological father for over 3 years.



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Paternity Leave and Pay



 Duration	<p>A single period of leave of either 1 week or 2 weeks, or two non-consecutive periods of leave of a week each - taken within a year of the child's birth or adoption.</p>	<p>2 weeks within 26 weeks of the birth or placement of child</p>
 Pay	<p>2 weeks Statutory Paternity Pay (SPP) (subject to certain criteria). The rate is 90% of the employee's weekly earnings, or the statutory rate, whichever is lower.</p> <p>The current statutory rate is £184.03 per week (increasing to £187.18 from 7 April 2025).</p> <p>SPP is paid by the employer but they can recoup 92% of the amount</p> <p>Employer is free to "top up" benefit</p>	<p>Paternity benefit available from the State for 2 weeks subject to satisfying certain PRSI requirements</p> <p>Employer is free to "top up" benefit</p>
 Notification Requirements	<p>In birth and surrogacy cases, notice must be given in or before the 15th week before the EWC. The employee must inform the employer of their entitlement to take leave and declare in writing that they satisfy the relationship criteria to the child; and have or expect to have responsibility for the child's upbringing. (In surrogacy cases the employee must also declare in writing that they and the other parent are parental order parents of the child.)</p> <p>At least 28 days before the intended start date, an employee must provide an employer with a notice specifying start date/ duration of leave, and a declaration (in writing) that the purpose of the leave will be to care for the child/ support the child's mother.</p>	<p>In writing</p> <p>As soon as reasonably practicable, but not later than 4 weeks before week of confinement or day of placement</p>



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Paternity Leave and Pay



As soon as reasonably practicable after the child's birth, the employee must provide a further notice confirming the date of the child's birth.

In adoption cases, the employee must

- inform the employer of their entitlement to take leave and specify the date on which the adopter was notified of having been matched with a child and the expected date of the child's placement; declare in writing that they satisfy the relationship criteria to the child and have or expect to have responsibility for the child's upbringing;
- specify their intended start date and duration of leave, with a declaration in writing that the purpose of the leave will be to care for the child / support the child's adopter.

The notice, declaration and details of intended start date must be given within 7 days of the date on which the adopter is notified of having been matched with the child (or, if that is not reasonable practicable, as soon as is reasonably practicable).

As soon as reasonably practicable after the child's placement, the employee must provide a further notice confirming the date of placement.





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Paternity Leave and Pay



Postponement

If the employee chose to start paternity leave on a predetermined date and the child has not been born / placed for adoption by that date, the employee must postpone their leave.

The employee may also choose to cancel or vary a period of paternity leave before it begins, provided they comply with applicable notification requirements.

Employee may postpone part of the leave due to the child being hospitalised subject to the agreement of their employer.

Adoptive Leave and Pay



Statutory Protection

Employment Rights Act, 1996, as amended; and The Paternity and Adoption Leave Regulations 2002

Adoptive Leave Act, 1995, as amended



Eligibility for Leave

Employee adopting a child.
Private adoptions are excluded.
No minimum service requirement however, only 1 person in a couple would be eligible
The other may be eligible for paternity and/or shared parental leave.

Employee adopting a child
No service requirement
Sole adopter (male or female); or
Nominated parent of an adopting couple (including male same-sex couples)



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Adoptive Leave and Pay



Duration

Up to 52 weeks, consisting of 26 weeks' ordinary adoption leave (OAL) and 26 weeks' additional adoption leave (AAL).

Leave can commence on the date of placement, or up to 14 days before the expected placement date.

For overseas adoptions, leave can start when child arrives in GB or within 28 days of the child arriving

24 weeks commencing the date the child is placed in the care of employee

16 additional weeks



Pay

Employees are entitled to 39 weeks Statutory Adoption Pay ("SAP") (subject to certain criteria).

The rates for SAP are as follows:

the first 6 weeks: 90% of average weekly earnings;

the following 33 weeks: £184.03 (increasing to £187.18 from 6 April 2025) or 90% of average weekly earnings (whichever is lower); and

the remaining 19 weeks of AAL is unpaid.

SAP is paid by the employer but they can recoup 92% of the amount

Employer is free to "top up" benefit

Adoptive benefit available from the State for 24 weeks subject to satisfying certain PRSI requirements

Remaining 16 weeks unpaid

Employer is free to "top up" benefit



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Adoptive Leave and Pay



Notification Requirements

No more than 7 days after the employee has been "matched" with the child or, if that is not reasonably practicable, as soon as reasonably practicable, the employee must advise their employer of:

- the date of expected placement;
- the intended date of commencement of the leave

This need not be in writing unless specifically requested by employer.

In writing

As soon as reasonably practicable, but not later than 4 weeks before the expected date of placement

An employee must also provide its employer with a certificate of placement at least 4 weeks in advance of the placement



Postponement

Employees can vary the start date of their adoption leave by giving at least 28 days' notice before the original proposed start date (or a shorter period if 28 days' notice is not reasonably practicable).

Adoption leave cannot be postponed once it has begun.

Employee may postpone part of the leave due to the child being hospitalised subject to the agreement of their employer.

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