

Form 1

Notice about entitlement to parental leave

Section 36, Parental Leave and Employment Protection Act 1987

To be given to an employee within 21 days after the employer receives notice that the employee wishes to take parental leave.

To *[insert name and postal address of employee]*

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.....
.....
.....

1 Your notice stating that you wish to take parental leave is acknowledged.

[For section 2 below, choose ONE option, complete the details and then delete the option that DOES NOT apply]

2 You are entitled to take parental leave commencing on / /
and ending on / /

or

2 You are not entitled to take parental leave because-

- you will not have been employed, for the immediately preceding 12 months, for at least an average of 10 hours a week (including at least 1 hour in each week or 40 hours in each month) at the expected date of delivery of the child (*or* at the date on which you, with a view to adoption, assume care of the child).
- *[state which of the reasons given above applies to the employee, plus, if applicable, any other reasons why the employee is not entitled to take parental leave]*

.....
.....
.....
.....
.....

3 *[Use section 3 where the employee IS ENTITLED to take parental leave and then delete whichever option does NOT apply. Delete the whole of section 3 where the employee is NOT entitled to take parental leave].*

Your employment can *[or cannot]* be kept open until the end of your parental leave.

4 *[Choose section 4 where the employee IS ENTITLED to parental leave, but their employment CANNOT be kept open. Delete the whole of section 4 only where the employee is NOT entitled to take parental leave, as indicated in section 2 above].*

- Your employment cannot be kept open because *[delete whichever option does NOT apply]*:

of the occurrence of a redundancy situation

or

in the case of certain periods of leave exceeding 4 weeks, a temporary replacement is not reasonably practicable due to your key position.

- You will, for the period of 26 weeks beginning with the day after the date on which your parental leave ends, be given preference over other applicants for any position that is vacant and that is substantially similar to the position held by you at the beginning of your parental leave.

5 [Choose section 5, either where the employee's application for parental leave is DECLINED or the employment CANNOT be kept open. Delete the whole of section 5 if parental leave is being approved as in option 2 above].

You may, by a parental leave complaint made under section 56 of the Parental Leave and Employment Protection Act 1987, dispute my statement that *[delete whichever option does NOT apply]*:

you are not entitled to take parental leave.

or that

your position cannot be kept open.

If you wish to make such a complaint, do not delay as the time for making such a complaint is limited. Your union representative or your solicitor or the Department of Labour will advise you.

.....
Employer

/ /

Information about parental leave under the Parental Leave and Employment Protection Act 1987

Employees are eligible for parental leave from their employment with an employer if they will have worked for that employer for at least 12 months for at least an average of 10 hours a week on the relevant date. The relevant date is the expected date of delivery of the child or, in the case of adoption, the date on which the employee first assumes the care of the child with a view to adoption.

In most cases, the employer must keep the employee's job open for them until the ending of the parental leave. The main exceptions to this are if the employer proves that there is a redundancy situation or, in the case of parental leave of more than 4 weeks, if the employer proves that the employee's position cannot be kept open because a temporary replacement is not reasonably practicable due to the employee's key position. Whether an employee's position is a key position depends upon the circumstances of each case, including the size of the employer's enterprise and the training period or skills required in the job. Your union representative or your solicitor or the Department of Labour will be able to advise you further.

There are 3 types of leave – maternity leave, partner's/paternity leave, and extended leave. Maternity and extended leave amount to 52 weeks, which may be shared by the partners in the child's first year. This period of 52 weeks may be exceeded as follows:

- (a) a mother may start her maternity leave early if directed to do so by her lead maternity carer or by her employer:
- (b) partner's/paternity leave of up to 2 weeks is available.

Maternity leave must be taken in 1 continuous period not exceeding 14 weeks. Maternity leave may begin-

- (a) up to 6 weeks before the expected date of delivery if the mother gives to her employer not less than 21 days' notice in writing of that date. In the case of an adoption, maternity leave may begin no earlier than the date on which the mother first assumes (with a view to adoption) the care of the child; or
- (b) on any date before the date of confinement that is agreed between the mother and her employer; or
- (c) on a date specified by the mother's lead maternity carer if-
 - (i) the mother is pregnant; and
 - (ii) the lead maternity carer certifies that, in his or her opinion, she should begin her maternity leave on that date; and
 - (iii) the mother gives the certificate to her employer; or
- (d) on a date appointed by her employer if-
 - (i) the mother is pregnant; and
 - (i) the mother is unable, by reason of her pregnancy, to perform her work to the safety of herself or others, or is incapable of performing her work adequately; and

- (ii) there is no other suitable work available.

A mother who is pregnant is entitled, before taking maternity leave, to take a total of up to 10 days' special leave without pay for reasons connected with her pregnancy.

If, by reason of pregnancy, a mother is unable to perform her work to the safety of herself or others, or is incapable of performing her work adequately, her employer may temporarily transfer her from one job to another.

Partner's/paternity leave

partner's/paternity leave can be taken by the spouse and must be taken in 1 continuous period not exceeding 2 weeks. Partner's/paternity leave may begin on any date in the period beginning 21 days before the expected date of delivery and ending 21 days after the actual date of delivery, or, if the child is discharged from a hospital or similar establishment more than 21 days after the actual date of delivery, ending on the day on which the child is discharged from that hospital or establishment. Partner's/paternity leave may begin, in the case of adoption, on any date in the period beginning 21 days before the date on which the employee first assumes, with a view to adoption, the care of the child, and ending 21 days after that date. Alternatively, partner's/paternity leave may begin on any date that is agreed between the employee and his employer.

Extended Leave

Extended leave may be taken by the mother and the mother's spouse. They may take no more than 1 continuous period each. The combined total of the 2 periods may not exceed 52 weeks.

If the mother takes a period of maternity leave of 14 weeks or less, the period of 52 weeks' extended leave will be reduced by that period of maternity leave.

If the mother begins her maternity leave early at the direction of a lead maternity carer or her employer, the period of 52 weeks' extended leave will not be reduced by any period of maternity leave in excess of 14 weeks.

The period of 52 weeks will not be reduced by any period of partner's/paternity leave taken by the spouse.

If maternity or partner's/paternity leave has been taken in relation to the birth or adoption of the child, extended leave may begin at any time after that period of maternity or partner's/paternity leave ends.

If maternity or partner's/paternity leave has not been taken in relation to the birth of the child, extended leave may begin at any time after the date of confinement.

In the case of adoption, if maternity or partner's/paternity leave has not been taken in relation to the adoption of the child, extended leave may begin at any time after the employee first assumes, with a view to adoption, the care of the child.

Extended leave may also begin on any other date that is agreed between the employee and his or her employer.

No extended leave may be taken after-

- (a) the child attains the age of 12 months; or
- (b) in the case of an adopted child, the first anniversary of the date on which the employee first assumed the care of the child with a view to adoption; or
- (c) the employee ceases to have care of the child.

An employee who is on parental leave may end that leave early in certain circumstances.

These circumstances are -

- (a) if the child is miscarried; or
- (b) if the child is stillborn or dies; or
- (c) if the employee or the employee's spouse has consented to the adoption of the child and some other person has the care of the child with a view to its adoption; or
- (d) if the employee ceases to have care of the child; or
- (e) if his or her employer consents (which consent may, in the case of a female employee who has been pregnant, be conditional on a medical certificate stating that the female employee is fit to return to work).

In any of these circumstances, the employee may choose, -

- (a) if his or her position is being kept open by the employer, to end the parental leave by returning to work before the date on which he or she is required to return to work at the end of the parental leave; or
- (b) in any other case, to end the parental leave and to begin the period of preference.

If, in any case, the employee chooses to return to work early or to begin the period of preference early, the employee must give to his or her employer not less than 21 days' notice in writing of the date on which he or she intends to return to work or to begin the period of preference, as the case may be.

An employee who is on parental leave may extend the parental leave to a specified date if his or her employer consents.