Superseded by current Edition of Web Book "Terms & Conditions of Employment for Registered Teachers in Recognised Primary and Post Primary Schools"

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Circular Letter 0057/2016

To: The Managerial Authorities of Recognised Primary, Secondary, Community and Comprehensive Schools
and
The Chief Executives of Education and Training Boards

PATERNITY LEAVE SCHEME FOR REGISTERED TEACHERS IN RECOGNISED PRIMARY AND POST-PRIMARY SCHOOLS

The Minister for Education and Skills directs you to implement the regulations and procedures regarding the Paternity Leave arrangements for eligible registered teachers employed in an approved teaching post funded by monies provided by the Oireachtas. These procedures apply to teachers who are in receipt of incremental salary under a permanent contract, contract of indefinite duration (CID), or fixed-term contract (e.g. temporary whole-time (TWT), regular part-time (RPT) as defined in the Protection of Employees (Fixed-Term Work) Act 2003.

The regulations and procedures are to be implemented by each employer from 1st September 2016 and all teachers must adhere to the terms of the attached paternity leave scheme.

This circular supersedes all previous circulars, memoranda, rules and regulations in relation to paternity leave arrangements for teachers in recognised primary and post-primary schools. Please ensure that copies of this circular are provided to all members of the Board of Management/Education and Training Boards and its contents are brought to the attention of all teachers in your employment including those on leave of absence.

This Circular can be accessed on the Department's website under www.education.ie Home – Education Staff – Breaks/Leave – Paternity Leave.

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Teacher/SNA Terms & Conditions
30 August 2016

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30 August 2016

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PATERNITY LEAVE SCHEME

Definitions
For the purposes of the scheme the following terms have the meanings assigned to them here unless the context indicates otherwise:

'Back to Back' contract – means a contract which follows immediately from the previous contract with no break in service: e.g. one contract ends on August 31st and a new contract will begin from September 1st of the same year.

DSP - means the Department of Social Protection.

Employer - means an Education Training Board (ETB) for vocational schools/community colleges and a Board of Management/Manager in the case of primary, voluntary secondary, community and comprehensive schools. The ETB or Board of Management/Manager may delegate responsibility for matters set out in this circular to the Principal of the school.

Leave Year - 1st September to 31st August inclusive in each year.

On Line Claims System (OLCS) – means the system for recording absences and claiming substitution currently operating in primary, voluntary secondary, community and comprehensive schools.

Paternity Benefit - means a payment made by the DSP to those on paternity leave and who meet the qualifying criteria for the benefit.

PB1 Form – means the DSP Paternity Leave Form.

Relevant Parent – the term relevant parent refers to a teacher (other than the mother of the child) who is one of the following:

- father of the child
- spouse/civil partner/cohabitant of the birth mother/adopting parent of the child
- spouse/civil partner/cohabitant of the sole male adopter of the child
- parent of the child, under section 5 of the Children and Family Relationships Act 2015, where the child is a donor-conceived child.

Sole Male Adopter – means a male employee, in whose sole care, subject to the approval of the Adoption Authority of Ireland, a child has been placed, or is to be placed.

Surviving Parent – means the adopting parent of the child, or the mother of the child in relation to a child whose relevant parent has died.

Teacher – means a person registered with the Teaching Council.

The Department – means The Department of Education and Skills.

1. General Information

1.1 Paternity Leave is a single period of 2 consecutive weeks paid leave, available to a relevant parent on the birth/adoption of a child, where the date of birth/day of placement falls on or after 1st September 2016.

1.2 Paternity Leave is available for stillbirths after 24 weeks of pregnancy.

1.3 The leave is to allow the relevant parent to provide or assist in the care of the child or to provide support to the mother or adopting parent of the child concerned as the case may be, or both.

1.4 Paternity leave may commence at any time from the date of birth or date of placement of the child to 26 weeks thereafter, except in the event of hospitalisation of the child and postponement of the leave.

1.5 The employer may appoint a substitute teacher, paid by the Department/ETB while a relevant parent is absent on paternity leave and this can be keyed via the OLCS/appropriate ETB system.

1.6 A relevant parent on paternity leave is deemed for all purposes to be in employment at that time including remuneration and superannuation. The absence therefore is fully reckonable for all other purposes including seniority, access to the redeployment panel, progression on the incremental salary scale and notification regarding posts of responsibility.

1.7 A relevant parent absent on paternity leave may not engage in any type of teaching or any other type of paid employment.

2. Entitlement to Paternity Leave

2.1 Paternity leave may begin on such a date as the relevant parent selects. This leave may commence at any time from the date of birth or day of placement of the child to 26 weeks thereafter.

2.2 In the case of multiple births, or where more than one child is being adopted at the same time the maximum of 2 consecutive weeks leave still applies.

2.3 In general, only one person who is a relevant parent in relation to a child shall be entitled to paternity leave in respect of that child.

2.4 A teacher on less than full hours who is a relevant parent will be entitled to paternity leave on a pro-rata basis.

2.5 A teacher may not avail of paternity leave where they are availing/have availed of adoptive leave for the same child with the exception of where the leave may be transferred on the death of the other parent.

3. Notification, Application and Recording of Paternity Leave

There are 2 steps in applying for Paternity Leave

3.1 **Step 1** - *Written Notification*
The relevant parent must notify their employer of their intention to take paternity leave not less than 4 weeks before the commencement of such leave and provide for the employer's inspection the following:

In the case of a birth:

- a copy of the medical certification as provided by the mother to her employer or other appropriate certificate from a registered medical practitioner confirming the pregnancy and specifying the expected date of birth of the child concerned or

- a copy of the birth certificate where notification is given after the birth.

In the case of an adoption:

- a declaration/official placement order in the case of an adoption

- a copy of the placement certificate where notification is given after the date of placement

- in the case of foreign adoption, the adopting teacher must obtain a *Declaration of Suitability and Eligibility* from the Adoption Authority of Ireland, in advance of the date of placement. As soon as possible after the date of placement the adopting teacher should provide written confirmation of placement to their employer.

3.2 **Step 2** - *Completion of Application Form*
The relevant parent must complete the Application Form at Appendix A as soon as possible, but no later than 7 days after commencement of the leave and forward it to the employer with a copy of the birth certificate/official placement order for the child.

3.3 Where, as the case may be, the day of placement is postponed or the date of birth occurs after the date selected by a relevant parent in his/her notification given to the employer, the relevant parent shall be entitled to select another date on which the paternity leave shall commence.

3.4 Notification may be withdrawn in writing by the relevant parent concerned to his/her employer not later than 4 weeks before the commencement of such leave.

3.5 Where the date of birth occurs in a week that is 4 weeks or more before the expected date of birth, the relevant parent shall inform the employer immediately and will be deemed to have complied with the notification period if the leave is to be taken at that time. The formal written notification must be given within 7 days commencing on the day of birth.

3.6 The school shall record the Paternity Leave to the Department (via the OLCS) or the appropriate ETB recording system.

4. Fixed Term/Fixed Purpose Appointments

4.1 A teacher who is on a fixed term/fixed purpose contract of employment shall have full paternity leave entitlements during the term of the contract. The granting or taking of paternity leave entitlements should not affect a fixed term/fixed purpose appointment or the renewing of such an appointment.

4.2 Paternity related entitlements shall cease on expiry of the contract unless that contract is followed directly by a 'back to back' contract in an approved teaching post funded by monies provided by the Oireachtas.

5. Entitlement to Paternity Leave on the Death of the Relevant Parent

5.1 In the event of the death of the relevant parent entitled to the paternity leave within a period of 28 weeks after the birth or placement of the child and before availing of some or all of the paternity leave, then the leave shall transfer to the surviving parent.

5.2 In such circumstances and in the event that the surviving parent is a teacher, he/she must notify the employer in writing of the following, but not later than the day on which the transferred paternity leave begins

- of the death of the relevant parent
- their intention to take the transferred paternity leave
- the length of the leave they believe they are entitled to and
- if requested by the employer, provide a copy of the death certificate.

5.3 In the case of a surviving parent being entitled to maternity leave, a period of transferred paternity leave will commence immediately after the end of all maternity leave. In the case of adoptive leave, immediately after the end of all adoptive leave concerned.

6. Postponement of Paternity Leave through Illness

6.1 In the event of illness of the relevant parent immediately prior to the commencement of his/her paternity leave, the paternity leave may be postponed.

6.2 The relevant parent must immediately inform the employer and must provide written notification of the postponement of the leave due to illness and include appropriate medical certification. Such absences shall be treated in the same manner as an absence from duty due to illness.

6.3 Postponed leave can be taken not later than 7 days after the relevant parent has been certified fit to resume duty or such other date as may be agreed between the relevant parent and the employer provided that the postponed leave shall end not later than 28 weeks after the date of birth or placement of the child.

7. Postponement of Paternity Leave on Hospitalisation of the Child

7.1 In the event of the hospitalisation of the child a request may be made to the employer for a postponement of the paternity leave.

7.2 An application for postponement must be made in writing to the employer, accompanied by certification from the hospital in which the child is hospitalised. The employer must notify the relevant parent in writing as soon as possible of its decision. If the leave is postponed the relevant parent must resume duties in the school during the period of postponement and the employer and the relevant parent must agree the date of return to work.

7.3 The relevant parent must provide the employer with a letter or other appropriate document from the hospital or the child's doctor confirming the child's discharge date.

7.4 The postponed leave shall be taken as a continuous period beginning not later than 7 days after the child is discharged from hospital or such other date as may be agreed between the relevant parent and the employer.

8. Termination of Paternity Leave

8.1 Paternity leave may be terminated by the employer by notice in writing to the teacher if there are reasonable grounds to believe that the leave is being used for a purpose other than the care of the child or to provide support to the adopting parent or mother of the child.

8.2 The written notice should outline the grounds for terminating the leave and specify the date by which the teacher must return to work.

9. Statutory Annual Leave/Public Holiday Entitlement

9.1 In general full time employees are entitled to 20 days annual leave. Employees who work less than full hours are entitled to annual leave on a pro rata basis.

9.2 Any entitlements in respect of public holidays occurring while on paternity leave will be addressed by additional annual leave.

9.3 These annual leave entitlements are to be taken on existing school closure days that occur in the leave year in question i.e. both before and after the paternity leave period. Annual leave entitlements are to be taken at a time outside of the period of paternity leave.

10. Pay Arrangements and Paternity Benefit

10.1 Continuation of salary during paternity leave is not a statutory entitlement and is contingent upon compliance with the agreed terms and conditions of this scheme.

10.2 Any action which necessitates an adjustment to a relevant parent's pay should be notified to the Department/ETB immediately.

10.3 Under the DSP regulations, PRSI contributors at the modified rate (Class D) have no entitlement to Paternity Benefit. Therefore no deduction is applied to their salary and they remain on their ordinary rate of pay.

10.4 Under the DSP regulations any Paternity Benefit payable by the DSP to PRSI contributors at the full rate (Class A), will issue directly to the relevant parent in question. A deduction from salary equivalent to the maximum weekly rate of Paternity Benefit payable to the relevant parent will be applied by the Department/ETB.

10.5 The applicant is responsible for completion of the PB1 Form and should ensure that the school completes the employer's portion before forwarding to the DSP at least 6 weeks prior to the start date. The PB1 Form should **NOT** be sent to the Department of Education and Skills.

10.6 If the amount of benefit payable to the relevant parent differs to the maximum, or if a teacher is not entitled to any Paternity Benefit, they should notify their payroll section immediately to ensure that the salary adjustments are correct. Changes to the automatic deduction can be made provided the relevant parent furnishes a copy of the DSP's written notice of the actual Benefit rate applicable, if any, to the appropriate payroll. Deductions, where appropriate, will be made during the period of Paternity Leave. If the absences are recorded late any arrears due will have to be deducted from salary after the date of notification.

10.7 Paternity Benefit payment is a taxable income.

11. Correspondence Address

11.1 The employer will address all necessary correspondence to the teacher at the address last notified by the teacher and no fault shall lie with the employer in the event that the teacher does not receive such correspondence.

12. Compliance

12.1 All teachers/employers must adhere to the regulations and procedures set out in this circular. Failure to abide with the regulations and procedures will be dealt with under the agreed disciplinary procedures and may lead to the cessation of salary in the case of teachers and/or withdrawal of substitute cover in the case of schools.

12.2 All documentation relating to paternity leave must be retained by the employer with the relevant personnel records for 8 years. These records may be selected for inspection by nominated Department officials. All records should correspond with the data input on the OLCS/appropriate ETB System.

13. Further Information

13.1 In accordance with the introductory paragraph, the regulations in this circular are to be implemented by the employer. All queries should initially be brought to the attention of the employer who may wish to consult with their representative organisation, who may further wish to consult with the Department at the following email address: teachersna@education.gov.ie

Application Form for Paternity Leave - Appendix A

This application must be fully completed and retained in the school/ETB for record and audit purposes. It should be completed within 7 days of commencement of the Paternity Leave.

This application is NOT to be submitted to the Department of Education and Skills.

If the applicant pays Class A PRSI contributions a completed PB1 Form should be submitted to the Department of Social Protection.

To be completed by the Relevant Parent:

Name: _____ Contact No: _____

Roll No: _____ School: _____

PPSN: _____

Date of Birth of the child: _____ /_____/_____

Date of Placement of the child: _____/_____/_____
(in the case of adoption)

I wish to commence my paternity leave on _____/_____/_____ **to** _____/_____/_____

I wish to apply for the above leave in accordance with the scheme as set out in Circular 0057/2016 *Paternity Leave Scheme for Registered Teachers in Recognised Primary and Post Primary Schools*.

Signature of Relevant Parent: _____ ***Date:*** _____

Approval and Verification by Employer

I certify that I have approved the above leave in accordance with the scheme as set out in Circular 0057/2016 *Paternity Leave Scheme for Registered Teachers in Recognised Primary and Post Primary Schools* and I have retained on file the following documents for audit purposes:

1) Written notification of intention to take Paternity Leave and relevant certification: ☐

2) Application for Paternity Leave: ☐

3) Certificate showing date of birth/placement of the child: ☐

Signature: _____ ***Date*****:** _____
(On behalf of Employer)