



Your **ADOPTIVE LEAVE** Rights Explained

Guide to the **Adoptive Leave Acts 1995–2005**

PROGRESS

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About the Adoptive Leave Acts 1995–2005

This booklet sets out the main elements of the Adoptive Leave Act 1995. This Act was then amended by the Adoptive Leave Act 2005 (No.25 of 2005). Together they may be cited as the Adoptive Leave Acts 1995–2005 and known collectively as the Adoptive Leave Acts.

Copies of the legislation are available from the Government Publications Sales Office, Molesworth Street, Dublin 2 (Tel: 01 647 6000) or on www.oireachtas.ie

They are also available on www.equality.ie

*This booklet is intended for information purposes only.
This is not a legal document.*

It is important to note that this is an information booklet on the provisions of the Adoptive Leave Acts. It is not a legal interpretation of the provisions. You may need to seek legal advice for an interpretation of the provisions.

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1. Adoptive Leave Acts 1995–2005

1.1 Introduction

The Adoptive Leave Act, 1995 (No.2 of 1995) was introduced to entitle female employees and, in certain circumstances, male employees to time off from her or his job when adopting a child. This Act was then amended by the Adoptive Leave Act 2005 (No.25 of 2005). Together they may be cited as the Adoptive Leave Acts 1995–2005.

1.2 Eligibility

Adoptive leave is available to:

- **An employed adopting mother:** that is, any female who is adopting a child of whom she is not the natural mother;
- **A sole male adopter:** that is, a male employee who is adopting a child on his own;
- **An employed adopting father** is also entitled to certain leave in circumstances where the adopting mother has died before or during the period of adoptive leave or additional adoptive leave.

1.3 Entitlement

An adopting mother or a sole male adopter who is in employment is entitled to the following:

- (a) a minimum of 24 consecutive weeks of adoptive leave from work, beginning on the day of placement of the child;
- (b) up to 16 weeks of additional adoptive leave.

In the majority of cases, it is possible to receive a social welfare payment for the initial 24 week period of adoptive leave.

1.4 Adoptive Leave

The minimum of 24 consecutive weeks of adoptive leave is available at the request of the employee. There are mandatory notification procedures and evidence of placement requirements and these are set out on page 9 - see notification requirements. Absence from work on adoptive leave will not affect any of the employee's rights in relation to the employment, except that of remuneration.

1.5 Additional Adoptive Leave

Additional adoptive leave (after adoptive leave):- An employee, who has taken adoptive leave, is entitled to avail of up to 16 weeks of additional adoptive leave. The leave is available at the request of the employee and follows immediately on the period of adoptive leave.

Entitlement to the leave is subject to notification requirements and these are set out on page 9.

Absence on additional adoptive leave does not breach continuity of employment.



1.6 Additional Adoptive Leave (Foreign Adoption)

In the case of a foreign adoption, some or all of the 16 weeks additional adoptive leave may be taken immediately before the day of placement. The leave is available at the request of the employee and entitlement is subject to the notification and evidence requirements set out on page 9 and 10 - see notification requirements.

1.7 Right to Time Off from Work to attend Pre-Adoption Meetings

An employee shall be entitled to time off from work to attend any pre-adoption meetings or classes which the employee is obliged to attend. Written notification of dates and times of classes must be supplied to the employer not later than 2 weeks before the dates of the classes concerned.

1.8 Termination of Adoptive Leave in the event of the Sickness of the Adopting Parent

If the adopting parent wants to stop taking adoptive leave or additional adoptive leave because she or he is ill, he or she will need to get the employer's agreement. The remaining adoptive leave entitlement will be lost.

1.9 Postponement of Adoptive Leave due to Hospitalisation of the Child

An adopting parent can postpone the adoptive leave if the adopted child has to be hospitalised. However, the employer's agreement is required.

1.10 Right to Return to Work

The adopting parent has a right to return to work after a period of adoptive leave or additional adoptive leave. There are mandatory notification requirements and these are set out under 'Notifications'.

It is not permitted to terminate the employment of an adopting parent or to suspend him or her while she or he is on adoptive leave, additional adoptive leave or while attending pre-adoption classes.

1.11 Annual Leave and Public Holidays

Employees on adoptive 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 an extra day's pay, or a set paid day off within a month, or an extra day's annual leave for any public holiday that occurred during their leave. This also applies if the employer continues to provide full pay to the employee while on adoptive leave.

Annual leave which accrues during an absence on adoptive leave shall be granted by the employer in accordance with Section 20 of The Organisation of Working Time Act 1997.

Adoptive leave qualifies as reckonable service with regard to Redundancy Agreements and Payments. Absences from work on adoptive leave do not breach continuity of employment.

1.12 Redress

If there is a dispute between an employer and an employee on entitlements under the legislation, it can be referred to a Rights Commissioner, in the first instance, The Rights Commissioner's decision can be appealed to the Employment Appeals Tribunal.

If an adopting parent is dismissed from his or her job because he or she wants to take adoptive leave or is taking adoptive leave or additional adoptive leave, this will be regarded as an unfair dismissal, unless there are substantial grounds justifying the dismissal. Redress in this case will be under the Unfair Dismissals Acts, 1977 to 1993.



2. Notification Requirements

2.1 Adoptive Leave

An employee must give adequate notice, in writing, to her/his employer of her/his intention to take adoptive leave. The minimum advance notice of such intention is 4 weeks before the expected placement of the child. The expected day of placement may be given later.

An employee must inform her/his employer, in writing, of the expected date of placement of the child as soon as is reasonably practicable.

2.2 Additional Adoptive Leave

Notice of commencement of additional adoptive leave

An employee must inform her/his employer, in writing, at least 4 weeks beforehand of her/his intention to take additional adoptive leave.

2.3 Return to Work

An employee must inform her/his employer, in writing, at least 4 weeks beforehand of the date on which she/he intends to return to work after adoptive leave or additional adoptive leave.

3. Evidence of the Placement

3.1 Irish Adoption

An adopting parent who is taking adoptive leave must give her/his employer a certificate of placement. The certificate must be given as soon as reasonably practicable but no later than 4 weeks after the day of placement.

The certificate may be obtained by the employee from the Health Service Executive or the adoption society which arranged the placement. An Bord Uchtála will issue the certificate of placement in other Irish placement cases.

3.2 Foreign Adoption

An eligible employee must give her/his employer a copy of the declaration of eligibility and suitability before beginning adoptive leave or additional adoptive leave (whichever is the earlier). He or she must give the employer details of the placement as soon as is reasonably practicable.

4. Related Legislation

4.1 Equal Status Acts

The Equal Status Act 2000 Section 5 (2)(j) states that it may not be seen as discrimination on the age ground under the Act to have age limits for a person to be an adoptive or foster parent, where the requirement is reasonable having regard to the needs of the child or children concerned

4.2 Parental Leave

If the child is nearing 8 years of age, an adopting parent must take all of his or her parental leave within two years of the adoption order.



Appendix A

A.1 The Equality Authority - Information and Support

The Equality Authority provides information only to the public on the Adoptive Leave Acts. It has a series of published supports available including guides to the equality legislation and training DVDs. The Public Information Centre of the Equality Authority which is based in Roscrea Co. Tipperary, provides information in various formats:

- (i) additional information through www.equality.ie;
- (ii) an automated telephone voice message service (LoCall 1890 245 545);
- (iii) the automated telephone service also refers the caller directly to a Communications Officer who may provide more detailed information on their enquiry;
- (iv) guides to the legislation in various languages and formats.

A.2 Equality Information

Further information, publications and training DVDs on aspects of the legislation are available from:

The Equality Authority
Public Information Centre
Birchgrove House
Roscrea, Co. Tipperary
Ireland

The Equality Authority
(Dublin Office)
2 Clonmel Street
Dublin 2
Ireland

Times:

Monday to Thursday

9.15am–5.30pm

Friday

9.15am–5.15pm

Contact:

LoCall: 1890 245545

1890 245545

Telephone: +353 0505 24126

+353 01 417 3333

Facsimile: +353 0505 22388

+353 01 417 3331

Text phone: + 353 01 417 3385

Email: info@equality.ie

Website: www.equality.ie

Other booklets available in this series include:

Guide to the Maternity Protection Acts 1994–2004

Guide to the Parental Leave Acts 1998–2006

Guide to the Employment Equality Acts 1998–2008

Guide to the Equal Status Acts 2000–2008

Appendix B

B.1 Other Useful Contacts and Addresses

NERA National Employment Rights Authority

O'Brien Road

Carlow

Telephone: 059 917 8990

Fax: 059 917 8909

LoCall: 1890 80 80 90

Email: info@employmentrights.ie

Website: www.employmentrights.ie

Rights Commissioners

Tom Johnson House

Haddington Road

Dublin 4

Telephone: 01 613 6700

Fax: 01 613 6701

LoCall: 1890 220 227

Email: info@lrc.ie

Website: www.lrc.ie

Department of Community, Equality & Gaeltacht Affairs

Equality Division

Bishop's Square

Redmond's Hill

Dublin 2

Telephone: 01 479 0200

LoCall: 1890 555 509

Department of Social Protection

Records Update Section & Adoptive Benefit Section

McCarter's Road

Ardarvan

Buncrana

Co. Donegal

LoCall: 1890 690 690

(from the Republic of Ireland only)

Telephone: + 353 01 471 5898

(from Northern Ireland or overseas)

Email: maternityben@welfare.ie

The Health and Safety Authority

The Metropolitan Building

James Joyce Street

Dublin 1

Telephone: 01 614 7000

Fax: 01 614 7020

LoCall: 1890 289 389

Website: www.hsa.ie

Appendix C

C.1 Frequently asked Questions about the Adoptive Leave Acts 1995–2005

1. *How long is adoptive leave?*

An employed adopting mother or an employed sole male adopter is entitled to:

- a minimum of 24 consecutive weeks of adoptive leave from work beginning on the day of placement of the child;
- up to 16 weeks additional adoptive leave.

2. *Does my employer have to pay me while on adoptive leave?*

- No. However, in the majority of cases, it is possible to receive a social welfare payment for the initial 24 week period of adoptive leave. The amount of benefit paid will depend on an employee's PRSI contributions.

3. *Is the adopting father entitled to paid time off from work to attend pre-adoption classes.*

- No. The Adoptive Leave legislation provides only for the adopting mother or a sole male adopter to take paid time off from work to attend pre-adoption classes.

The Equality Authority

Public Information Centre,
Birchgrove House,
Roscrea, Co. Tipperary,
Ireland.

Tel: +353 0505 24126

Fax: +353 0505 22388

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Email: info@equality.ie

An **EMPLOYMENT**
RIGHTS Rule Book