An Bille um Shaoire agus Sochar Atharthachta, 2016
Paternity Leave and Benefit Bill 2016

Mar a ritheadh ag Dáil Éireann

As passed by Dáil Éireann

[No. 43b of 2016]

AN BILLE UM SHAOIRE AGUS SOCHAR ATHARTHACHTA, 2016
PATERNITY LEAVE AND BENEFIT BILL 2016

Mar a ritheadh ag Dáil Éireann

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AN BILLE UM SHAOIRE AGUS SOCHAR ATHARTHACHTA, 2016
PATERNITY LEAVE AND BENEFIT BILL 2016

Bill

entitled

An Act to entitle certain employees who are relevant parents in relation to a child to employment leave for the purposes of enabling the employee to provide, or assist in the provision of, care to the child or to provide support to the relevant adopting parent or mother of the child, as the case may be, or both; to entitle a surviving parent to employment leave on the death of a relevant parent; to extend the protection against unfair dismissals conferred by the Unfair Dismissals Act 1977; to provide for the payment of paternity benefit to certain persons and, for that purpose, to amend the Social Welfare Consolidation Act 2005; and to provide for related matters.

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and General

Short title and commencement

1. (1) This Act may be cited as the Paternity Leave and Benefit Act 2016.

(2) This Act, other than *Part 5*, shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to a particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(3) *Part 5* shall come into operation on such day or days as the Minister for Social Protection may appoint by order or orders either generally or with reference to a particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Interpretation

2. (1) In this Act—

"Act of 1977" means the Unfair Dismissals Act 1977;

"Act of 1994" means the Maternity Protection Act 1994;

"Act of 1995" means the Adoptive Leave Act 1995;

"Act of 2005" means the Social Welfare Consolidation Act 2005;

"Act of 2010" means the Adoption Act 2010;

"Act of 2015" means the Workplace Relations Act 2015;

"additional adoptive leave" has the same meaning as it has in the Act of 1995;

"additional maternity leave" has the same meaning as it has in the Act of 1994;

"adjudication officer" means a person appointed under section 40 of the Act of 2015;

"adopting mother" has the same meaning as it has in the Act of 1995;

"adoptive leave" has the same meaning as it has in the Act of 1995;

"birth certificate" means a document issued under section 13(4) of the Civil Registration Act 2004;

"certificate of placement" has the meaning assigned to it by section 13 of the Act of 1995;

"civil partner" shall be construed in accordance with section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

"cohabitant" shall be construed in accordance with section 172(1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

"contract of employment" means, subject to *subsection (2)*—

(a) a contract of service or apprenticeship, or

(b) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency, within the meaning of section 2 of the Protection of Employees (Temporary Agency Work) Act 2012), and is acting in the course of that business, to do or perform personally any work or service for another person (whether or not that other person is a party to the contract),

whether the contract is express or implied and, if express, whether it is oral or in writing;

"date of confinement" shall be construed in accordance with section 51(1)(b) of the Act of 2005;

"day of placement" means the day on which a child who is, or is to be, adopted is placed physically in the care of the relevant adopting parent with a view to the adoption of the child or, in the case of an intercountry adoption effected outside the State where the child has not previously been placed in the care of the relevant adopting parent, the day on which the child has been so placed following the adoption;

"declaration of eligibility and suitability" has the same meaning as it has in the Act of 2010;

"Director General" has the same meaning as it has in the Act of 2015;

"employed adopting mother" has the same meaning as it has in the Act of 1995;

"employee", other than in *section 29*, means a person of any age, who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and includes a part-time employee and a fixed-term employee;

"employer" in relation to an employee—

(a) means the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment, subject to the qualification that the person who under a contract of employment referred to in *paragraph (b)* of the definition of contract of employment is liable to pay the remuneration of the individual concerned in respect of the work or service concerned shall be deemed to be the individual's employer, and

(b) includes, where appropriate, the successor of the employer or an associated employer of the employer;

"enactment" has the same meaning as it has in the Interpretation Act 2005;

"expected week of confinement" has the meaning assigned to it by section 47(1)(a) of the Act of 2005;

"fixed-term employee" has the same meaning as it has in the Protection of Employees (Fixed-Term Work) Act 2003;

"intercountry adoption effected outside the State" has the same meaning as it has in the Act of 2010;

"Labour Court" means the body established by section 10 of the Industrial Relations Act 1946;

"maternity leave" has the same meaning as it has in the Act of 1994;

"Minister" means the Minister for Justice and Equality;

"part-time employee" has the same meaning as it has in Part 2 of the Protection of Employees (Part-Time Work) Act 2001;

"paternity leave" has the meaning assigned to it by *section 6(1)*;

"registered medical practitioner" has the same meaning as it has in the Medical Practitioners Act 2007;

"relevant adopting parent", in relation to a child who is, or is to be, adopted, means—

(a) in the case of a child referred to in *paragraph (a)(i)* of the definition of relevant parent, the spouse of the relevant parent in relation to that child,

(b) the adopting mother of the child, or

(c) the sole male adopter of the child;

"relevant evidence", in relation to an employee, means a medical certificate signed by a registered medical practitioner;

"relevant parent", in relation to a child, means a person (other than the mother of the child) who is—

(a) in the case of a child who is, or is to be, adopted—

(i) where the child is, or is to be, adopted jointly by a married couple of the same sex, the spouse chosen by that couple to be the relevant parent for the purposes of this Act, or

(ii) in any other case, the spouse, civil partner or cohabitant, as the case may be, of the adopting mother or sole male adopter of the child,

or

(b) in any other case—

(i) the father of the child,

(ii) the spouse, civil partner or cohabitant, as the case may be, of the mother of the child, or

(iii) a parent of the child under section 5 of the Children and Family Relationships Act 2015 where the child is a donor-conceived child within the meaning of Part 2 of that Act;

"sole male adopter" has the same meaning as it has in the Act of 1995 and includes, for the purposes of this Act, a person who would be a sole male adopter but for the fact that he is not an employee;

"surviving parent", in relation to a child whose relevant parent has died, means—

(a) in the case of a child who is, or is to be, adopted, the relevant adopting parent of the child, or

(b) in any other case, the mother of the child;

"transferred paternity leave" has the meaning assigned to it by *section 15(1)*.

(2) For the purposes of this Act—

(a) a person holding office under, or in the service of, the State (including a member of the Garda Síochána or the Defence Forces) or otherwise as a civil servant, within the meaning of the Civil Service Regulation Act 1956, shall be deemed to be an employee employed by the State or Government, as the case may be, under a contract of service, and

(b) an officer or servant of a local authority for the purposes of the Local Government Act 2001, a harbour authority or the Health Service Executive or a member of staff of an education and training board shall be deemed to be an employee employed by the authority, Executive or board, as the case may be, under a contract of service.

(3) For the purposes of this Act, one employer shall be taken to be associated with another employer—

(a) if one is a body corporate of which the other (whether directly or indirectly) has control, or

(b) if both are bodies corporate of which a third person (whether directly or indirectly) has control.

(4) For the purposes of *section 17* and *Parts 3* and *4*, a reference to paternity leave includes a reference to transferred paternity leave.

(5) A reference in this Act to a child who is, or is to be, adopted is a reference to a child who is, or is to be, the subject of—

(a) an adoption order within the meaning of the Act of 2010, or

(b) an intercountry adoption effected outside the State and recognised under that Act.

Regulations

3. (1) The Minister may by regulations provide for any matter for the purposes of enabling any provision of this Act to have full effect.

(2) The Minister for Jobs, Enterprise and Innovation may by regulations provide for any matter referred to in *section 28* as prescribed or to be prescribed and different regulations under this subsection may be made in respect of different classes of matter the subject of the prescribing concerned.

(3) Without prejudice to any provisions of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister, or where *subsection (2)* applies, to the Minister for Jobs, Enterprise and Innovation, to be necessary or expedient for the purposes of the regulations concerned.

(4) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under the regulation.

Voidance or modification of certain provisions in agreements

4. (1) A provision in any agreement shall be void in so far as it purports to exclude or limit the application of any provision of this Act or is inconsistent with any provision of this Act.

(2) A provision in any agreement which is or becomes less favourable in relation to an employee than a similar or corresponding entitlement conferred on the employee by this Act shall be deemed to be so modified as to be not less favourable.

(3) Nothing in this Act shall be construed as prohibiting the inclusion in an agreement of a provision more favourable to an employee than any provision in *Part 2*.

(4) References in this section to an agreement are to any agreement, whether a contract of employment or not and whether made before or after the commencement of this Act.

Expenses

5. The expenses incurred by the Minister in the administration of this Act shall, to such

extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

PART 2

Paternity Leave

Entitlement to paternity leave

6. (1) Subject to this Part, an employee who is a relevant parent in relation to a child shall be entitled to 2 weeks' leave from his or her employment, to be known (and referred to in this Act) as "paternity leave", to enable him or her to provide, or assist in the provision of, care to the child or to provide support to the relevant adopting parent or mother of the child, as the case may be, or both.

(2) Other than where *section 12* applies, the period of leave referred to in *subsection (1)* shall comprise a single period of 2 weeks.

(3) Subject to *subsection (4)*, only one person who is a relevant parent in relation to a child shall be entitled to paternity leave in respect of that child.

(4) *Subsection (3)* shall not operate to prevent paternity leave from being taken by a relevant parent referred to in *paragraph (a)* of the definition of relevant parent in *section 2(1)* in respect of a child by reason only that paternity leave has prior to the adoption of the child, been taken in respect of that child by a person other than that relevant parent.

(5) Where the birth of a child is part of a multiple birth or a person adopts 2 or more children at the same time, a person who is a relevant parent in relation to the children concerned shall only be entitled to one period of paternity leave under this section in respect of the children concerned.

(6) *Subsection (1)* applies—

(a) in the case of a child who is, or is to be, adopted where the day of placement in respect of the child falls on or after 1 September 2016, or

(b) in any other case, where the date of confinement in respect of the child falls on or after 1 September 2016.

(7) A person may not avail of paternity leave under this Act where the person avails of adoptive leave under section 6 of the Act of 1995.

Notification to employer

7. (1) Subject to this section and *sections 9*, *13(2)* and *14(2)*, entitlement to paternity leave shall be subject to an employee who is a relevant parent in relation to a child having notified in writing and in accordance with *subsection (2)* or *(5)* his or her employer (or caused his or her employer to be so notified) of his or her intention to take paternity leave.

(2) A notification referred to in *subsection (1)* may be given—

(a) in the case of a child who is, or is to be, adopted, as soon as reasonably practicable but not later than 4 weeks before the expected day of placement, or

(b) in any other case, as soon as reasonably practicable but not later than 4 weeks before the expected week of confinement of the expectant mother concerned.

(3) A relevant parent who has given a notification to his or her employer in accordance with *subsection (2)* shall, other than where *subsection (4)* applies—

(a) in the case of an adoption, other than an intercountry adoption effected or to be effected outside the State, cause his or her employer to be—

(i) notified in writing as soon as reasonably practicable of the expected day of placement, and

(ii) supplied as soon as reasonably practicable but not later than 4 weeks after the day of placement with a copy of the certificate of placement that the employed adopting mother or sole male adopter concerned, as the case may be, has supplied to her or his employer, as the case may be, under section 7(1)(c) of the Act of 1995,

(b) in the case of an intercountry adoption effected or to be effected outside the State, cause his or her employer to be—

(i) notified in writing as soon as reasonably practicable of the expected day of placement,

(ii) supplied before the expected day of placement, if not already so supplied, with a copy of an applicable declaration of eligibility and suitability that the employed adopting mother or sole male adopter concerned, as the case may be, has supplied to his or her employer, as the case may be, under section 7(2)(c) of the Act of 1995, and

(iii) supplied as soon as reasonably practicable after the day of placement with particulars in writing of the placement,

or

(c) in any other case, at the time of the notification or as soon as reasonably practicable afterwards, give to his or her employer or produce for his or her employer's inspection a copy of the medical, or other appropriate, certificate confirming the pregnancy of the expectant mother concerned and specifying the expected week of confinement of the expectant mother concerned that she has given to, or produced for the inspection of, her employer under section 9 of the Act of 1994.

(4) A relevant parent who has given a notification to his or her employer in accordance with *subsection (2)* shall—

(a) in the case of an adoption where the adopting mother or sole male adopter concerned, as the case may be, is not an employee or the relevant parent concerned is a relevant parent referred to in *paragraph (a)(i)* of the definition of relevant parent in *section 2(1)*, cause his or her employer to be—

(i) notified in writing as soon as reasonably practicable of the expected day of placement,

(ii) supplied before the expected day of placement, if not already supplied, with a copy of an applicable declaration of eligibility and suitability, and

(iii) supplied as soon as reasonably practicable after the day of placement with particulars in writing of the placement, or

(b) in any other case, and where the expectant mother is not an employee, at the time of the notification or as soon as reasonably practicable afterwards cause his or her employer to be supplied with a statement signed by a registered medical practitioner confirming the pregnancy of the expectant mother concerned and specifying the expected week of confinement of the expectant mother concerned.

(5) An employee who has not given a notification to his or her employer in accordance with *subsection (2)* or who having given such notification has revoked it under *subsection (7)* may notify the employer concerned (or cause the employer concerned to be so notified) of his or her intention to take paternity leave not later than 4 weeks before the commencement of such leave.

(6) A relevant parent who has given a notification to his or her employer in accordance with *subsection (5)* shall at the time of the notification or as soon as reasonably practicable afterwards cause his or her employer to be supplied with—

(a) in the case of an adoption, other than an intercountry adoption effected or to be effected outside the State or an adoption to which *subsection (4)(a)* applies, a copy of the certificate referred to in *subsection (3)(a)(ii)*,

(b) in the case of an intercountry adoption effected or to be effected outside the State, other than an adoption to which *subsection (4)(a)* applies, the particulars referred to in *subsection (3)(b)(iii)*,

(c) in the case of an adoption to which *subsection (4)(a)* applies, the particulars referred to in *subsection (4)(a)(iii)*, or

(d) in any other case, a copy of the birth certificate issued to the child concerned.

(7) A notification under this section may be revoked by a further notification in writing by the employee concerned to his or her employer.

Allocation of paternity leave

8. (1) Subject to this section, *section 10* and *sections 12* to *14*, the period of paternity leave shall commence on such day as the relevant parent selects in his or her notification given in accordance with *subsection (2)* or *(5)* of *section 7*, being not earlier than the date of confinement or day of placement, as the case may be, and not later than 26 weeks after such date or day.

(2) Where a relevant parent is employed under a contract of employment for a fixed term and that term expires before the day which, apart from this subsection, would be the last day of his or her paternity leave, then—

(a) notwithstanding any other provision in this Part, the last day of his or her paternity leave shall be the day on which the term expires, and

(b) nothing in this Part shall affect the termination of the relevant parent's contract of employment on that day.

Commencement of paternity leave (early confinement)

9. Where the date of confinement occurs in a week that is 4 weeks or more before the expected date of confinement, the relevant parent in relation to the child concerned shall, where the circumstances so require, be deemed to have complied with *section 7* if the notification required by that section is given in the period of 7 days commencing on the date of confinement.

Postponement of paternity leave

10. Where, as the case may be, the day of placement is postponed or the date of confinement occurs after the date selected by a relevant parent in his or her notification given in accordance with *subsection (2)* or *(5)* of *section 7*, the relevant parent shall be entitled to select another date on which the paternity leave shall commence.

Postponement of paternity leave in event of sickness of relevant parent

11. (1) Where a relevant parent who has complied with *subsection (2)* or *(5)* of *section 7*, *section 13(2)* or *14(2)*, as the case may be, becomes sick prior to the commencement of his or her paternity leave and wishes to postpone the paternity leave, he or she may, by notice in writing given to his or her employer as soon as reasonably practicable after becoming sick and accompanied by the relevant evidence in respect of the sickness, postpone the taking of the leave to such time as the relevant parent is no longer sick and the entitlement to such leave (in this section referred to as "postponed leave") is subject to the relevant parent concerned having, subject to *subsection (5)*, notified his or her employer in writing (or caused his or her employer to be so notified) as soon as reasonably practicable but not later than the day on which the postponed leave begins of his or her intention to commence such leave.

(2) Where a relevant parent is absent from work due to the postponement of paternity leave under this section, such absence shall be treated in the same manner as any absence from work of the relevant parent due to sickness.

(3) A period of postponed leave shall, other than where *section 13(1)* or *14(1)* applies, end not later than 28 weeks after the date of confinement or day of placement, as the case may be.

(4) Where *section 13(1)* or *14(1)* applies, the period of postponed leave shall commence not later than 7 days after the relevant parent is no longer sick or on such other date as may be agreed between the relevant parent and the employer.

(5) An employer may waive the right to receive a notification in accordance with *subsection (1)*.

(6) A notification under *subsection (1)* may be revoked by a further notification in writing given by or on behalf of the relevant parent concerned to his or her employer within the period specified in that subsection for the giving of the notification concerned.

Postponement of paternity leave in event of hospitalisation of child

12. (1) Subject to *subsection (2)*, a relevant parent who is entitled to, or is on, paternity leave may, if the child in connection with whose birth or adoption he or she is entitled to, or is on, the leave concerned (in this section referred to as "the child") is hospitalised,

request in writing (or cause a written request to be submitted to) his or her employer to postpone the leave or part of it as may be appropriate.

(2) An employer who receives a request under *subsection (1)* may agree to postpone the leave concerned and, if the employer does so—

(a) the relevant parent concerned shall continue to work or, as the case may be, shall return to work on a date agreed by him or her and the employer that is not later than the date on which the leave concerned is due to end in accordance with the notification given by the relevant parent to the employer in accordance with *subsection (2)* or *(5)* of *section 7*, *section 13(2)* or *14(2)*, as the case may be,

(b) the leave concerned shall be postponed with effect from the date agreed under *paragraph (a)*,

(c) the relevant parent concerned shall, subject to *subsection (4)*, be entitled to the leave concerned or part of it, as the case may be, not taken by him or her by reason of the postponement (in this section referred to as "postponed leave"), and

(d) the postponed leave is to be taken in one continuous period commencing not later than 7 days after the discharge of the child from hospital or such other date as may be agreed between the relevant parent and the employer.

(3) An employer who receives a request under *subsection (1)* shall notify the relevant parent concerned in writing of the employer's decision in relation to the request as soon as reasonably practicable following the receipt of it.

(4) Where, following the postponement of leave under this section, an employee returns to work in accordance with *subsection (2)(a)* and during the period of the postponement he or she is absent from work due to sickness, the employee shall be deemed to commence postponed leave on the first day of such absence unless he or she notifies his or her employer in writing (or causes her employer to be so notified) as soon as reasonably practicable that he or she does not wish to commence such leave and, following such notification—

(a) the absence from work of the employee due to sickness shall be treated in the same manner as any absence from work of the employee due to sickness, and

(b) the employee shall not be entitled to the postponed leave.

(5) Entitlement to postponed leave shall, subject to *subsection (6)*, be subject to a relevant parent having notified his or her employer in writing (or caused her employer to be so notified) as soon as reasonably practicable but not later than the day on which the leave begins of his or her intention to commence such leave.

(6) An employer may waive the right to receive a notification in accordance with *subsection (5)*.

(7) A notification under *subsection (5)* may be revoked by a further notification in writing given by or on behalf of the relevant parent concerned to his or her employer within the period specified in that subsection for the giving of the notification concerned.

Relevant parent to whom section 16 of Act of 1994 applies

13. (1) Subject to *subsection (2)*, a relevant parent who—

(a) is entitled under this Act to paternity leave and has not taken such leave, and

(b) becomes entitled to leave under section 16(1) of the Act of 1994,

may take paternity leave immediately after the end of the leave referred to in *paragraph (b)* or, where that leave is postponed under section 16B of the Act of 1994, the resumed leave taken by the relevant parent.

(2) Entitlement to paternity leave under *subsection (1)* shall be subject to the relevant parent concerned having notified in writing his or her employer (or caused his or her employer to be so notified) not later than the day on which such leave begins of his or her intention to take the leave concerned.

(3) A notification under *subsection (2)* may be revoked by a further notification in writing given by or on behalf of the relevant parent concerned to his or her employer within the period specified in that subsection for the giving of the notification concerned.

Relevant parent to whom section 9 of Act of 1995 applies

14. (1) Subject to *subsection (2)*, a relevant parent who—

(a) is entitled under this Act to paternity leave and has not taken such leave, and

(b) becomes entitled under section 9(1)(a) of the Act of 1995 to adoptive leave,

may take paternity leave immediately after the end of the adoptive leave or, where the adoptive leave is postponed under section 11C of the Act of 1995, the postponed leave taken by the relevant parent.

(2) Entitlement to paternity leave under *subsection (1)* shall be subject to the relevant parent concerned having notified in writing his or her employer (or caused his or her employer to be so notified) not later than the day on which such leave begins of his or her intention to take the leave concerned.

(3) A notification under *subsection (2)* may be revoked by a further notification in writing given by or on behalf of the relevant parent concerned to his or her employer within the period specified in that subsection for the giving of the notification concerned.

Entitlement of employed surviving parent to leave on death of relevant parent

15. (1) Where a relevant parent entitled to paternity leave in relation to a child dies before the expiry of the twenty-eighth week following the date of confinement or day of placement, as the case may be, the employed surviving parent of the child shall be entitled to leave (in this section referred to as "transferred paternity leave") from his or her employment, to enable him or her to provide, or assist in the provision of, care to the child, for—

(a) where the relevant parent was an employee, a period of 2 weeks or, if applicable, such shorter period of paternity leave that remained to be taken by the relevant parent under this Act at the time of his or her death, and

(b) in all other cases, a period of 2 weeks.

(2) A period of transferred paternity leave shall commence—

(a) in the case of a surviving parent entitled to maternity leave under the Act of 1994, immediately after the end of the maternity leave concerned,

(b) in the case of a surviving parent entitled to adoptive leave under section 6 of the Act of 1995, immediately after the end of the adoptive leave concerned, or

(c) in any other case, within 7 days of the death of the relevant parent concerned or, where applicable, on the day of placement, whichever is the later.

(3) Entitlement to transferred paternity leave shall be subject to the surviving parent concerned—

(a) notifying his or her employer in writing (or causing his or her employer to be so notified) not later than the day on which the transferred paternity leave begins of—

(i) the death of the relevant parent,

(ii) his or her intention to take transferred paternity leave, and

(iii) the length of the leave to which he or she believes he or she is so entitled under this Act,

and

(b) if requested by his or her employer, causing his or her employer to be supplied, as soon as reasonably practicable, with a copy of the death certificate made in respect of the relevant parent.

(4) A notification under *subsection (3)* may be revoked by a further notification in writing given by or on behalf of the surviving parent concerned to his or her employer within the period specified in that subsection for the giving of the notification concerned.

(5) A reference in *subsection (1)* to a relevant parent entitled to paternity leave includes a reference to a relevant parent who would be so entitled but for the fact that he or she did not notify his or her employer in accordance with *subsection (2)* or *(5)* of *section 7*, as the case may be.

(6) Subject to *subsection (7)*, *sections 11* and *12* shall apply to a surviving parent who is entitled to, or is on, transferred paternity leave as they apply to a relevant parent who is entitled to, or is on, paternity leave and a reference in those sections to notification by a relevant parent to his or her employer in accordance with *subsection (2)* or *(5)* of *section 7*, *section 13(2)* or *14(2)*, as the case may be, shall be construed as including a reference to notification by a surviving parent under *subsection (3)(a)*.

(7) Where *section 11(1)* applies to a surviving parent who is on transferred paternity leave, then, notwithstanding *section 11(3)*, the period of postponed leave shall commence not later than 7 days after the surviving parent is no longer sick or on such other date as may be agreed between the surviving parent and the employer.

Abuse of paternity leave

16. (1) Where an employer has reasonable grounds for believing that an employee of his or hers who is on paternity leave is not using the leave for the purpose specified in *section 6(1)*, the employer may, by notice in writing given to the employee, terminate the leave and the notice shall contain a statement in summary form of the grounds for

terminating the leave and shall specify the day (being a day not later than the date of the end of the period of the leave specified in the notification given in accordance with *subsection (2)* or *(5)* of *section 7*, *section 13(2)* or *14(2)*, as the case may be, nor, subject to the foregoing requirement, earlier than 7 days after the date of the receipt by the employee concerned of the notice) by which the employee must return to work.

(2) Where paternity leave is terminated under *subsection (1)*, the employee concerned shall return to his or her employment on the day specified in the notice under that subsection and any period between the date of such return and the date of the end of the period of the leave specified in the notification given in accordance with *subsection (2)* or *(5)* of *section 7*, *section 13(2)* or *14(2)*, as the case may be, shall be deemed not to be paternity leave.

(3) Where an employee has notified his or her employer in writing in accordance with *subsection (2)* or *(5)* of *section 7*, *section 13(2)* or *14(2)*, as the case may be, and the employer has reasonable grounds for believing that the employee is not entitled to the paternity leave concerned, the employer may, by notice in writing given to the employee, refuse to grant the leave to the employee and, if the employer does so, the employee shall not be entitled to take the paternity leave concerned.

(4) A notice under *subsection (3)* shall contain a statement in summary form of the grounds for refusing to grant the paternity leave concerned.

(5) Where an employer proposes to give a notice under *subsection (1)* or *(3)* to an employee of his or hers, the employer shall, before giving the notice, notify in writing the proposal to the employee and the notification shall contain a statement in summary form of the grounds for terminating, or, as the case may be, refusing to grant, the paternity leave concerned and a statement that the employee may, within 7 days of the receipt of the notification, make representation to the employer in relation to the proposal; and any such representations made by an employee to an employer within the period aforesaid shall be considered by the employer before he or she decides whether to give a notice under *subsection (1)* or *(3)*, as the case may be, to the employee.

(6) A person shall retain a notice given to him or her under this section.

(7) A person who gives a notice under this section shall retain a copy of the notice.

(8) A reference in this section to paternity leave includes a reference to transferred paternity leave and accordingly—

(a) the reference in *subsection (1)* to purpose shall be construed as a reference to the purpose specified in *section 15(1)*, and

(b) a reference in *subsection (1)*, *(2)* or *(3)* to a notification by the employee shall be construed as a reference to a notification by the employee under *section 15(3)*.

Maintenance of records

17. (1) An employer shall make a record of the paternity leave of his or her employees indicating the period of employment for each employee and the dates and times in respect of which each employee was on paternity leave.

(2) A record of paternity leave made under this section shall be retained by the employer concerned for a period of 8 years after the relevant paternity leave is taken.

(3) An employer who contravenes *subsection (1)* or *(2)* shall be guilty of an offence and shall be liable, on summary conviction, to a class B fine.

(4) Where an offence under this section is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(5) Where the affairs of a body corporate are managed by its members, *subsection (4)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

(6) Proceedings for an offence under this section may be brought and prosecuted by the Workplace Relations Commission.

(7) If a person is convicted of an offence under this section the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the prosecutor the costs and expenses, measured by the court, reasonably incurred by the prosecutor in relation to the investigation, detection and prosecution of the offence, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers.

(8) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under this section may be instituted within 12 months from the date of the offence.

PART 3

Employment Protection

Interpretation (*Part 3*)

18. Where paternity leave is postponed in accordance with *section 12*, the time (if any) on leave before such postponement and the time on leave after such postponement shall be treated for the purposes of this Part as separate periods of leave.

Preservation or suspension of rights while on paternity leave

19. (1) During a period of absence from work by an employee while on paternity leave, the employee shall be deemed to have been in the employment of the employer and, accordingly, while so absent the employee shall, subject to *subsection (4)* and *section 21*, be treated as if she or he had not been so absent; and such absence shall not affect any right related to the employee's employment (other than the employee's right to remuneration during such absence), whether conferred by statute, contract or otherwise.

(2) A period of absence from work whilst on paternity leave shall not be treated as part of any other leave (including sick leave, annual leave, additional maternity leave, subsection (1)(a) leave or subsection (1)(b) leave within the meaning of section 16 of the Act of 1994, adoptive leave or additional adoptive leave within the meaning of the Act of 1995) to which the employee concerned is entitled.

(3) Where an employee who is—

(a) on probation in his or her employment,

(b) undergoing training in relation to that employment, or

(c) employed under a contract of apprenticeship,

takes paternity leave, and his or her employer considers that the employee's absence from his or her employment while on such leave would not be consistent with the continuance of the probation, training or apprenticeship, the employer may require that the probation, training or apprenticeship shall stand suspended during the period of leave concerned and be completed by the employee at the end of that period.

(4) An employee shall be deemed not to be an employed contributor for the purposes of the Act of 2005 for any contribution week within the meaning of that Act in a period of absence from work on paternity leave if the employee does not receive any reckonable earnings within the meaning of that Act in respect of that week.

Voidance of certain purported terminations of employment, etc.

20. Each of the following shall be void:

(a) any purported termination of employment of an employee while the employee is absent from work on paternity leave;

(b) any purported suspension from employment of an employee while the employee is absent from work on paternity leave;

(c) any notice of termination of the employment of an employee given while the employee is absent from work on paternity leave.

Extension of certain notices of termination of employment or of certain suspensions

21. A notice of termination of employment given in respect of an employee or a suspension from employment imposed on an employee—

(a) before the employee commences a period of paternity leave, or

(b) before the receipt by the employee's employer of a notification in accordance with *subsection (2)* or *(5)* of *section 7*, *section 11(1)*, *12(5)*, *13(2)*, *14(2)*, *15(3)* or, where appropriate, under *section 24*,

and due to expire during the employee's absence from work on the leave concerned shall be extended by the period of such absence.

Protection of employees from penalisation

22. (1) An employer shall not penalise, or threaten penalisation of, an employee for proposing to exercise or having exercised his or her entitlement to paternity leave.

(2) For the purposes of this section, penalisation of an employee includes—

(a) dismissal, or the threat of dismissal, of the employee,

(b) unfair treatment of the employee, including selection for redundancy, and

(c) an unfavourable change in the terms or conditions of employment of the employee.

(3) If a penalisation of an employee, in contravention of *subsection (1)*, constitutes a dismissal of the employee, as referred to in *subsection (2)(a)*, the employee may institute proceedings under the Act of 1977 in respect of that dismissal.

General right to return to work on expiry of paternity leave

23. (1) Subject to *section 24*, an employee who is absent from work while on paternity leave shall be entitled to return to work—

(a) with the employer with whom the employee was working immediately before the commencement of the period of absence, or where during the employee's absence from work there was a change of ownership of the undertaking in which the employee was employed immediately before the absence, with the owner (in this Act referred to as the "successor") of the undertaking at the expiry of the period of absence,

(b) in the job which the employee held immediately before the commencement of that period,

(c) under the contract of employment under which the employee was employed immediately before the commencement of that period or, where a change of ownership such as is referred to in *paragraph (a)* has occurred, under a contract of employment with the successor which is identical to the contract under which the employee was employed immediately before the commencement of that period, and (in either case) under terms or conditions—

(i) not less favourable than those that would have been applicable to the employee, and

(ii) that incorporate any improvement to the terms or conditions of employment to which the employee would have been entitled,

if he or she had not been so absent from work, and

(d) on the date specified in *subsection (3)*.

(2) For the purposes of *subsection (1)(b)*, where the job held by an employee immediately before the commencement of the period of absence concerned was not the employee's normal or usual job, the employee shall be entitled to return to work, either in his or her normal or usual job or in the job so held as soon as practicable without contravention by the employee or the employer of any provision of a statute or instrument made under statute.

(3) Without prejudice to an employee who returns to work under *section 12(2)(a)*, the date referred to in *subsection (1)(d)* shall be the first working day following the date notified under *subsection (1)*, *(2)*, or *(3)*, as appropriate, of *section 24*.

(4) In this section "job", in relation to an employee, means the nature of the work which he or she is employed to do in accordance with his or her contract of employment and the capacity and place in which he or she is so employed.

Notification of intention to return to work

24. (1) Subject to *subsection (2)*, where an employee intends to take paternity leave, the employee shall cause the employer (or, if aware of a change of ownership of the undertaking concerned, the successor) to be notified in writing, at the same time as the employee notifies the employer of intention to take the leave, in accordance with *subsection (2)* or *(5)* of *section 7*, *section 13(2)*, *14(2)* or *15(3)*, as the case may be, of the length of the leave that the employee intends to take.

(2) Where an employee intends to take postponed leave within the meaning of *section 11* or *12*, the employee shall cause the employer (or, if aware of a change of ownership of the undertaking concerned, the successor) to be notified in writing—

(a) at the same time as the relevant notification is given by the employee under *section 11(1)* or *12(5)*, as the case may be, or

(b) if the employer, under *section 11(5)* or *12(6)*, waives the right to receive such notification, not later than the day on which the employee expects to return to work,

of the employee's intention to return to work and of the date on which the employee expects to do so.

(3) Where an employee is absent from work and has been deemed under *section 12(4)* to be on postponed leave, the employee shall cause the employer (or, if aware of a change of ownership of the undertaking concerned, the successor) to be notified in writing, as soon as reasonably practicable after the beginning of the absence from work of the employee owing to sickness but not later than the date on which the employee expects to return to work, of the employee's intention to return to work and of the date on which the employee expects to do so.

(4) Where, in the opinion of an adjudication officer or the Labour Court, there are reasonable grounds—

(a) for an employee's failure to give notification under *subsection (1)*, *(2)* or *(3)* as the case may be, or

(b) for an employee giving such notification otherwise than within the specified time limits,

the adjudication officer or the Labour Court, as the case may be, shall extend the time for giving the notification.

(5) In the absence of reasonable grounds—

(a) failure to give notification under *subsection (1)*, *(2)* or *(3)*, as the case may be, or

(b) the giving of such notification otherwise than within the specified time limits,

are matters that may be taken into account by an adjudication officer or the Labour Court in determining the employee's rights under the Act of 1977, this Act or any

other relevant enactment, so far as the remedies of re-instatement, re-engagement or compensation are concerned.

Postponement of return to work

25. Where, because of an interruption or cessation of work at an employee's place of employment, existing on the date specified in a notification under *section 24* given by the employee or at the time of the expiration of a period of paternity leave taken by the employee, it is unreasonable to expect the employee to return to work on the date specified in the notification concerned or on such expiration, the employee may return to work instead when work resumes at the place of employment after the interruption or cessation, or as soon as reasonably practicable after such resumption.

Provisions applying where employee not permitted to return to work

26. (1) This section applies to an employee who, having duly complied with *section 24*, is entitled under this Part to return to work but is not permitted to do so by the relevant employer, within the meaning of *section 27(3)*, and, in this section, in relation to such an employee, "the expected date of return" means the date notified under *section 24* as the date on which the employee expected to return to work.

(2) For the purposes of the Redundancy Payments Acts 1967 to 2014, an employee to whom this section applies who is also an employee to whom those Acts apply shall be deemed to have been dismissed by reason of redundancy, the date of dismissal being deemed to be the expected date of return.

(3) For the purposes of the Minimum Notice and Terms of Employment Act 1973, the contract of employment of an employee to whom this section applies who is also an employee to whom that Act applies shall be deemed to have been terminated on the expected date of return.

(4) For the purposes of the Act of 1977—

(a) an employee to whom this section applies who is also an employee to whom that Act applies shall be deemed to have been dismissed on the expected date of return, and

(b) the dismissal shall be deemed to be an unfair dismissal unless, having regard to all the circumstances, there were substantial grounds justifying the dismissal.

PART 4

Resolution of Disputes

Disputes regarding entitlements under Act

27. (1) This Part does not apply to a dispute relating to the dismissal of an employee.

(2) This Part does not apply to a person who is employed as a member of the Defence Forces.

(3) In this Part the "relevant employer", in relation to an employee, means the employee's employer.

(4) In *subsection (1)* "dismissal" has the same meaning as it has in the Act of 1977 except that, in applying that definition for the purposes of *subsection (1)*, the expressions "employee", "employer" and "contract of employment", where used in that definition, shall be given the same meanings as in this Act.

Decision under section 41 or 44 of Act of 2015

28. (1) A decision of an adjudication officer under section 41 of the Act of 2015 in relation to a dispute between an employee and the relevant employer relating to any entitlement of the employee under *Part 2* or *3* (or any matter arising out of or related to such entitlement) may include such directions to the parties to the dispute as the adjudication officer considers necessary or expedient for the resolution of the dispute, and if the decision is in favour of the employee then, without prejudice to the power to give such directions, the adjudication officer may order—

(a) the grant of leave to the employee for such period as may be so specified,

(b) an award of compensation (in favour of the employee to be paid by the relevant employer) of such amount, not exceeding 2 weeks' remuneration in respect of the employee's employment calculated in such manner as may be prescribed by the Minister for Jobs, Enterprise and Innovation, as the adjudication officer considers just and equitable having regard to all of the circumstances, or

(c) both such grant and such award.

(2) A decision of the Labour Court under section 44 of the Act of 2015 on appeal from a decision referred to in *subsection (1)* may include such directions to the parties to the appeal as the Labour Court considers necessary or expedient for the resolution of the matter, and if the decision is in favour of the employee then, without prejudice to the power to give such directions, the Labour Court may order—

(a) the grant of leave for such period as may be so specified,

(b) an award of compensation (in favour of the employee to be paid by the relevant employer) of such amount, not exceeding 2 weeks' remuneration in respect of the employee's employment calculated in such manner as may be prescribed, by the Minister for Jobs, Enterprise and Innovation, as the Labour Court considers just and equitable having regard to all of the circumstances, or

(c) both such grant and such award.

(3) In this section "remuneration" includes allowances in the nature of pay and benefits in lieu of or in addition to pay.

Burden of proof

29. (1) In this section—

"discrimination" means—

(a) a failure, which gives rise to a dispute, to comply with a provision of *Part 2* or *3*, or

(b) an unfair dismissal, within the meaning of the Act of 1977, of an employee resulting wholly or mainly from the exercise or proposed exercise by the employee of the right under this Act to paternity leave;

"employee", in relation to proceedings under the Act of 1977, has the same meaning as in section 1 of that Act;

"indirect discrimination" shall be construed in accordance with section 22 of the Employment Equality Act 1998 insofar as that section relates to discrimination on the family status ground within the meaning of that Act;

"proceedings" means—

(a) any proceedings under Part 4 of the Act of 2015 in relation to a dispute between an employee and the relevant employer relating to any entitlement of the employee under *Part 2* or *3* before—

(i) an adjudication officer dealing with a dispute referred to the adjudication officer by an employee, or

(ii) the Labour Court,

or

(b) any proceedings under the Act of 1977 before an adjudication officer or the Labour Court in which a claim is made by an employee for redress under that Act for unfair dismissal on the grounds that the dismissal resulted wholly or mainly from the exercise or proposed exercise by the employee of the right under this Act to paternity leave,

and includes any subsequent proceedings, including proceedings on appeal, arising from the claim.

(2) Where in any proceedings facts are established by an employee from which it may be presumed that there has been discrimination or indirect discrimination in relation to him or her, it shall be for the respondent to prove the contrary.

(3) This section is without prejudice to section 6(6) of the Act of 1977 or any other enactment or rule of law in relation to the burden of proof in proceedings which may be more favourable to such an employee.

(4) Nothing in this section shall operate to reduce the existing level of protection for employees in relation to the burden of proof in proceedings.

PART 5

Paternity Benefit

Amendment of section 39 of Act of 2005

30. Section 39(1) of the Act of 2005 is amended by the insertion of the following paragraph after paragraph (d):

"(da) paternity benefit,".

Paternity benefit

31. Part 2 of the Act of 2005 is amended by the insertion of the following Chapter after Chapter 11:

"CHAPTER 11A

Paternity Benefit

Interpretation

61A. (1) In this Chapter—

'Act of 1995' means the Adoptive Leave Act 1995;

'Act of 2010' means the Adoption Act 2010;

'*Act of 2016*' means the *Paternity Leave and Benefit Act 2016*;

'adopting mother' has the same meaning as it has in the Act of 1995;

'certificate of placement' has the meaning assigned to it by section 13 of the Act of 1995;

'confinement' has the same meaning as it has in Chapter 9 and 'confined' shall be construed accordingly;

'date of confinement' shall be construed in accordance with section 51(1)(b);

'day of placement' has the same meaning as it has in the *Act of 2016*;

'declaration of eligibility and suitability' has the same meaning as it has in the Act of 2010;

'expected week of confinement' has the meaning assigned to it by section 61B(1)(b)(ii)(I);

'paternity leave' has the meaning assigned to it by *section 6* of the *Act of 2016*;

'provides care in relation to a child' shall be construed in accordance with section 61B(3);

'relevant adopting parent' means, in relation to a child who is, or is to be, adopted—

(a) where the child is, or is to be, adopted jointly by a married couple of the same sex, the spouse of the relevant parent in relation to that child,

(b) the adopting mother of the child, or

(c) the sole male adopter of the child;

'relevant day' means the first day for which paternity benefit is claimed;

'relevant parent', in relation to a child—

(a) in the case of an employed contributor, has the meaning given to it by *section 2(1)* of the *Act of 2016*, and

(b) in the case of a person in insurable self-employment, means a person (other than the mother of the child) who is—

(i) in the case of a child who is, or is to be, adopted—

(I) where the child is, or is to be, adopted jointly by a married couple of the same sex, the spouse chosen by that couple to be the relevant parent for the purpose of this Chapter, or

(II) in the case of a child other than a child referred to in clause (I), the spouse, civil partner or cohabitant, as the case may be, of the adopting mother or sole male adopter of the child,

or

(ii) in any other case—

(I) the father of the child,

(II) the spouse, civil partner or cohabitant, as the case may be, of the mother of the child, or

(III) a parent of the child under section 5 of the Children and Family Relationships Act 2015 where the child is a donor-conceived child within the meaning of Part 2 of that Act;

'sole male adopter' has the same meaning as it has in the Act of 1995 and includes, for the purpose of this Chapter, a person who would be a sole male adopter but for the fact that he is not an employee within the meaning of that Act;

'surviving parent' means, in relation to a child whose relevant parent has died—

(a) in the case of a child who is, or is to be, adopted, the relevant adopting parent of the child, or

(b) in any other case, the mother of the child;

'transferred paternity leave' has the meaning assigned to it by *section 15* of the *Act of 2016*.

(2) For the purpose of this Chapter, a reference to a child who is, or is to be, adopted is a reference to a child who is, or is to be, the subject of—

(a) an adoption order within the meaning of the Act of 2010, or

(b) an intercountry adoption effected outside the State within the meaning of that Act and recognised under that Act.

(3) In this Chapter, a reference to the mother of a child includes a reference to the expectant mother of a child, unless the context otherwise requires.

Entitlement to and duration of benefit

61B. (1) Subject to this Act, a relevant parent shall be entitled to paternity benefit in respect of a period during which the relevant parent provides care in relation to a child where—

(a) in the case of an employed contributor, it is certified by the employer of the relevant parent that he or she is entitled to paternity leave under the *Act of 2016*,

(b) in the case of a person in insurable self-employment, being—

(i) a relevant parent referred to in paragraph (b)(i) of the definition of 'relevant parent' in section 61A(1)—

(I) a certificate of placement is issued in relation to the child, or

(II) a declaration of eligibility and suitability is issued in relation to the child and particulars in writing are provided of the day of placement or expected day of placement,

or

(ii) a relevant parent referred to in paragraph (b)(ii) of the definition of 'relevant parent' in section 61A(1)—

(I) it is certified by a registered medical practitioner, or otherwise to the satisfaction of the Minister, that it is expected that the mother of the child will be confined in a week specified in the certificate (in this section referred to as the 'expected week of confinement') not being more than the prescribed number of weeks after that in which the certificate is given, or

(II) it is certified by a registered medical practitioner, or otherwise to the satisfaction of the Minister, that the mother of the child has been confined,

and

(c) subject to subsection (2), the relevant parent satisfies the contribution conditions in section 61C.

(2) Regulations may provide for entitling to paternity benefit, subject to the conditions and in the circumstances that may be prescribed, the class or classes of persons who would be entitled to that benefit but for the fact that the contribution conditions in section 61C are not satisfied.

(3) Paternity benefit shall be payable under this Chapter to a relevant parent in relation to a child for the purpose of enabling the relevant parent to provide, or assist in the provision of, care to the child or to provide support to the relevant adopting parent or mother of the child, as the case may be, or both, and 'provides care in relation to a child' shall be construed accordingly.

(4) Subject to subsections (5) and (7)(c)—

(a) only one paternity benefit shall be payable in relation to a child, and

(b) where—

(i) the birth of the child is part of a multiple birth of 2 or more children, or

(ii) a person adopts 2 or more children at the same time,

only one paternity benefit shall be payable in relation to the children concerned.

(5) Subsection (4) shall not operate to prevent paternity benefit from being paid to a relevant parent referred to in paragraph (b)(i) of the definition of 'relevant parent' in section 61A(1) in relation to a child by reason only that paternity benefit has already been paid in relation to that child to a person other than the relevant parent concerned prior to the adoption of the child.

(6) The surviving parent of a child shall be entitled to benefit under this Chapter as if he or she were the relevant parent and the provisions of this Chapter (other than section 61C) shall apply in the case of the surviving parent where—

(a) in the case of a surviving parent who is an employed contributor, it is certified by the employer of the surviving parent that he or she is entitled to transferred paternity leave under the *Act of 2016*, or

(b) in any other case, the relevant parent entitled to paternity benefit in relation to the child dies before the expiry of the twenty-eighth week following the date of confinement or day of placement.

(7) Subject to this Chapter, paternity benefit shall be payable—

(a) in the case of an employed contributor—

(i) for the period of paternity leave to which the relevant parent is entitled under the *Act of 2016*, or

(ii) for the period of transferred paternity leave to which a surviving parent is entitled under the *Act of 2016*,

(b) in the case of a person in insurable self-employment, being—

(i) a relevant parent referred to in paragraph (b)(i) of the definition of 'relevant parent' in section 61A(1), for 2 consecutive weeks—

(I) beginning on or after the day of placement, and

(II) ending not later than 28 weeks after the day of placement,

or

(ii) a relevant parent referred to in paragraph (b)(ii) of the definition of 'relevant parent' in section 61A(1), for 2 consecutive weeks—

(I) beginning on or after the date of confinement, and

(II) ending not later than 28 weeks after the date of confinement,

or

(c) in the case of a surviving parent entitled to paternity benefit under subsection (6)(b), being—

(i) the relevant adopting parent of the child, for 2 consecutive weeks less any period for which paternity benefit has already been paid in relation to the child—

(I) where he or she is entitled to or is in receipt of adoptive benefit under Chapter 11, beginning on the day immediately after the last day for which adoptive benefit is claimed by the surviving parent, or

(II) in any other case, within the period specified in paragraph (b)(i)(I) and (II),

or

(ii) the mother of the child, for 2 consecutive weeks less any period for which paternity benefit has already been paid in relation to the child—

(I) where she is entitled to or is in receipt of maternity benefit under Chapter 9, beginning on the day immediately after the last day for which maternity benefit is claimed by the surviving parent, or

(II) in any other case, within the period specified in paragraph (b)(ii)(I) and (II),

but where the surviving parent dies, the benefit shall not be payable for any subsequent day.

(8) Where a relevant parent to whom paternity benefit is payable in accordance with subsection (7)(b) becomes entitled—

(a) pursuant to section 47(4), to maternity benefit under Chapter 9, or

(b) pursuant to section 58(4)(b)(ii), to adoptive benefit under Chapter 11,

the payment of the paternity benefit shall be postponed to the day immediately after the last day for which maternity benefit or adoptive benefit is claimed by the relevant parent.

(9) Where a relevant parent is entitled to paternity benefit in accordance with subsection (1)(b)(ii)(I), the payment of the paternity benefit in accordance with this Chapter may be postponed in the event that the date of confinement occurs after the expected week of confinement and regulations may provide for the period of such postponement.

(10) In the event of the hospitalisation of the child in relation to whom the relevant parent is entitled to paternity benefit, the payment of the paternity benefit in accordance with this Chapter may be postponed and regulations may provide for the period of such postponement.

(11) Where provision is made under subsection (10) for the postponement of the payment of paternity benefit, the payment may be payable after the period specified in subsection (7)(b)(i) or (ii) but shall not be postponed to a day later than the day immediately after the day on which the child is discharged from hospital.

(12) For the purposes of this section, a Sunday shall not in any week be treated as a day of entitlement to paternity benefit and, accordingly, the amount payable by way of that benefit for any other day of a week shall be one-sixth of the appropriate weekly rate, subject to the total amount being paid at any time by virtue of this subsection being rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent, and being rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.

(13) In the case of an employed contributor, where the employment ceases during the period for which paternity benefit is payable under this Chapter, the beneficiary shall continue to be treated as if the event which caused the cesser of employment had not occurred.

(14) Subject to subsection (6), a person who is entitled to, or is in receipt of, adoptive benefit under Chapter 11 in accordance with section 58(4)(a)(i) or (b)(i) shall not be entitled to benefit under this Chapter.

(15) Regulations may provide for requiring an employer or any other person to furnish any information that may be required for the purposes of determining a claim for paternity benefit.

(16) This section applies—

(a) in the case of a child who is, or is to be, adopted, where the day of placement in respect of the child falls on or after 1 September 2016, or

(b) in any other case, where the date of confinement in respect of the child falls on or after 1 September 2016.

Conditions for receipt

61C. The contribution conditions for paternity benefit are—

(a) in the case of an employed contributor—

(i) (I) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with his or her entry into insurance and ending immediately before the relevant day, and

(II) (A) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year

before the beginning of the benefit year in which the relevant day occurs or in a subsequent complete contribution year before the relevant day, or

(B) that the claimant has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year in which the relevant day occurs,

or

(ii) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day, or having been in insurable self-employment, he or she satisfies the contribution conditions in paragraph (b),

and

(b) in the case of a person in insurable self-employment—

(i) that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the second last complete contribution year or in the third last complete contribution year before the beginning of the benefit year in which the relevant day occurs, or in a subsequent complete contribution year before the relevant day, or

(ii) where the claimant was previously an employed contributor, that he or she satisfies the contribution conditions in paragraph (a)(i) or that he or she has employment contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day.

Rate of benefit

61D. Subject to this Act, the weekly rate of paternity benefit shall be an amount equal to the greater of—

(a) the amount of illness benefit, including any increases of that benefit, which the person would otherwise receive if he or she was entitled to that benefit, or

(b) €230.

Disqualification

61E. Regulations may provide for disqualifying a relevant parent or a surviving parent for receiving paternity benefit where, during the period for which the benefit is payable, the relevant parent or surviving parent engages in any form of insurable employment, insurable (occupational injuries) employment, insurable self-employment, any employment referred to in paragraph 1, 2, 3 or 6 of Part 2 of Schedule 1 or any self-employment referred to in paragraph 1 or 5 of Part 3 of Schedule 1.”.

PART 6

MISCELLANEOUS

Amendment of Schedule 3 to Redundancy Payments Act 1967

32. Schedule 3 to the Redundancy Payments Act 1967 is amended—

(a) in paragraph 5, by the insertion of the following subparagraph after subparagraph (d):

"(e) any period during which an employee was absent from work while on paternity leave or transferred paternity leave under the *Paternity Leave and Benefit Act 2016*,",

and

(b) in paragraph 8A—

(i) by the insertion of the following subparagraph after subparagraph (b):

"(ba) a period during which, in accordance with the *Paternity Leave and Benefit Act 2016*, an employee was absent from work while on paternity leave or transferred paternity leave within the meaning of that Act,",

and

(ii) in subparagraph (c) by the substitution of "paragraphs (a), (b) or (ba)" for "paragraphs (a) or (b)".

Amendment of section 6 of Act of 1977

33. Section 6 of the Act of 1977 is amended—

(a) in subsection (2), by—

(i) the substitution, in paragraph (h), of "meetings," for "meetings.", and

(ii) the insertion of the following paragraph after paragraph (h):

"(i) the exercise or proposed exercise by the employee of the right under the *Paternity Leave and Benefit Act 2016* to paternity leave or transferred paternity leave within the meaning of that Act,",

and

(b) in subsection (2A), by the substitution of ", (h) or (i)" for "or (h)".

Amendment of Act of 1994

34. The Act of 1994 is amended—

(a) by the insertion of the following in section 2:

" 'paternity leave' and 'transferred paternity leave' have the same meanings as they have in the *Paternity Leave and Benefit Act 2016*;",

(b) in section 14—

(i) by the insertion, in subsection (1), of "and, where applicable, any period of transferred paternity leave taken by her" after "end of her maternity leave", in both places in which it occurs, and

(ii) by the substitution of the following for subsection (4):

"(4) Notification under subsection (3) shall be given either at the same time as the relevant notification under section 9 or not later than four weeks before—

(a) the date which would have been the employee's expected date of return to work under Part IV if she had not taken the additional maternity leave, or

(b) where the employee takes transferred paternity leave, the date on which the additional maternity leave is, under subsection (1), to commence.",

(c) in section 14A(1), by the insertion of the following after subsection (4):

"(5) A reference in subsection (1) to the last 4 weeks of maternity leave shall, in the case of an employee who takes transferred paternity leave, be construed as a reference to the last 2 weeks of maternity leave and the period of that transferred paternity leave.",

and

(d) in section 16—

(i) by the insertion, in subsection (1), of "and subject to subsection (10)" after "with this section",

(ii) by the substitution, in subsection (3), of "Subject to subsection (10) and section 16B," for "Subject to section 16B,",

(iii) by the insertion, in subsection (4), of "or, where applicable, paternity leave under *section 13(1)* of the *Paternity Leave and Benefit Act 2016*" after "his subsection (1)(a) leave" in both places where it occurs,

(iv) by the deletion, in subsection (6), of "under subsection (4)." and the substitution of the following:

"subsection (4) or, where he takes paternity leave under *section 13(1)* of the *Paternity Leave and Benefit Act 2016*, the date on which the further leave is, under subsection (4), to commence.",

(v) in subsection (8)—

(I) by the insertion of "and paragraphs (a) and (b) of subsection (10)" after "subsections (1) and (4)", and

(II) by the substitution of "those subsections or paragraphs" for "those subsections",

and

(vi) by the insertion of the following after subsection (9):

"(10) Where, on the date on which a person becomes entitled under subsection (1) to leave under that subsection, the person is on paternity leave, this section and sections 16A and 16B shall apply to the person subject to the following modifications and any other necessary modifications:

(a) where the person is entitled to subsection (1)(a) leave, the leave shall commence immediately after the end of the paternity leave and, subject to section 16B, end at the end of the twenty-fourth week following the end of the paternity leave;

(b) where the person is entitled to subsection (1)(b) leave, the leave shall commence immediately after the end of the paternity leave and, subject to sections 16A and 16B, end at the end of the fortieth week following the end of the paternity leave;

(c) a reference in this section and sections 16A and 16B to—

(i) subsection (1)(a) leave shall be deemed to include a reference to a period of leave to which paragraph (a) applies, and

(ii) subsection (1)(b) leave shall be deemed to include a reference to a period of leave to which paragraph (b) applies.".

Amendment of Act of 1995

35. The Act of 1995 is amended—

(a) by the insertion of the following in section 2:

" 'paternity leave' and 'transferred paternity leave' have the same meanings as they have in the *Paternity Leave and Benefit Act 2016*;",

(b) in section 8(1)—

(i) by the substitution of "or is on, adoptive leave or transferred paternity leave" for "or is on, adoptive leave", and

(ii) by the insertion in paragraph (b) of "or, where applicable, any period of transferred paternity leave", after "adoptive leave",

(c) by the deletion, in section 8(3), of "additional adoptive leave." and the substitution of "additional adoptive leave or, where the employed adopting mother (or sole male adopter) takes transferred paternity leave, the date on which the additional adoptive leave is, under subsection (1)(b), to commence.",

(d) in section 9, by the substitution of the following for subsection (3):

"(3) The period of adoptive leave referred to in subsection (1) shall commence on the latest of the following:

(a) within 7 days of the death of the adopting mother,

(b) the day of placement, or

(c) where, on the date of the death of the adopting mother, the adopting father is on paternity leave, immediately after the end of the paternity leave.",

and

(e) in section 10, by the substitution of the following for subsection (5):

"(5) The period of additional adoptive leave referred to in subsection (1) shall commence—

(a) within 7 days of the death of the adopting mother,

(b) where, on the date of the death of the adopting mother, the adopting father is on paternity leave, immediately after the end of the paternity leave, or

(c) where the adopting father was on adoptive leave, on the day immediately following the end of such leave.".

Amendment of section 126 of Taxes Consolidation Act 1997

36. Section 126 of the Taxes Consolidation Act 1997 is amended in paragraph (a) of subsection (2A) by—

(a) the deletion of "and" after "benefit," in subparagraph (ii),

(b) the substitution of "benefit, and" for "benefit." in subparagraph (iii), and

(c) the insertion of the following subparagraph after subparagraph (iii):

"(iv) paternity benefit.".

Amendment of Act of 2015

37. The Act of 2015 is amended—

(a) in subsection (7) of section 41—

(i) in paragraph (d), by the deletion of "and" after "been reduced,",

(ii) in paragraph (e), by the substitution of "the dispute, and" for "the dispute.", and

(iii) by the insertion of the following paragraph after paragraph (e):

"(f) in the case of a dispute relating to the entitlement of an employee under the *Paternity Leave and Benefit Act 2016*, it has been referred to the Director General after the expiration of the period of 6 months beginning on—

(i) in the case of an employee to whom paragraph (a) of the definition of relevant parent within the meaning of that Act applies, the day of placement within the meaning of that Act or, in circumstances where no placement takes place, the date on which the employer receives the first notification of the relevant parent's intention to take leave under that Act,

(ii) in the case of an employee to whom paragraph (b) of the definition of relevant parent within the meaning of that Act applies, the date on which the employer is informed that the expectant mother of the child concerned is pregnant, or

(iii) in the case of a surviving parent within the meaning of that Act, the date on which the employer is informed that the relevant adopting parent within the meaning of that Act or mother of the child, as the case may be, has died.",

(b) in Part 1 of Schedule 1, by the insertion of the following paragraph after paragraph 20:

"21. *Paternity Leave and Benefit Act 2016*",

(c) in Part 3 of Schedule 5, by the insertion of the following paragraph after paragraph 5:

"6. *Parts 2* and *3* of the *Paternity Leave and Benefit Act 2016*",

and

(d) in Schedule 6—

(i) in Part 1 (Acts of the Oireachtas), by the insertion of the following paragraph after paragraph 35:

"36. *Section 28(1)* of the *Paternity Leave and Benefit Act 2016*",

and

(ii) in Part 2 (Acts of the Oireachtas), by the insertion of the following paragraph after paragraph 35:

"36. *Section 28(2)* of the *Paternity Leave and Benefit Act 2016*".

An Bille um Shaoire agus Sochar Atharthachta, 2016

BILLE

(mar a ritheadh ag Dáil Éireann)

dá ngairtear

Acht do thabhairt teideal chun saoire fostaíochta d'fhostaithe áirithe atá ina dtuismitheoirí iomchuí i ndáil le leanbh d'fhonn a chumasú don fhostaí cúram a sholáthar, nó cúnamh a thabhairt chun cúram a sholáthar, don leanbh nó tacaíocht a sholáthar do thuismitheoir uchtála iomchuí nó do mháthair an linbh, de réir mar a bheidh, nó d'fhonn an dá rud sin a dhéanamh; do thabhairt teideal chun saoire fostaíochta do thuismitheoir marthanach ar bhás tuismitheora iomchuí; do leathnú na cosanta ar dhífhostú éagórach a thugtar leis an Acht um Dhífhostú Éagórach, 1977; do dhéanamh socrú maidir le sochar atharthachta a íoc le daoine áirithe agus, chun na críche sin, do leasú an Achta Comhdhlúite Leasa Shóisialaigh, 2005; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Ritheadh ag Dáil Éireann,
13 *Iúil,* 2016

Paternity Leave and Benefit Bill 2016

BILL

(as passed by Dáil Éireann)

entitled

An Act to entitle certain employees who are relevant parents in relation to a child to employment leave for the purposes of enabling the employee to provide, or assist in the provision of, care to the child or to provide support to the relevant adopting parent or mother of the child, as the case may be, or both; to entitle a surviving parent to employment leave on the death of a relevant parent; to extend the protection against unfair dismissals conferred by the Unfair Dismissals Act 1977; to provide for the payment of paternity benefit to certain persons and, for that purpose, to amend the Social Welfare Consolidation Act 2005; and to provide for related matters.

Passed by Dáil Éireann,
13*th July,* 2016

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