

CHAPTER SIX – ADOPTIVE LEAVE ENTITLEMENTS

(Should be read in conjunction with the [Introduction](#), [General Provisions for All Schemes](#), [Definitions](#))

1. Adoptive Leave Entitlements

- 1.1 Adoptive Leave consists of a period of 24 consecutive weeks from the date of placement of the child with the adopting teacher.
- 1.2 Adoptive Leave is granted to teachers who are adopting mothers or sole male adopters. The adopting father who is not a sole male adopter may be entitled to Adoptive Leave in certain circumstances. Please see Section 11 for details on this provision.
- 1.3 In order to qualify for Adoptive Leave, the adoption, whether foreign or domestic, must be formalised by the [Adoption Authority of Ireland](#), the independent statutory body with responsibility for overseeing the adoption process on behalf of the State.
- 1.4 In the case of a domestic adoption, the employer must be supplied with a *Certificate of Placement* issued by the Adoption Authority of Ireland, which states the date of placement, the gender and age of the child being adopted and the name and address of the adopting parent no later than four weeks after date of placement.
- 1.5 In the case of foreign adoption, the adopting teacher must obtain a *Declaration of Suitability and Eligibility* from the Adoption Authority of Ireland, which states the date of placement, the gender and age of the child being adopted and the name and address of the adopting parent 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.

2. Statutory Additional Unpaid Adoptive Leave

- 2.1 An adopting teacher has the option to take a maximum of 16 consecutive weeks statutory additional unpaid Adoptive Leave.
- 2.2 In the case of foreign adoptions, some or all of the statutory additional unpaid Adoptive Leave may be taken prior to the date of placement, in order to allow the adopting teacher to attend meetings and/or classes held outside of the State, or for the purposes of familiarisation with the child. A period of statutory additional unpaid Adoptive Leave taken under this provision must cease no later than the last day immediately prior to the date of placement. The balance of any statutory additional

unpaid Adoptive Leave remaining may be taken immediately after the end of Adoptive Leave.

- 2.3 An adopting teacher who avails of statutory additional unpaid Adoptive Leave may be entitled to receive 'PRSI credits'. Please complete the 'Application for Adoptive Leave Credits' which is available from DSP ([PRSI Credit Form](#)) and request your employer to complete and return the employer's section to the DSP.

3. Non-Statutory Additional Unpaid Adoptive Leave to the end of the school year

- 3.1 An adopting teacher who, on completion of Adoptive Leave and statutory additional unpaid Adoptive Leave may apply for non-statutory additional unpaid Adoptive Leave to the end of the school year.

- 3.2 In the context of this leave the 'end of the school year' is taken to mean August 31st. For example, if all the other leave types referred to above were to expire by May 4th, and the teacher in question wished to remain out of school for the rest of the school year, then the non-statutory additional unpaid leave must continue until August 31st inclusive.

- 3.3 This leave type is not a statutory entitlement and it is subject to obtaining written sanction from the employer at least six weeks in advance of an intention to avail of this leave.

4. Sequence in which leave must be taken

- 4.1 The sequencing arrangements for adoptive entitlements are:

- a) In the case of foreign adoptions some or all of the statutory additional unpaid Adoptive Leave (maximum of 16 weeks) may be taken prior to placement
- b) Adoptive Leave (24 weeks)
- c) Statutory additional unpaid Adoptive Leave up to a maximum of 16 weeks. (In the case of foreign adoptions this refers to any entitlement remaining from the 16 weeks not already used prior to the adoption)
- d) Non-Statutory additional unpaid Adoptive Leave to end of school year (Aug 31st)

- 4.2 When all associated leave types have been utilised, as appropriate to each individual, then the next working day becomes the date of resumption for the adopting teacher.

5. Application Procedures for Teachers

- 5.1 Application for Adoptive Leave both paid and unpaid should be made by adopting teachers to their employer at least 6 weeks in advance of commencement of the leave on the prescribed application form which is attached at [Appendix A](#) of this chapter.
- 5.2 The applicant is responsible for completion of the [AB1 Form](#) (Department of Social Protection Adoptive Benefit Form) and should ensure that the Board of Management/ETB completes the employer's portion before forwarding to the DSP at least 6 weeks prior to the start date. The AB1 Form should **NOT** be sent to the Department of Education and Skills.
- 5.3 A teacher who avails of statutory additional unpaid Maternity Leave may be entitled to receive PRSI credits. The Application for [Adoptive Leave Credits](#) which is available from the DSP must be completed by the teacher and employer and returned to the DSP. It is the teacher's responsibility to apply for these credits and not the employer.

6. OLCS Procedures where applicable and calculations for Employers

- 6.1 Employers must enter absences on the OLCS at least 6 weeks prior to the start date for Adoptive Leave.
- 6.2 The procedure for recording Adoptive Leave absence on the OLCS is attached at [Appendix B](#) of this chapter.
- 6.3 An example Adoptive Leave case and calculation worksheet is attached at [Appendix C](#) of this chapter.

7. Pay Arrangements and Adoptive Benefit

- 7.1 Continuation of salary during Adoptive Leave is not a statutory entitlement and is contingent upon compliance with the agreed terms and conditions of this scheme.
- 7.2 Any action which necessitates an adjustment to a teacher's pay should be notified to the Department/ETB immediately.
- 7.3 Under the DSP regulations, PRSI contributors at the modified rate (Class D) have no entitlement to Adoptive Benefit. Therefore no deduction is applied to their salary and they remain on their ordinary rate of pay.
- 7.4 Under the DSP regulations any Adoptive Benefit payable by the DSP to PRSI contributors at the full rate (Class A), will issue directly to the teacher in question. A

deduction from salary equivalent to the maximum weekly rate of Adoptive Benefit payable to the teacher will initially be applied by the Department/ETB.

7.5 If the amount of Benefit payable to the teacher is less than the maximum, or if a person is not entitled to any Adoptive Benefit, he/she should notify his/her payroll section immediately to ensure that he/she can remain on the appropriate salary. Changes to the automatic deduction can be made provided the teacher furnishes a copy of DSP's written notice of the actual Benefit rate applicable, if any, to the relevant payroll. Deductions, where appropriate, will be made fortnightly during the period of paid leave up to a maximum of 24 weeks for Adoptive Leave. If the absences are recorded late any arrears due will have to be deducted from salary after the date of notification.

7.6 Adoptive Benefit payment will be treated as taxable income.

8. Time off for Pre-Adoption Classes, Meetings and Visits within the State

8.1 An adopting teacher is entitled to time off work, without loss of pay, to attend pre-adoption classes or meetings held within the State which they are obliged to attend as part of the adoption process.

8.2 Two weeks' notice should be given for each absence referred to in this section and appropriate certification provided.

9. Father's Leave: Entitlement to Adoptive Leave in the event of the death of the adoptive mother

9.1 In the event of the death of the adopting mother at any time prior to or during her Adoptive Leave, the adopting father, becomes entitled to the remainder of the leave.

9.2 The adopting father should inform his employer as soon as possible of his intention to take Adoptive Leave and/or statutory/non-statutory additional unpaid Adoptive Leave.

9.3 The Certificate of Placement, or Declaration of Eligibility and Suitability, should be provided to the employer within 4 weeks of placement/commencement of the leave.

9.4 The leave should normally commence within 7 days of the event which has created the father's entitlement, or on the day of placement, whichever is later. To avail of his leave entitlement, the father in this circumstance may simply apply in writing to his

employer. As soon as is reasonably practicable, the employer should be provided with a copy of the death certificate of the mother.

9.5 The sequencing arrangement outlined in Section 4 will also apply to the father's leave:

- a) Father's Leave (the transfer to the father of any balance remaining of the mother's 24 week Adoptive Leave entitlement)
- b) Statutory additional unpaid father's leave (the transfer to the father of any balance remaining of the mother's additional 16 weeks of statutory additional unpaid leave)
- c) Non-statutory additional unpaid father's leave to end of school year (31st August).

10. Postponement of leave, including in the event of hospitalisation of the child

10.1 In the event that the date of placement is postponed, the commencement date of Adoptive Leave may also be postponed, provided the employer is informed of the new date of placement as soon as possible.

10.2 In the event of the hospitalisation of the child, a request may be made to the employer for postponement of any of the following:

- a) Adoptive Leave
- b) statutory additional unpaid Adoptive Leave
- c) father's leave
- d) statutory additional unpaid father's leave

10.3 Postponement of leave will require the absent teacher to resume duties in the school during the period of postponement. 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 teacher in writing as soon as possible of its decision. If the leave is postponed, the employer and the teacher must agree the date of return to work.

10.4 The Department/ETB and the DSP must be notified immediately if the teacher is to return to work to facilitate pay adjustment, cease any benefit from the DSP and the finalisation of payment to the replacement teacher.

10.5 The postponed leave must be taken in one continuous period commencing not later than 7 days after the discharge of the child from hospital. The maximum period for postponement of the leave is 6 months.

- 10.6 The teacher 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.
- 10.7 If the teacher becomes ill having returned to work and before he/she has taken the postponed leave, he/she will be considered to have started the postponed leave on the first day of absence due to illness, unless the teacher notifies the employer that he/she does not wish to begin the postponed leave. If this happens he/she will forfeit the postponed leave and the absence will be treated as Sick Leave. The normal procedures in relation to Sick Leave should then be followed, including the furnishing of a medical certificate where appropriate.

11. Termination of Placement

- 11.1 Where, other than as a result of the death of the child, the placement of a child with a teacher terminates before the expiration of the Adoptive Leave or statutory/non-statutory additional unpaid Adoptive Leave, the teacher must notify the employer in writing of the date of termination within 7 days.

12. Termination of statutory additional unpaid adoptive/father's leave in the event of sickness of the mother/father

- 12.1 An application to take statutory additional unpaid Adoptive Leave, or statutory additional unpaid father's leave may be withdrawn in writing, for any reason, up to 4 weeks prior to the proposed commencement date for such leave. If the 4 week cancellation period provided for in the Act has passed, entitlement to withdraw an application has been lost. However, in the event of illness, a formal request can still be made to the employer, even after a period of such leave has commenced, to terminate the leave in favour of a certified Sick Leave absence.
- 12.2 Approval of such a request to terminate the leave is at the discretion of the employer. If approved, the employer and the teacher must agree the date for any such termination of the leave. The date agreed cannot be earlier than the first day of certified illness and not later than when the terminated leave would otherwise have ended. The normal procedures in relation to Sick Leave will then apply. The teacher will not be entitled subsequently to take the statutory additional unpaid Adoptive Leave or any part of it not taken at the time of commencement of Sick Leave.
- 12.3 To facilitate any necessary pay adjustment the Department/ETB must be notified immediately that the teacher is now on Sick Leave.

13. Fixed Term Appointments/Fixed Purpose Appointments

- 13.1 A teacher who is on a fixed term/fixed purpose contract of employment shall have full Adoptive Leave entitlements during the term of the contract. The granting or taking of Adoptive Leave entitlements should not affect a fixed term appointment or the renewing of such an appointment.
- 13.2 Adoptive Leave 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.

14. Replacement Contracts

- 14.1 All absences covered by the terms of this chapter, of duration of at least one day, are substitutable. Contracts awarded to cover absences outlined in this chapter should make clear reference to the fact that there are circumstances where the replacement appointment may have to be terminated in the event of the absent teacher returning to duties earlier than initially expected. (e.g. an absent teacher postpones part of the Adoptive Leave due to the hospitalisation of the child).

15. Status during Leave

- 15.1 A teacher absent on any of the leave types referred to in this chapter, with the exception of non-statutory additional unpaid Adoptive Leave, is deemed to have been in employment at that time. Paid absences are fully reckonable for all purposes including seniority, determination of panel rights etc. Statutory additional unpaid Adoptive Leave is reckonable for all purposes, with the exception of superannuation and remuneration. Absence on non-statutory additional unpaid Adoptive Leave to the end of the school year is not reckonable for any purpose including accrual of annual leave.

16. Vacant Posts of Responsibility

- 16.1 A teacher absent on any of the leave types covered by the terms of this chapter should be notified regarding vacant Posts of Responsibility which are to be filled in the school.

17. Employment during Adoptive Leave

- 17.1 Teachers are not permitted to engage in any paid employment during the course of their Adoptive Leave. Under DSP regulations Adoptive Benefit may be terminated in the event that paid employment is taken up while on Adoptive Leave. Any salary payment from this Department/ETB may have to be reviewed in the event of

termination of Adoptive Benefit arising from non-compliance with the terms of the DSP scheme.

18. Resumption of Duties

- 18.1 The employer should provide the absent teacher with a written statement of his/her absence and expected date of resumption of duties. Four weeks before the teacher is due to return to the workplace written notice should be given to the employer confirming the intention to resume duties from that date.

Appendix A

Application Form for Adoptive Leave Entitlements

Application Forms/Supporting Documentation should NOT be submitted to the Department of Education and Skills. This Application Form should be fully completed and retained in the school/ETB with any other relevant documentation for record and audit purposes.

It can be used to apply for adoptive and/or statutory and/or non-statutory additional unpaid Adoptive Leave. It should be completed and submitted at least 6 weeks before the leave is due to commence.

If the applicant pays Class A PRSI contributions, a completed [AB1 Form](#) should be submitted to DSP. This form is available from DSP or online at www.welfare.ie APPLICATION IN RESPECT OF:

Please tick as appropriate:

Adoptive Leave Statutory Additional Unpaid Adoptive Leave

Non-Statutory Additional Unpaid Adoptive Leave

Name: _____ Contact No: _____ PPSN: _____

School: _____ Roll No: _____

Expected date of placement (EDP) ____/____/____

(A certificate of placement should be submitted as soon as reasonably practicable. In the case of foreign adoption a declaration of eligibility and suitability should be provided in advance of commencement)

In the case of foreign adoption, if any of the statutory additional unpaid Adoptive Leave is to be taken prior to placement please enter the dates here: _____ to _____

I wish to take 24 weeks Adoptive Leave from _____ to _____ (enter the dates).

State number of days statutory additional unpaid Adoptive Leave that are to be taken following Adoptive Leave (if any): _____ (consecutive days and to include weekends).

Statutory additional unpaid Adoptive Leave from _____ to _____ (enter inclusive dates).

A teacher who, on completion of Adoptive Leave and statutory additional unpaid Adoptive Leave, as appropriate, may apply for non-statutory additional unpaid Adoptive Leave to the end of the school year.

Non-statutory additional unpaid Adoptive Leave to the end of the school year from _____ to 31st August ____

I wish to apply for the above leave in accordance with the scheme as set out in the *Terms & Conditions of Employment for Registered Teachers in Recognised Primary and Post Primary Schools – Edition 2*.

Signature of teacher: _____ Date: _____

Approval and Verification by Employer

I certify that I have approved the above leave in accordance with the scheme as set out in the *Terms & Conditions of Employment for Registered Teachers in Recognised Primary and Post Primary Schools – Edition 2* and I have retained on file the following documents for audit purposes:

- 1) All applications for Adoptive Leave entitlements.
- 2) Certificate of placement (declaration of eligibility and suitability, where appropriate).
- 3) A copy of the completed AB1 form.

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

Appendix B

Procedures relating to the Recording of Adoptive Leave on OLCS

- 1) Click Add under Leave on the OLCS menu
- 2) Enter start and end date of the leave.
 - Click Next
- 3) Select the staff member on leave
 - Select the leave category – Family Leave and
 - Select the leave sub category – Adoptive Leave

The total number of days in the range should read 168 (24 weeks) in respect of Adoptive Leave.

 - Click Next
- 4) Click Add Child and enter details
 - Click Add

Information to Assist Employers in the Completion of the AB1 Form

- A list of the PRSI weeks for the current and previous year is displayed on OLCS to assist in the completion of the Employer's section of the AB1 form.
- Where the total number of PRSI weeks is 52 for the previous tax year and the teacher has been in continuous employment since then, the total number of weeks to be entered is 52. If the total number of weeks is less than 52 and the teacher has a contract to the start date of her Adoptive Leave the total number of weeks is the sum of PRSI weeks in the previous tax year plus the PRSI weeks in the current tax year to the start date of her Adoptive Leave.
- Enter the appropriate Employers Registered Number, sign, date and stamp accordingly

Employer Register Number for Post-Primary Teachers is 0081300S

Employer Register Number for Primary Teachers is 4000099H

- Click Add. A confirmation message is displayed.

Note: Additional Adoptive Leave (Unpaid)

It is important to note the Unpaid Adoptive Leave absences cannot be entered on OLCS until the next working day subsequent to the notification of Adoptive Leave. The Department/ETB must first verify the Adoptive Leave in order to commence deductions from salary.

Appendix C (i)

Example Adoptive Leave Calculation

Example based on a date of placement of 20th September 2016 and full use of the 112 days statutory additional unpaid Adoptive Leave (some taken before the date of placement and some after the Adoptive Leave); followed by additional non-statutory unpaid leave to the end of the school year.

<p>(1) Statutory Additional Unpaid Adoptive Leave (max of 16 weeks=112 days)</p> <p>Foreign adoption: Where a period of Statutory Additional Unpaid Adoptive Leave is required before the day of placement, for the purposes of meetings outside the State or familiarisation with the child to be adopted, some or all of the Statutory Additional Unpaid Adoptive Leave may be taken before the day of placement.</p>	<p>In this example 11 unpaid days are taken prior to the date of placement for the purposes of familiarisation with the child in a foreign adoption:</p> <p>From 9th September to 19th September 2016 = 11 days</p> <p>101 days remain out of the 112 day allocation of statutory additional unpaid Adoptive Leave</p>
<p>(2) Commencement Date for 24 weeks of Adoptive Leave (same as the date of placement)</p>	<p>20th September 2016</p>
<p>(3) Adoptive Leave end date (last day of the leave)</p>	<p>6th March 2017 (this date is 24 weeks on from 20th Sept)</p>
<p>(4) Statutory Additional Unpaid Adoptive Leave (max of 16 weeks=112 days)</p>	<p>In this example 11 days have already been taken prior to placement [see (1) above], leaving up to 101 days to be taken now. The full 101 days remaining are taken in this case.</p> <p>From 7th March 2017 to 15th June 2017 inclusive</p>
<p>(5) Provisional Resumption date following Statutory Additional Unpaid Adoptive Leave</p>	<p>16th June 2017 (if no other leave is taken, this is the date that the teacher should return to school duties)</p>
<p>(6) Teachers have a further option of Non Statutory Additional Unpaid Adoptive Leave to the end of the school year (August 31st)</p>	<p>In this example the teacher chooses to avail of the non-statutory leave option:</p> <p>From 16th June 2017 to 31st August 2017</p>
<p>(7) Final date for resumption of duties</p>	<p>1st September 2017</p>

ADOPTIVE LEAVE WORKSHEET

NAME:		PPS No: _____
(1) Statutory Additional Unpaid Adoptive Leave	<p>Foreign adoption: The applicant must give the employer a copy of the <i>declaration of eligibility and suitability</i> to establish his/her entitlement to the leave.</p> <p>Where a period of Statutory Additional Unpaid Adoptive Leave is required before the day of placement, for the purposes of meetings outside the State or familiarisation with the child to be adopted, some or all of the Statutory Additional Unpaid Adoptive Leave may be taken before the day of placement.</p>	<p>Dates:</p> <p>From: _____</p> <p>To: _____</p> <p>No. of days taken _____</p>
(2) Commencement/ Date of Placement	<p>24 weeks Adoptive Leave commences from the date of placement of the child.</p> <p>Domestic adoption: a <i>certificate of placement</i>, indicating official date of placement/expected date of placement should be provided to the employer as soon as is reasonably practicable.</p> <p>Foreign adoption: A copy of the <i>declaration of eligibility and suitability</i>, along with particulars of the placement must be furnished to the employer as soon as is reasonably practicable.</p>	Date :
(3) Adoptive Leave end date	Count 24 weeks from date of commencement (168 days)	Date:
(4) Statutory Additional Unpaid Adoptive Leave	The amount of unpaid leave applied for by the applicant subject to the maximum statutory unpaid leave allowable is 16 weeks (112 days) Foreign adoption: If some of this leave has been utilised prior to placement then only the unused balance of the 16 week allocation remains to be taken now.	<p>Dates:</p> <p>From: _____</p> <p>To: _____</p>
(5) Provisional resumption date	Determine the next working day which follows the end of the Statutory Additional Unpaid Adoptive Leave period	<p>Date:</p> <p>If leave outlined at (6) below is not availed of then this is the return to work date</p>
(6) Teachers have a further option of Non Statutory Additional Unpaid Adoptive Leave to the end of the school year	The end of the school year is to be understood as meaning the next August 31 st following the date at (5) above	<p>If non-statutory unpaid leave applies then it runs from the date at (5) above to Aug 31st</p> <p>_____ to Aug 31st _____</p>
(7) Final date for resumption of duties	This will be the first working day following the period at (6) above	Final Resumption Date: