



Number 28 of 2004

MATERNITY PROTECTION (AMENDMENT) ACT 2004

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Entitlement to maternity leave.
3. Amendment of section 10(1) of Principal Act.
4. Amendment of section 13 of Principal Act.
5. Amendment of section 14 of Principal Act.
6. Termination of additional maternity leave in event of sickness of mother.
7. Postponement of maternity leave or additional maternity leave in event of hospitalisation of child.
8. Entitlement to time off from work to attend ante-natal classes.
9. Entitlement to time off from work or reduction of working hours for breastfeeding.
10. Amendment of section 16 of Principal Act.
11. Termination of leave in event of sickness of father.
12. Postponement of leave under section 16 of Principal Act in event of hospitalisation of child.
13. Amendment of section 21 of Principal Act.
14. Amendment of section 22 of Principal Act.
15. Amendment of section 23 of Principal Act.
16. Amendment of section 24 of Principal Act.
17. Amendment of section 25(1) of Principal Act.

[No. 28.] *Maternity Protection (Amendment) Act 2004.* [2004.]

Section

18. Amendment of section 26 of Principal Act.
19. Amendment of section 27(2) of Principal Act.
20. Amendment of section 28 of Principal Act.
21. Amendment of section 31(1) of Principal Act.
22. Burden of proof.
23. Amendments relating to unfair dismissal.
24. Amendment of Schedule 3 to Redundancy Payments Act 1967.
25. Amendment of section 40(1) of Principal Act.
26. Revocation of Maternity Protection Act 1994 (Extension of Periods of Leave) Order 2001.
27. Short title, collective citation and commencement.

ACTS REFERRED TO

Carer's Leave Act 2001	2001, No. 19
Defence Act 1954	1954, No. 18
Defence (Amendment) (No. 2) Act 1960	1960, No. 44
Employment Equality Act 1998	1998, No. 21
Maternity Protection Act 1994	1994, No. 34
Redundancy Payments Act 1967	1967, No. 21
Redundancy Payments Act 2003	2003, No. 14
Unfair Dismissals Act 1977	1977, No. 10



Number 28 of 2004

MATERNITY PROTECTION (AMENDMENT) ACT 2004

AN ACT TO AMEND AND EXTEND THE MATERNITY PROTECTION ACT 1994, TO AMEND THE REDUNDANCY PAYMENTS ACT 1967 AND THE UNFAIR DISMISSALS ACT 1977, TO REVOKE IN PART AND ENACT IN RESPECT OF CERTAIN PROCEEDINGS THE EUROPEAN COMMUNITIES (BURDEN OF PROOF IN GENDER DISCRIMINATION CASES) REGULATIONS 2001 WHICH GAVE EFFECT TO COUNCIL DIRECTIVE 97/80/EC OF 15 DECEMBER 1997¹ ON THE BURDEN OF PROOF IN CASES OF DISCRIMINATION BASED ON SEX AND TO PROVIDE FOR RELATED MATTERS. [19th July, 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

Interpretation.

“Minister” means the Minister for Justice, Equality and Law Reform;

“Principal Act” means the Maternity Protection Act 1994.

(2) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any other enactment including this Act.

2.—The Principal Act is amended by the substitution of the following section for section 8:

Entitlement to maternity leave.

“8.—(1) Subject to this Part, a pregnant employee shall be entitled to leave, to be known (and referred to in this Act) as ‘maternity leave’, from her employment for a period (in this Part referred to as ‘the minimum period of maternity leave’) of not less than—

(a) 18 consecutive weeks, or

(b) 18 weeks part of which is postponed in accordance with section 14B,

as may be appropriate.

¹OJ No. L14, 20.01.1998, p.6.

[No. 28.] *Maternity Protection (Amendment) Act 2004.* [2004.]

S.2

(2) The Minister may by order, made with the consent of the Minister for Social and Family Affairs and the consent of the Minister for Finance, amend subsection (1) and section 13(2) so as to extend the period mentioned in each of those subsections.”.

Amendment of section 10(1) of Principal Act.

3.—Section 10(1) of the Principal Act is amended by the substitution of “not later than two weeks before the end of the expected week of confinement” for “not later than four weeks before the end of the expected week of confinement”.

Amendment of section 13 of Principal Act.

4.—Section 13 of the Principal Act is amended by the substitution of the following subsection for subsection (2):

“(2) Notwithstanding section 10(1), but subject to regulations under section 11, the minimum period of maternity leave for an employee referred to in subsection (1) shall be a period of not less than—

(a) 18 consecutive weeks, or

(b) 18 weeks part of which is postponed in accordance with section 14B,

as may be appropriate, commencing on whichever of the following is the earlier—

(i) the first day of maternity leave taken in accordance with section 10, or

(ii) the date of confinement.”.

Amendment of section 14 of Principal Act.

5.—Section 14 of the Principal Act is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) An employee who has taken maternity leave shall, if she so wishes, be entitled in accordance with this section to further leave from her employment, to be known (and referred to in this Act) as ‘additional maternity leave’, for a maximum period of—

(a) 8 consecutive weeks commencing immediately after the end of her maternity leave, or

(b) 8 weeks, all or part of which is postponed in accordance with section 14B, commencing either in accordance with that section or immediately after the end of her maternity leave,

as may be appropriate.”,

(b) in subsection (3), by the substitution of “Subject to section 14B, entitlement to additional maternity leave” for “Entitlement to additional maternity leave”, and

(c) by the substitution of the following subsection for subsection (6):

“(6) The Minister may by order amend subsection (1) so as to extend the period mentioned in that subsection.”.

[2004.] *Maternity Protection (Amendment)* [No. 28.]
Act 2004.

6.—The Principal Act is amended by the insertion of the following section after section 14:

Termination of additional maternity leave in event of sickness of mother.

“Termination of additional maternity leave in event of sickness of mother.

14A.—(1) If, at any time—

- (a) during the last 4 weeks of maternity leave whether or not part of such leave is postponed under section 14B and where, in accordance with section 14(4), an employee has, or is deemed under section 14B(3) to have, notified her employer, or caused her employer to be notified, of her intention to take additional maternity leave, or
- (b) during the additional maternity leave whether or not such leave or part of it is postponed under section 14B,

an employee who is sick wishes to terminate the additional maternity leave, she may request in writing (or cause a written request to be submitted to) her employer to terminate the additional maternity leave.

(2) An employer who receives a request under subsection (1) may agree to terminate the additional maternity leave of the employee concerned and, if the employer does so, the additional maternity leave shall terminate on a date agreed by the employee and the employer that is not earlier than the date of the commencement of the employee’s sickness and not later than the date on which the additional maternity leave would have ended in accordance with the notification given by the employee to the employer under section 14(4) or 14B(8), as the case may be.

(3) An employer who receives a request under subsection (1) shall notify the employee 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 the additional maternity leave of an employee is terminated under this section—

- (a) the absence from work of the employee due to sickness following such termination 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 additional maternity leave or the part of it not taken by her at the date of such termination.”.