

3.05 Adoption Leave

The policy outlines the leave and pay entitlements for you if you adopt (or jointly adopt) a child.

If you adopt a child you have statutory rights (similar to maternity rights) relating to:

- Adoption leave - Section 4 Statutory Adoption Arrangements
- Adoption pay - Section 4 Statutory Adoption Arrangements
- Returning to work - Section 8 Return to Work
- Protection against unfair treatment or dismissal provided you satisfy the qualifying conditions – Section 4 Statutory Adoption Arrangements - and notify us appropriately – Section 2 General Requirements for Adoption Leave
- If you meet specified qualifying conditions, you will be eligible for the more generous NICS contractual adoption arrangements - Section 3 Contractual Adoption Arrangements

You are not entitled to Adoption Leave if you are adopting a child of a partner. The definition of 'partner' in relation to adoption of a child is 'a person, same or different sex, who lives with the mother or adopter in an enduring family relationship but is not a blood relative'.

The following terms within this policy are defined in the glossary:

Additional Adoption Leave, Adoption Leave, Adoption Pay Period, Adopter, Average Weekly Earnings (Adoption), Contractual Adoption Arrangements, Contractual Adoption Leave, Contractual Adoption Pay, Expected date of placement, Job, Keeping in Touch Days (Adoption), Matched, Ordinary Adoption Leave, Placement, Statutory Adoption Pay (SAP), Unpaid Adoption Leave

You may also be interested in the following policies:

3.03 Paternity Leave, 3.04 Parental Leave, 3.07 Annual Leave, 3.08 Special Leave, 3.10 Alternative Working Arrangements, 6.06 Equal Opportunities

This policy is version 4.0

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This homepage is only a guide to the policy, not the policy itself. In the event of any discrepancy between the content of this homepage and the associated policy, the wording of the policy shall apply.

3.05 ADOPTION LEAVE

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3.05 ADOPTION LEAVE

1. Introduction

1.1 This policy contains the arrangements for adoption leave and pay, which apply where an adopter is newly matched with a child by an approved adoption agency and the child is placed for adoption. This excludes those with whom the child has an existing relationship such as a step-parent adopting a partner's child. Only one period of leave will be available in respect of each placement, even if more than one child is adopted as part of the same arrangement.

The provisions in this Section are set out according to whether they are:

- a.** contractual, (in other words arrangements which are specific to the Northern Ireland Civil Service (NICS)); or
- b.** statutory (in other words the result of legislation.)

The current contractual adoption arrangements have been in operation since 1 April 2006 in the NICS, while the current statutory adoption arrangements apply where the expected date of placement is on or after 1 April 2007.

2 General Requirements for Adoption Leave

2.1 To take advantage of the right to adoption leave, the adopter must inform HRConnect within seven days of being notified by an adoption agency that they have been matched with a child for adoption (or, if this is not possible, as soon as reasonably practicable):

- a.** that they intend to take adoption leave;
- b.** when the child is expected to be placed for adoption with them; and
- c.** when they want their adoption leave to start (no sooner than 14 days before the placement).

2.2 Please refer to the User Guide on Maternity/Paternity/Adoption Leave for how to apply.

2.3 An adopter may be an individual or one member of a couple where a couple adopts jointly. Where a couple is adopting jointly, only one member of that couple can claim adoption leave. The other member of the couple, or the partner of an individual who adopts, may be entitled to paternity leave and pay. Full details of paternity leave and pay provisions can be found in 3.03 Paternity Leave.

2.4 When applying for adoption leave, supporting documentary evidence must be provided from the adoption agency in the form of a “matching certificate” giving basic information on matching and expected placement dates.

2.5 Following notification, HRConnect will respond in writing within 28 days, stating the date on which you are expected to return to work following the full period of adoption leave to which you are entitled.

2.6 If you wish to change the start date of your adoption leave, you must advise HRConnect at least 28 days in advance (unless this is not reasonably practicable).

2.7 After the placement, you must inform HRConnect of the date on which the child was placed. This should be done as soon as reasonably practicable after placement.

3 Contractual Adoption Arrangements

Qualifying Conditions for Contractual Adoption Arrangements

3.1 In order to benefit from the contractual adoption arrangements, you must, in addition to satisfying the general requirements set out in section 2.1 above and being the child’s adopter, also:

- a.** state that you intend to return to work in the Civil Service after the adoption leave, and that you agree to repay any payment made during that period if you fail to return and complete at least one calendar month’s service on your return; such repayment will exclude any statutory adoption pay (SAP) to which you are entitled;
- b.** be in paid service with your Department at the time your adoption leave begins and have rendered at least one year’s paid service with the NICS, which need not be continuous;
- c.** not be employed on a temporary appointment;
- d.** not be employed on a fixed-term appointment of less than 2 years; and
- e.** not be employed on a fixed-term contract of more than 2 years, the unexpired period of which will not permit you to return to the Service after your adoption leave.

3.2 If you do not satisfy the qualifying conditions above you must rely on the statutory adoption arrangements set out in Section 4.

Contractual Adoption Leave

3.3 If you meet the qualifying conditions for the contractual adoption arrangements you will be entitled to 52 weeks' adoption leave.

Contractual Adoption Pay

3.4 If you meet the qualifying conditions for the contractual adoption arrangements you will be paid full contractual rate of pay for the first 18 weeks of adoption leave.

Where you qualify for both contractual and statutory adoption pay, contractual adoption pay will count towards the obligation to pay statutory adoption pay. In such cases, the first 6 weeks of adoption leave will be paid at whichever is the higher of either 90% of your average weekly earnings or your full contractual rate of pay.

3.5 Following the 18 weeks' contractual adoption pay, you must rely on the statutory adoption pay arrangements for the remainder of your adoption leave. Further information on statutory adoption pay is set out in sections 4.2-4.6 below.

3.6 Contractual adoption pay is granted on the condition that you intend to return to work and that you complete at least one month's paid service on your return to work. Where you have not satisfied this requirement, HRConnect should ask you to repay any salary or wages for the period of adoption leave (less any statutory adoption pay to which you are entitled).

4 Statutory Adoption Arrangements

Statutory Adoption Leave

4.1 You are entitled to take up to 52 weeks' statutory adoption leave if you are:

- a. the child's adopter;
- b. meet the general requirements set out in sections 2.1 and 2.4 above;
- c. have worked continuously for the NICS for at least 26 weeks ending with the week in which you are notified by an approved agency of being matched with a child for adoption; and
- d. have notified the adoption agency that you agree that the child should be placed with you and on the date of placement.

Statutory adoption leave is made up of 26 weeks' ordinary adoption leave, followed immediately by 26 weeks' additional adoption leave.

Statutory Adoption Pay (SAP) – General

4.2 In order to qualify for statutory adoption pay, you must, in addition to satisfying the general requirements set out in section 2.1 above:

- a. have worked continuously for the NICS for at least 26 weeks ending with the week in which you are notified by an approved agency of being matched with a child for adoption; and
- b. have average weekly earnings of not less than the lower earnings limit for the payment of National Insurance contributions.

SAP – Length of Adoption Pay Period

4.3 If you satisfy the conditions in section 4.2 you may be paid statutory adoption pay for a maximum of 39 weeks. You will receive payment for the first six weeks at a rate of 90% of your average weekly earnings, followed by up to 33 weeks at the standard SAP rate (or 90% of earnings for the full 39 weeks if this is less than the standard SAP rate).

4.4 Any additional adoption leave taken beyond the 39-week adoption pay period is unpaid.

4.5 If you do not qualify for SAP you should contact your adoption agency and/or local Social Security Office for advice on financial support available to adopters.

5 Timing of Adoption Leave

5.1 You can choose to begin your adoption leave on:

- a. the date on which the child is placed with you for adoption; or
- b. a date no more than 14 days before the date on which the child is expected to be placed for adoption (and no later than the expected date of placement).

5.2 Your Department will assume that you are taking your full adoption leave entitlement unless notice is given in accordance with sections 8.2 or 8.3 below.

5.3 If you plan to start adoption leave at any time before the actual date of placement, you must be sure that the placement will be going ahead before you start your leave. If the placement is delayed, and you have already begun your adoption leave, you cannot stop your adoption leave and start it again at a later date.

6 Contact during Adoption Leave

6.1 Your Department may make reasonable contact with you from time to time while you are on adoption leave in order, for example, to keep you informed of developments at the workplace or to discuss arrangements for your return to work.

6.2 What constitutes “reasonable” contact will vary according to the circumstances. Some of you may prefer to keep such contact to a minimum, while others may not mind frequent contact. Therefore, before adoption leave begins, you should discuss arrangements for staying in touch with your line manager. This should include agreement

on the reasons for making contact, who will initiate contact, the way(s) in which contact will be made and how often, and the process for agreeing to work Keeping in Touch days (see section 7 below).

7 Keeping in Touch Days

7.1 Under the Paternity and Adoption Leave (Amendment) Regulations (Northern Ireland) 2006, an employed parent who is expecting a child to be placed with them for adoption on or after 1 April 2007, may agree with their employer to work for up to 10 keeping in touch (KIT) days during their adoption leave without losing SAP or bringing their adoption leave to an end as a result. This provision is intended to help to ease the adopter's return to work. KIT days differ from the reasonable contact mentioned in section 6 as during KIT days you can actually carry out work for your employer. Working KIT days has no effect on the end date of adoption leave.

7.2 For the purposes of this arrangement, "work" means any work done for the employer and may include training or any activity undertaken by you for the purposes of keeping in touch with the workplace. For example, they could be particularly useful in enabling you to attend a conference or attend for a team meeting. Any KIT days worked under this provision must be by agreement between you and your line manager. Your line manager has no right to demand that any such KIT day is worked, nor have you any right to work a KIT day. The type of work that you undertake on KIT days is a matter for agreement between you and their line manager. Only line managers at SO level or above may agree a request to work a KIT day.

When KIT days may be worked

7.3 KIT days may be worked at any stage during the adoption leave period. Although you may work a maximum of 10 KIT days (see section 7.1), these need not be worked on consecutive days and working for part of a day will count as one of the 10 days.

Arranging to work a KIT day

7.4 KIT days may only be worked by agreement. If you wish to take advantage of working a KIT day, you must contact your line manager (at SO level or above) who will consider the request.

7.5 If your line manager wishes to offer you the opportunity to work a KIT day during your adoption leave, for example, to attend a training activity, contact will be made with you through the agreed contact arrangements (see section 6.2). As KIT days may only be worked by agreement, you are entitled to turn the offer down without suffering any consequences as a result.

Payment for KIT days worked

7.6 The payment of contractual adoption pay or SAP is not affected by working any of the 10 permitted KIT days. Therefore, if you work a KIT day, you will continue to receive any contractual adoption pay or SAP that is due for that day. Where you are entitled to an

additional payment (see section 7.7), it will be paid as basic pay. Although working for part of a day will count as one of the 10 KIT days, any entitlement to payment will be calculated using the net hours actually worked.

7.7 The total of adoption pay and any additional payment due for working a KIT day will not exceed your contractual daily rate of pay. In practice, this means that if:

- a. you work a KIT day while receiving NICS contractual adoption pay you will receive no extra payment;
- b. you work a KIT day while receiving only SAP* you will receive payment for the net hours actually worked at your normal contractual rate of pay, in addition to SAP, within the overall limit of your contractual daily rate of pay;

and

- c. you work a KIT day while on unpaid adoption leave you will receive your contractual rate of pay for the net hours you work.

* For the purposes of calculating payment for working a KIT day, a notional daily rate of SAP, equivalent to one seventh of the appropriate weekly rate, will be used.

Example

Your contractual daily rate of pay is £66. You work half a KIT day for which you would earn £33. The level of additional payment (if any) to which you are entitled will depend on the adoption pay you are receiving for that day.

If the half KIT day is worked while;

- a. you are receiving NICS contractual adoption pay, in other words usually during the first 18 weeks of adoption leave, you will receive no extra payment,
- b. you are receiving SAP only, you will be paid £49.11, which is made up of the £33 that you earned plus the notional daily amount of SAP** (£16.11), or
- c. you are on unpaid adoption leave, you will be paid £33 as basic pay.

** This will vary according to the rate of SAP in effect at any given time. For the purposes of this example, the weekly rate of SAP has been taken as £112.75 (the rate applicable for 2007/08), making the notional daily rate £16.11).

7.8 When you work a KIT day, you must complete the Keeping in Touch Form as outlined in the User Guide on Maternity/Paternity/Adoption. The line manager must then send the completed form to HRConnect for processing.

Pensions

7.9 Additional adoption leave, except during the adoption pay period, is not reckonable for pension purposes. However, where a KIT day is worked during this period, that day will reckon for pension purposes.

8 Return to Work

8.1 Other than in a redundancy/redeployment situation, the following applies:

- a.** you will, following ordinary adoption leave, return to the same job as if you had not been away.
- b.** following additional adoption leave you are entitled to return to the same job unless this is not reasonably practicable. If it is not reasonably practicable you should be offered a suitable alternative on terms and conditions no less favourable than your original job.

Notice to Return to Work Early

8.2 If you wish to return to work earlier than the end of your adoption leave entitlement you must give HRConnect at least eight weeks' notice of the date on which you intend to return. Failure to do so may result in the return being delayed by up to eight weeks, but not to a date after the end of the adoption leave period.

8.3 If, after notifying HRConnect that you intend to return to work before the expiry of your adoption leave entitlement, you decide to return on an earlier date, you must give HRConnect at least eight weeks' notice of the date on which you now intend to return. If you intend to return later, you must give HRConnect at least eight weeks' notice ending with the original return date. Please refer to the Maternity/Paternity/Adoption Leave User Guide for more information.

9 Disruption of Placement

9.1 If you begin a period of adoption leave before the placement of the child and are then told that the placement will not be made, or during adoption leave the child dies or returns to the adoption agency, your adoption leave will normally finish eight weeks after the end of the week in which the disruption took place. However, where you are taking additional adoption leave and the period of 26 weeks would have ended within eight weeks of the week in which the disruption occurs, additional adoption leave ends on the expiry of the 26-week period.

9.2 Payment of adoption pay will continue as before for eight weeks after the end of the week in which the disruption took place, or until your entitlement to such payment expires if that is sooner.

9.3 You must give HRConnect eight weeks' notice if you are returning to work earlier than expected because of a disruption.

10 Sick Absence after Adoption Leave

10.1 If you are unfit for work following adoption leave, the normal provisions for occupational sick pay will apply (see 3.01 Sickness Absence).

11 Resignation during Adoption Leave

11.1 If you have commenced adoption leave and then find that you will be unable to honour your undertaking to return to duty you should forward your resignation to HRConnect without delay.

Starting Work for Another Employer

11.2 If you start work for another employer during the adoption pay period (in other words the period during which SAP is payable), you must advise HRConnect within seven days, as your Department's liability to pay SAP ceases for the remainder of the adoption pay period.

12 Career Break immediately following a Period of Adoption Leave

12.1 Where you apply to take a career break immediately following a period of adoption leave there is no need for you to return to work for one month in order to avoid having to repay contractual adoption pay (less any statutory adoption pay paid to you). If, however, you resign during the course of the career break or fail to return at the end, you will be expected to repay the difference between the contractual adoption pay and statutory adoption pay already paid to you.

13 Overlapping Periods of Adoption Leave

13.1 Where you satisfy the qualifying conditions for contractual adoption pay, and wish to start a second period of adoption leave before the first period has finished or, within one month of a completed period of adoption leave, you will only be entitled to contractual adoption pay provided you sign a new undertaking to repay contractual adoption pay (less any statutory adoption pay paid) if you fail to return to work for at least one month at the end of the second period of adoption leave. Departmental HR may waive the requirement to return to work for at least a month in order to retain contractual adoption pay for the first period of adoption leave.