



Circular Letter 0035/2021

**To: The Managerial Authorities of Recognised Primary,
Secondary, Community and Comprehensive Schools and
The Chief Executives of Education and Training Boards**

**Parent's Leave Scheme for Special Needs Assistants employed
In Recognised Primary and Post Primary Schools**

The Minister for Education, pursuant to the power contained in Section 24 of the Education Act (as amended), directs employers to implement the regulations and procedures, as stated, for eligible Special Needs Assistants (SNAs) employed in approved posts funded by monies provided by the Oireachtas.

All employers and SNAs must adhere to the agreed terms and conditions as stated with immediate effect.

Please ensure that the contents of this Circular are brought to the attention of all members of the Board of Management/Education and Training Boards and all SNAs in your employment, including those on leave of absence.

All queries should initially be brought to the attention of the employer who may wish to consult with their representative organisation. Any further queries may be directed to the Department at the following email address:

teachersna@education.gov.ie

This Circular can be accessed on the Department's website at www.education.ie.

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11th June, 2021

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Definitions and Abbreviations

For the purpose of this Circular, the following terms shall have the meaning assigned to them unless the context indicates otherwise:

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 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.

DSP – means the Department of Social Protection.

Employer – means an Education and Training Board (ETB) for vocational schools/community colleges, community national schools and a Board of Management/Manager in the case of primary (excluding community national schools), voluntary secondary, community and comprehensive schools. The ETB or Board of Management/Manager may delegate as appropriate, responsibility for matters set out in this Circular.

ETB – means an Education and Training Board.

GDPR – means the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679).

On Line Claims System (OLCS) – means the system for recording of absences and input of claims for the payment of substitute and non-regular part-time SNAs which is currently operating in primary, voluntary secondary, community and comprehensive schools.

Paymaster – means the organisation in charge of paying salaries. This is the Department of Education in the case of primary (including community national schools), voluntary secondary, community and comprehensive SNAs and the ETBs in the case of vocational schools/community college SNAs.

PRSI – means Pay Related Social Insurance.

Qualifying Adopter – in relation to a child who is, or is to be adopted, means the qualifying adopter, within the meaning of the Act of 1995 (as amended by the Family Leave and Miscellaneous Provisions Act 2021), of the child and includes, for the purposes of this Circular, a person who would be a qualifying adopter but for the fact that he or she is not an employee.

Recognised School – means a school which is recognised by the Minister for Education in accordance with Section 10 of the Education Act 1998.

Relevant Parent – as defined at paragraph 1.3 and 1.4 of this Circular.

School Year – as defined by the Minister for Education from time to time currently beginning on 1st September and ending on 31st August.

SNA – means Special Needs Assistant.

Surviving Parent – means a parent within the meaning of the Parent’s Leave and Benefit Act 2019.

The Department – means The Department of Education.

Transferred Paternity Leave – means transferred Paternity Leave in accordance with Section 15 of the Paternity Leave Act, 2016.

Transferred Parent’s Leave – means transferred Parent’s Leave in accordance with Section 16 of the Parent’s Leave and Benefit Act, 2019.

1. Parent's Leave Scheme

- 1.1 The Parent's Leave Scheme is regulated by the [Parent's Leave and Benefit Act, 2019, as amended](#).
- 1.2 Parent's Leave is available to the relevant parent to enable him/her to provide, or assist in the provision of, care to the child.
- 1.3 The term relevant parent in relation to a child means (subject to paragraph 1.4 of this Circular) an SNA who is -:
 - (i) a parent of the child
 - (ii) the spouse, civil partner or cohabitant of a parent of the child
 - (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.
- 1.4 In the case of a child who is, or is to be adopted the term relevant parent means an SNA who is: -
 - (i) the qualifying adopter of the child, and
 - (ii) the spouse, civil partner or cohabitant, as the case may be, of the qualifying adopter of the child.

2. Entitlement to Parent's Leave

- 2.1 An SNA, who is a relevant parent of a child born or adopted, on or after 1st November 2019, is entitled to a maximum of 5 weeks Parent's Leave.
- 2.2 From 1st November 2019, an eligible SNA had an entitlement of 2 weeks Parent's Leave. From 1st April, 2021, this entitlement increased by a further 3 weeks. Where an SNA has already availed of his/her 2 week entitlement, he/she may apply to his/her employer for an additional 3 weeks from 1st April, 2021 provided the eligibility criteria are met.
- 2.3 This leave can be taken within 24 months from the date of birth of the child or in the case of adoption, the day of placement of the child except in the case of postponement where the leave can be extended beyond the 24 month period in accordance with [paragraph 12](#) and [paragraph 13](#) of this Circular.
- 2.4 Parent's Leave can be taken as a continuous period of 5 weeks (i.e. 35 consecutive days including weekends, school closures and days on which an SNA is not timetabled for attendance within that period) or alternatively in blocks of at least 1 week up to a maximum of 5 weeks. This rule also applies to Job-Sharing SNAs.
- 2.5 Where the birth of a child is part of a multiple birth or an SNA adopts two or more children at the same time, he/she is not entitled to more than 5 weeks Parent's Leave.
- 2.6 Parent's Leave cannot be transferred between relevant parents, except on the death of a parent as referred to in [paragraph 14](#) of this Circular.

3. Pay Arrangements and Parent's Benefit

- 3.1 Remuneration will not be paid by the Paymaster during the period of Parent's Leave.
- 3.2 Under the Parent's Leave and Benefit Act, 2019, an SNA (including those paying Class A and Class D PRSI contributions) may be entitled to Parent's Benefit from the DSP during this period of leave.
- 3.3 In order to avail of Parent's Benefit, the SNA must make an online application by logging on to <https://services.mywelfare.ie/en/topics/parents-children-family/parents-benefit/>. This online application must be submitted by the SNA to the DSP at least 4 weeks prior to the leave commencement date.
- 3.4 Parent's Benefit payment is a taxable income.

4. Application Procedures

- 4.1 Application for Parent's Leave should be made by the SNA to his/her employer (or on the relevant ETB system, where applicable) at least 6 weeks prior to the planned commencement date using the Application Form at [Appendix A](#) of this Circular.
- 4.2 An SNA who is applying for separate blocks of Parent's Leave may submit a separate Application Form(s) (or on the relevant ETB system, where applicable) where all relevant dates have not been determined at that time of initial application.

5. Recording of Leave

- 5.1 All approved Parent's Leave must be recorded by the employer in a timely manner on the OLCS/relevant ETB system as failure to do so may lead to salary overpayments. Under the OLCS, Parent's Leave is recorded under 'Family Leave', sub-category titled 'Parent's Leave'.
- 5.2 Where an overpayment of salary arises due to an SNA availing of Parent's Leave, the overpayment will be recovered in full from an SNA's future salary payment in line with the Department's agreed published procedures in place at the relevant time.
- 5.3 It is the ultimate responsibility of the SNA to ensure that the information provided in his/her leave application is accurate. Likewise, it is the responsibility of the employer to ensure that the approved leave absence recorded on the OLCS/relevant ETB system corresponds with the leave record. Leave recorded on the OLCS/relevant ETB system may not be altered by the Department/ETB at a later date, except in the most exceptional circumstances.

6. Sequence of Leave Types

- 6.1 Taking into account the time limit referred to at paragraph 2.2, the following is the sequence in which leave types must be taken, where these leaves are availed of:

- a) **Maternity Leave:** Where an SNA avails of any or all of her Maternity Leave entitlements, as detailed below, the following leave types must be taken prior to Parent's Leave:-
 - i. Statutory Maternity Leave (up to a maximum of 26 consecutive weeks)
 - ii. Statutory extended Maternity Leave for premature birth (where applicable)
 - iii. Statutory additional Unpaid Maternity Leave (up to maximum of 16 consecutive weeks)

- b) **Adoptive Leave:** Where an SNA avails of any or all of his/her Adoptive Leave entitlements, as detailed below, the following leave types must be taken prior to Parent's Leave:-
 - i. Statutory Adoptive Leave (up to a maximum of 24 consecutive weeks)
 - ii. Statutory additional Unpaid Adoptive Leave (up to maximum of 16 consecutive weeks)

- c) **Transferred Paternity Leave:** Where an SNA avails of transferred Paternity Leave, this leave must be taken prior to Parent's Leave.

- d) **Father's Leave:** Where a surviving parent becomes entitled to Maternity or Adoptive Leave types on the death of the mother (under the Maternity and Adoptive Leave Acts), this leave must be taken prior to Parent's Leave.

- e) **Paternity/Parental Leave:** Where an SNA avails of Paternity/Parental Leave, he/she may take Paternity/Parental Leave and Parent's Leave in any sequence he/she wishes.

6.2 The above leave types where availed of, must be taken in accordance with the Department's published terms and conditions of the individual Leave Schemes.

7. Status during Parent's Leave

7.1 An SNA on Parent's Leave is deemed for all purposes to be in employment at that time with the exception of superannuation and remuneration. Parent's Leave is fully reckonable for seniority and progression on the incremental salary scale.

8. Replacement SNA

8.1 The employer may appoint a substitute SNA, paid by the Paymaster while an SNA is absent on Parent's Leave. This appointment must be recorded by the employer on the OLCS/relevant ETB system.

8.2 A contract awarded to a substitute SNA should make clear reference to the fact that the appointment may have to be terminated in the event of

the SNA who is on Parent's Leave returning to the workplace earlier than expected.

9. Employment while on Parent's Leave

9.1 An SNA availing of Parent's Leave may not engage in any type of other paid employment.

10. Commencement of Parent's Leave due to early confinement

10.1 Where the birth or placement, occurs 4 weeks or more before the expected date of birth or day of placement, the SNA shall inform the employer immediately and will be deemed to have complied with the notification period if they intend to take Parent's Leave at that time. The formal written notification must be given within 7 days commencing on the day of birth or day of placement.

11. Postponement of Parent's Leave where Date of Birth or Day of Placement is later than anticipated

11.1 If the date of birth occurs after the planned commencement date of Parent's Leave or the day of placement is postponed the SNA shall be entitled to select another date on which the Parent's Leave shall commence, provided the selected dates remain within the timeframe set out at paragraph 2.2.

11.2 An application for postponement must be made in writing to the employer. The SNA will be required to complete a new Application Form at Appendix A for the newly selected dates.

12. Postponement of Parent's Leave through Hospitalisation of the Child

12.1 In the event of the hospitalisation of the child, a request may be made to the employer for a postponement of Parent's Leave.

12.2 Postponement of Parent's Leave will require the absent SNA to resume duties in the school during the period of postponement.

12.3 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 SNA in writing as soon as possible of its decision. If the leave is postponed, the employer and the SNA must agree the date of return to work.

12.4 The SNA 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.

12.5 The postponed leave must be taken in one continuous period commencing not later than 7 days after the discharge of the child from hospital or such other date as may be agreed between the SNA and the employer. The maximum period for which Parent's Leave may be postponed is 6 months.

12.6 If the SNA becomes ill, having returned to work and before he/she has taken the postponed Parent's Leave, he/she will be considered to have

started the postponed leave on the first day of absence due to illness, unless the SNA 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.

13. Postponement of Parent's Leave by the Employer

13.1 Where an SNA has given the required notification for intention to avail of Parent's Leave and the employer is satisfied that the taking of the leave at the intended commencement date will have a substantial adverse effect on the operation of the school by reason of:-

- a) difficulty in obtaining a replacement SNA for the period of the absence
- b) seasonal variations
- c) any other relevant matters

the employer must provide written notice to the SNA not later than 4 weeks before the intended commencement date, summarising the grounds for postponement of Parent's Leave. The employer must retain a copy of this notice.

13.2 Prior to giving notice, the employer must consult with the SNA in relation to the proposed postponement of Parent's Leave.

13.3 The employer may not postpone the commencement of Parent's Leave for longer than 12 weeks after the intended commencement date, as specified in the relevant notification.

13.4 A period of Parent's Leave may not be postponed more than once by the employer.

14. Entitlement to Parent's Leave on the Death of a Relevant Parent

14.1 In the event of the death of the relevant parent on or before the expiration of the period of entitlement, Parent's Leave entitlement, or any remainder of that entitlement, shall transfer to the surviving parent.

14.2 In such circumstances and in the event that the surviving parent is an SNA, he/she must notify the employer in writing of the following, but not later than 6 weeks before the day on which the transferred Parent's Leave begins:-

- of the death of the relevant parent
- their intention to take the transferred Parent's Leave
- the length of the leave they believe they are entitled to and
- if requested by the employer, provide a copy of the death certificate.

15. Entitlement to Parent's Leave on the Death of the Child

15.1 In the event of the death of the child on or before the expiration of the period of entitlement, the relevant parent retains his/her entitlement to Parent's Leave.

16. Leave Entitlements for Fixed Term/Fixed Purpose Appointments

16.1 An SNA who is on a fixed term/fixed purpose contract of employment shall, during the term of the contract, have full leave entitlements to Parent's Leave. The granting or taking of this leave should not affect a fixed term/fixed purpose appointment or the renewing of such an appointment.

17. Compliance

17.1 Failure to abide with the regulations and procedures set out in this Circular may be dealt with under the agreed disciplinary procedures or withdrawal of substitute cover for schools.

18. Data Protection

18.1 All documentation relating to Parent's Leave must be retained by the employer with the relevant personnel records in a safe and secure manner and in line with the employer's data protection policy and data protection regulations. These records may be selected for inspection by nominated Department officials.

Appendix A - Application Form for Parent's Leave

The Application Form should be fully completed and submitted to the employer at least 6 weeks prior to the planned commencement date. In the case of an application for separate periods of Parent's Leave, the SNA may submit separate Application Form(s), where all relevant dates have not been determined at that time of initial application.

Part 1A - SNA APPLICATION

SNA's Name: _____ Contact No: _____

Home Address: _____

E-mail Address: _____

PPSN: _____

School Name: _____ Roll No: _____

PART 1B – DETAILS OF THE CHILD/CHILDREN

Application for Parent's Leave in respect of:

Name of Child/Children:	Date of Birth/Day of Placement:

Documentation accompanying this application (tick as appropriate):

- Medical Certificate showing expected date of birth (where relevant)
- Birth Certificate of the relevant child/children
- Certificate of Placement for the relevant child/children (in the case of adoption)
- Declaration of Eligibility and Suitability (in the case of a foreign adoption)

PART 1C – PARENT'S LEAVE DETAILS

Proposed pattern of Parent's Leave as follows (enter inclusive dates):

From _____ to _____

From _____ to _____

From _____ to _____

From _____ to _____

From _____ to _____

Declaration

I wish to apply for Parent’s Leave in accordance with the Parent’s Leave Scheme as set out in Circular 0035/2021 titled ‘*Parent’s Leave Scheme for Special Needs Assistants (SNAs) Employed in Recognised Primary and Post Primary Schools*’.

I confirm that the information provided in the application is true and accurate.

Signature of SNA: _____ Date: _____

Data Protection Privacy Statement

The main purpose for which the Department requires you to provide this personal data to your employer is to enable your Parent’s Leave application to be processed. Your employer will retain your application form and accompanying documents in accordance with their Data Protection policy. Further information in relation to this policy is available on request from your employer.

The Privacy Notice outlining further information in relation to this application form can be found at: <https://www.education.ie/en/The-Department/Data-Protection/gdpr/gdpr.html> Full details of the Department’s Data Protection policy setting out how we will use your personal data as well as information regarding your rights as a data subject are available at <https://www.education.ie/en/The-Department/Data-Protection/>. Details of this policy are also available in hard copy from Teacher/SNA Terms & Conditions, Department of Education, Cornamaddy, Athlone, Co. Westmeath, N37 X659, upon request.

PART 3 – EMPLOYER DECISION

I certify that I have approved/refused (delete as appropriate) the Parent's Leave application in accordance with the Parent's Leave Scheme as set out in Circular 0035/2021 titled '*Parent's Leave Scheme for Special Needs Assistants Employed in Recognised Primary and Post Primary Schools*'. The following documents will be retained for audit purposes:

- | | |
|---|--------------------------|
| 1) Application for Parent's Leave | <input type="checkbox"/> |
| 2) Copy of Birth Certificate/Evidence of the date of adoption/Adoption Order for the relevant child | <input type="checkbox"/> |
| 3) Copy of Confirmation Document issued to SNA | <input type="checkbox"/> |
| 4) Copy of Decision Notice issued to SNA | <input type="checkbox"/> |

Approved Parent's Leave has been recorded on the OLCS/relevant ETB system

Signature: _____ Date: _____
(Employer)

Application Form/Supporting Documentation should NOT be submitted to the Department of Education. They should be retained in the school/ETB with any other relevant documentation for record and audit purposes with the relevant personnel records.