# Form 2

## **Notice about entitlement to parental leave**

### Section 36, Parental Leave and Employment Protection Act 1987

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This form is to be given to an employee within 21 days after the employer receives notice that the employee wishes to take parental leave.

**To** [*insert name and postal address of employee*]

1 Your notice stating that you wish to take parental leave is acknowledged.

2 *For this paragraph select the statement that applies.*

You are entitled to take parental leave commencing on [*insert* *date*] / /

 and ending on [*insert* *date*] / / .

***or***

You are not entitled to take parental leave because, at the expected date of delivery of the child/at the date on which you will assume responsibility for the care of the child\*, you will not have been employed for at least an average of 10 hours a week over the immediately preceding 6 months or 12 months.

\*Select one.

***or***

You are not entitled to take parental leave because [*state reasons why employee is not entitled to take parental leave*].

3 *Select this paragraph if the employee is entitled to take parental leave.*

Your employment can/cannot\* be kept open until the end of your parental leave.

\*Select one.

4 *If the employment cannot be kept open, select the statement that applies; otherwise,*

*omit this paragraph.*

Your employment cannot be kept open because of the occurrence of a redundancy situation.

***or***

Your employment cannot be kept open because your period of leave exceeds 4 weeks and a temporary replacement is not reasonably practicable due to your position being a key position.

5 *Omit this paragraph if it does not apply.*

You will, for the period of 26 weeks beginning with the day after the date on which your parental leave ends, be given preference over other applicants for any position that is vacant and that is substantially similar to the position held by you at the beginning of your parental leave.

6 *Omit this paragraph if it does not apply.*

You may, by making a parental leave complaint under section 56 of the Parental Leave and Employment Protection Act 1987, dispute my statement that you are not entitled to take parental leave or that your position cannot be kept open. If you wish to make a complaint, do not delay, because the time for making such a complaint is limited. Your union representative, your solicitor, or the Ministry of Business, Innovation, and Employment will advise you.

Date: / /

Signature of employer:

**Information about parental leave under the Parental Leave and Employment**

***Protection Act 1987***

1 Employees are eligible for—

(i) up to 52 weeks’ parental leave from their employment with an employer

if, on the relevant date, they will have worked for the same employer for

at least 12 months for at least an average of 10 hours a week; or

(ii) up to 26 weeks’ parental leave from their employment with an employer

if, on the relevant date, they will have worked for the same employer for

the immediately preceding 6 months for at least an average of 10 hours a

week.

The relevant date is the expected date of delivery of the child or the date on

which the employee first becomes the primary carer in respect of the child.

2 In most cases, the employer must keep the employee’s job open until the employee’s parental

leave ends. The main exceptions to this are if the employer proves that there is a redundancy situation and, in the case of parental leave of more than 4 weeks, if the employer proves that the employee’s position cannot be kept open because a temporary replacement is not reasonably practicable due to the employee’s key position. Whether an employee’s position is a key position depends on the circumstances of each case, including the size of the employer’s enterprise and the training period or skills required for the job. Your union representative, your solicitor, or the Ministry of Business, Innovation, and Employment will be able to advise you further.

**Entitlements for employees with 12 months’ service**

3 Primary carer leave, partner’s leave, and extended leave are available to employees who:

have worked for the same employer for at least an average of 10 hours a week over the immediately preceding 12 months. Primary carer leave and extended leave amount to 52 weeks, which may be shared by the spouses or partners in the child’s first year. The combined period of 52 weeks may be exceeded only as follows:

1. a biological mother may start her primary carer leave early if directed to do so by her lead maternity carer or by her employer:
2. the biological mother’s spouse or partner may take up to 2 weeks of partner’s leave.

Primary carer leave must be taken in 1 continuous period not exceeding 26 weeks.

**Entitlements for employees with 6 months’ service**

4 Primary carer leave, partner’s leave, and extended leave are available to employees who

have worked for the same employer for at least an average of 10 hours a week over the immediately preceding 6 months. Primary carer leave and extended leave amount to 26 weeks, which may be shared by the spouses or partners in the child’s first year. The period of 26 weeks may be exceeded as follows:

(a) a biological mother may start her primary carer leave early if directed to do so by her lead maternity carer or by her employer:

(b) the biological mother’s spouse or partner may take up to 1 week of partner’s leave.

Primary carer leave must be taken in 1 continuous period not exceeding 26 weeks.

**Commencement of primary carer leave**

5 Primary carer leave for all employees (whether they qualify on the basis of 6 or

12 months’ service) may begin—

(a) up to 6 weeks before the expected date of delivery (in the case of a child born to the employee) if the biological mother gives to her employer not less than 21 days’ notice in writing of that date; or

(b) if paragraph (a) does not apply, no earlier than the date on which the employee first becomes the primary carer in respect of the child; or

(c) on any date before the date of confinement that is agreed between the primary carer and his or her employer; or

(d) on a date specified by the biological mother’s lead maternity carer if—

(i) the biological mother is pregnant; and

(ii) the lead maternity carer certifies that, in his or her opinion, the biological mother should begin her maternity leave on that date; and

(iii) the biological mother gives the certificate to her employer; or

(e) on a date appointed by the biological mother’s employer if—

(i) the biological mother is pregnant; and

(ii) the biological mother is unable, by reason of her pregnancy, to perform her work safely, or is incapable of performing her work adequately; and

(iii) there is no other suitable work available.

A woman who is pregnant is entitled, before taking primary carer leave, to take a total of up to 10 days’ special leave without pay for reasons connected with her pregnancy.

If, by reason of pregnancy, a woman is unable to perform her work safely, or is incapable of performing her work adequately, her employer may temporarily transfer her to another job.