

1987/267



**THE PARENTAL LEAVE AND EMPLOYMENT PROTECTION  
(FORMS) REGULATIONS 1987**

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PAUL REEVES, Governor-General

**ORDER IN COUNCIL**

At Wellington this 31st day of August 1987

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 73 of the Parental Leave and Employment Protection Act 1987, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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**REGULATIONS**

**1. Title and commencement**—(1) These regulations may be cited as the Parental Leave and Employment Protection (Forms) Regulations 1987.

(2) These regulations shall come into force on the 1st day of October 1987.

**2. Interpretation**—In these regulations, unless the context otherwise requires, “the Act” means the Parental Leave and Employment Protection Act 1987.

**3. Forms**—(1) A notice under section 36 of the Act shall be in form 1 in the Schedule to these regulations.

(2) A notice under section 38 of the Act shall—

(a) Where the employer is able to keep the employee’s position open until the end of his or her parental leave, be in form 2 in the Schedule to these regulations; and

(b) In any other case, be in form 3 in the Schedule to these regulations.

(3) The information given under section 48 of the Act to a temporary employee shall be given in a notice in form 4 in the Schedule to these regulations.

(4) An application under section 55 (1) of the Act for an interim order shall be in form 5 in the Schedule to these regulations.

(5) A reference of a parental leave complaint to the Labour Court (being a reference effected under section 60 (1) (b) of the Act) shall be in form 6 in the Schedule to these regulations.

(6) A notice of appeal to the Labour Court under section 61 of the Act shall be in form 7 in the Schedule to these regulations.

(7) An application under section 67 of the Act for leave to refer a parental leave complaint to the Labour Court shall be in form 8 in the Schedule to these regulations.

**4. Revocation**—The Maternity Leave and Employment Protection (Forms) Regulations 1981\* are hereby consequentially revoked.

SCHEDULE

FORMS

FORM 1

Reg. 3 (1)

**NOTICE ABOUT ENTITLEMENT TO PARENTAL LEAVE**

(To be given to an employee within 21 days after the employer receives notice that the employee wishes to take parental leave).

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

To [Name and address of employee]

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

EITHER

2. You are not entitled to take parental leave—

Commencing .....	19 .....	{ [Specify in each case the date on which employee wishes to commence parental leave]       }
Commencing .....	19 .....	

\*(a) Because, at the expected date of delivery of the child, you will not have been, for the immediately preceding 12 months, in (the employment of [Name of employer] or my employment) for at least 10 hours in each week:

\*(b) Because, at the date on which you, with a view to adoption, first assume care of the child, you will not have been, for the immediately preceding 12 months in (the employment of [Name of employer] or my employment) for at least 10 hours in each week:

\*(c) Because [State reasons why employee is not entitled to take parental leave].

OR

2. You are entitled to take parental leave—

Commencing .....	19 .....	{ [Specify in each case the date on which employee wishes to commence parental leave]       }
Commencing .....	19 .....	

3. You should read the information on the back of this notice.

SCHEDULE—continued

FORM 1—continued

\*4. Your position in (the employment of [Name of employer] or my employment) can be kept open until the end of your parental leave—

Commencing .....	19 ....	} [Specify in each case the date on which employee wishes to commence parental leave]
Commencing .....	19 ....	

\*5. Your position in (the employment of [Name of employer] or my employment) cannot be kept open until the end of your parental leave—

Commencing .....	19 ....	} [Specify in each case the date on which employee wishes to commence parental leave]
Commencing .....	19 ....	

\*(a) Because of the occurrence of a redundancy situation:

\*(b) Because a temporary replacement is not reasonably practicable due to the key position that you occupy within (the enterprise of [Name of employer] or my enterprise).

\*6. As your position cannot be kept open you will, for the period of 26 weeks beginning with the day after the date on which your parental leave ends, be given by ([Name of employer] or me) preference over other applicants for any position which is vacant and which is substantially similar to the position held by you at the beginning of your parental leave.

NOTE: Clause 5 (b) does not apply to a period of leave not exceeding 4 weeks that is the first period of parental leave taken by the employee in respect of the child and of which the employer has had the required notice.

\*3. You may, by 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 such a complaint, do not delay as the time for making such a complaint is limited. Your union representative or your solicitor or the Department of Labour will advise you.

\*Delete if inapplicable.

Dated this ..... day of ..... 19.....

.....  
Employer.

SCHEDULE—*continued*FORM 1—*continued*

**INFORMATION ABOUT PARENTAL LEAVE UNDER  
THE PARENTAL LEAVE AND EMPLOYMENT  
PROTECTION ACT 1987  
TYPES OF PARENTAL LEAVE**

There are 3 types of parental leave. These are—

- (a) Maternity leave:
- (b) Paternity leave:
- (c) Extended leave.

The combined effect of these 3 types of leave is that they may entitle an employee and his or her spouse to take between them up to 54 weeks unpaid leave from employment to care for a child born to or adopted by them. This period of 54 weeks may be exceeded where a female employee begins her maternity leave early at the direction of a medical practitioner or her employer.

**ENTITLEMENTS TO PARENTAL LEAVE**

***Maternity Leave***

A female employee is entitled to maternity leave if—

- (a) She—
  - (i) Becomes pregnant; or
  - (ii) Assumes (with a view to adoption) the care of a child who is not more than 5 years of age; and
- (b) She fulfils the employment requirements (see below).

***Paternity Leave***

A male employee is entitled to paternity leave if—

- (a) He—
  - (i) Is the spouse of a pregnant woman and assumes or intends to assume the care of the child of the pregnancy; or
  - (ii) Assumes (with a view to adoption) the care of a child who is not more than 5 years of age; and
- (b) He fulfils the employment requirements (see below).

***Extended Leave***

An employee is entitled to extended leave—

- (a) If—
  - (i) In the case of a female employee, she gives birth to a child and assumes or intends to assume the care of the child; or
  - (ii) In the case of a male employee, he assumes or intends to assume the care of a child to whom his spouse gives birth; or
  - (iii) He or she assumes (with a view to adoption) the care of a child who is not more than 5 years of age; and
- (b) He or she fulfils the employment requirements (see below).

NOTE: "Spouse" includes the male or the female partner to a relationship in which the parties are living together as husband and wife although not legally married to each other.

***Employment requirements***

An employee is not entitled to take parental leave unless he or she has been, at the relevant date, in the employment of the same employer for the immediately preceding 12 months for at least 10 hours in each week.

SCHEDULE—*continued*FORM 1—*continued*

The relevant date is the expected date of delivery of the child or, in the case of adoption, the date on which the employee first assumes the care of the child with a view to adoption.

**MATERNITY LEAVE*****Length of Maternity Leave***

Maternity leave shall be taken in one continuous period not exceeding 14 weeks.

A female employee may take a period of maternity leave in excess of 14 weeks if directed by a medical practitioner or by her employer to begin her maternity leave early. If she is so directed to begin her maternity leave early, she is entitled to take at least 8 weeks of that leave after the expected date of delivery.

***Commencement of Maternity Leave***

Maternity leave begins (unless an earlier date is fixed as mentioned on this form under the heading *Early Commencement of Maternity Leave*)—

- (a) On the date of confinement; or
- (b) In the case of adoption, on the date on which the female employee first assumes (with a view to adoption) the care of the child.

***Early Commencement of Maternity Leave***

Maternity leave may begin—

- (a) On a date which is earlier, by not more than 6 weeks,—
  - (i) Than the expected date of delivery; or
  - (ii) In the case of an adoption, than the date on which the female employee first assumes (with a view to adoption) the care of the child,—  
if the female employee chooses that earlier date and gives to her employer not less than 21 days' notice in writing of that date; or
- (b) On any date before the date of confinement that is agreed between the female employee and her employer; or
- (c) On a date specified by a medical practitioner where—
  - (i) The female employee is pregnant; and
  - (ii) The medical practitioner certifies that in his or her opinion she should begin her maternity leave on that date; and
  - (iii) The female employee gives the certificate to her employer; or
- (d) On such date as her employer appoints where—
  - (i) The female employee is pregnant; and
  - (ii) The female employee is unable, by reason of her pregnancy, to perform her work to the safety of herself or others, or is incapable of performing her work adequately; and
  - (iii) There is no other suitable work available.

***Special Leave***

A female employee who is pregnant is entitled, before taking maternity leave, to take a total of up to 10 days special leave without pay for reasons connected with her pregnancy.

***Ability to Perform Work***

Where, by reason of pregnancy, a female employee is unable to perform her work to the safety of herself or others or is incapable of performing

SCHEDULE—*continued*FORM 1—*continued*

her work adequately, her employer may temporarily transfer her from one job to another.

**PATERNITY LEAVE*****Length of Paternity Leave***

Paternity leave shall be taken in one continuous period not exceeding 2 weeks.

***Commencement of Paternity Leave***

Paternity leave begins (unless an alternative date is chosen by the employee as mentioned on this form under the heading *Right of Employee to Choose Date of Commencement of Paternity Leave*)—

- (a) On the date of confinement of the employee's spouse; or
- (b) In the case of adoption, on the date on which the employee first assumes (with a view to adoption) the care of the child.

***Right of Employee to Choose Date of Commencement of Paternity Leave***

Paternity leave may begin—

- (a) On any date in the period—
  - (i) Beginning on the 21st day before the expected date of delivery; and
  - (ii) Ending with the 21st day after the actual date of delivery or, where the child is discharged from a hospital or a similar establishment more than 21 days after the actual date of delivery, the day on which the child is discharged from that hospital or establishment.
- (b) In the case of adoption, on any date in the period beginning on the 21st day before the date on which the employee, with a view to adoption, first assumes the care of the child and ending with the 21st day after that date.
- (c) On any date that is agreed between the employee and his employer.

**EXTENDED LEAVE*****Length of Extended Leave***

Extended leave may be taken by the employee and the employee's spouse. They may take no more than one continuous period each. The combined total of the 2 periods may not exceed 52 weeks.

If the female employee takes a period of maternity leave of 14 weeks or less, the period of 52 weeks extended leave will be reduced by that period of maternity leave.

If the female employee begins her maternity leave early at the direction of a medical practitioner or her employer, the period of 52 weeks extended leave will not be reduced by any period of maternity leave in excess of 14 weeks.

The period of 52 weeks will not be reduced by any period of paternity leave taken by the male employee.

***Extended Leave to be Shared Between Male and Female Employee***

Extended leave is to be shared between the male and the female employee as they choose. For example, one employee may take the whole period of extended leave, and the other employee may take no extended leave. Alternatively, they can share the extended leave in such proportions

SCHEDULE—*continued*

FORM 1—*continued*

as they choose. One employee may also take extended leave at the same time as the other takes maternity, paternity or extended leave.

***Commencement of Extended Leave***

If the employee has taken maternity or paternity leave in relation to the birth or adoption of the child, extended leave may begin at any time after that period of maternity or paternity leave ends.

If the employee has not taken maternity or paternity leave in relation to the birth of the child, extended leave may begin at any time after the date of confinement.

In the case of adoption, if the employee has not taken maternity or paternity leave in relation to the adoption of the child, extended leave may begin at any time after the employee first assumes, with a view to adoption, the care of the child.

Extended leave may also begin on any other date that is agreed between the employee and his or her employer.

***Ending of Extended Leave***

No extended leave may be taken after—

- (a) The child attains the age of 12 months; or
- (b) In the case of an adopted child, the first anniversary of the date on which the employee first assumed the care of the child with a view to adoption; or
- (c) The employee ceases to have care of the child.

**EARLY ENDING OF PARENTAL LEAVE**

An employee who is on parental leave may end that leave early in certain circumstances.

These circumstances are—

- (a) If the child is miscarried; or
- (b) If the child is stillborn or dies; or
- (c) If the employee or the employee's spouse has consented to the adoption of the child and some other person has the care of the child with a view to its adoption; or
- (d) If the employee ceases to have care of the child; or
- (e) If his or her employer consents (which consent may, in the case of a female employee who has been pregnant, be conditional on a medical certificate stating that the female employee is fit to return to work).

In any of these circumstances the employee may choose—

- (a) Where his or her position is being kept open by the employer, to end the parental leave by returning to work before the date on which he or she is required to return to work at the end of the parental leave; or
- (b) In any other case, to end the parental leave and begin the period of preference.

In any case where the employee chooses to return to work early or to begin the period of preference early, the employee must give to his or her employer not less than 21 days' notice in writing of the date on which he or she intends to return to work or begin the period of preference, as the case may be.

**EXTENSION OF PARENTAL LEAVE**

An employee who is on parental leave may extend the parental leave if his or her employer consents.



SCHEDULE—continued

FORM 2

Reg. 3 (2) (a)

[Front]

NOTICE TO EMPLOYEE WHOSE JOB IS BEING KEPT OPEN

(To be given to an employee within 21 days after the employee begins his or her parental leave).

Section 38, Parental Leave and Employment Protection Act 1987

To [Name and address of employee]

- 1. Your parental leave ends on [Date].
- 2. You will be required to return to work on [Date].
- 3. You are required to give to ([Name of employer] or me), not later than 21 days before the date on which your parental leave ends, a written notice stating whether or not you will be returning to work at the end of your parental leave.
- 4. You should read the information on the back of this notice.

Dated this ..... day of ..... 19.....

.....

Employer.

[Back]

INFORMATION ABOUT EARLY ENDING AND EXTENSION OF PARENTAL LEAVE

An employee who is on parental leave and whose job is being kept open may end his or her parental leave early in certain circumstances.

These circumstances are—

- (a) If the child is miscarried; or
- (b) If the child is stillborn or dies; or
- (c) If the employee or the employee's spouse has consented to the adoption of the child and some other person has the care of the child with a view to its adoption; or
- (d) If the employee ceases to have care of the child; or
- (e) If his or her employer consents (which consent may, in the case of a female employee who has been pregnant, be conditional on a medical certificate stating that she is fit to return to work).

In any of these circumstances the employee may choose to end the parental leave by returning to work before the date on which he or she is required to return to work at the end of the parental leave.

An employee who chooses to return to work early must give to his or her employer not less than 21 days' notice in writing of the date on which he or she intends to return to work.

An employee who is on parental leave may extend the parental leave if his or her employer consents.

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SCHEDULE—continued

Reg. 3 (2) (b)

Form 3

[Front]

NOTICE TO EMPLOYEE WHOSE JOB IS NOT BEING KEPT OPEN

(To be given to an employee within 21 days after the employee begins his or her parental leave).

Section 38, Parental Leave and Employment Protection Act 1987

To [Name and address of employee]

1. Your parental leave ends on [Date].

2. You will during the period of 26 weeks beginning on [Date, being the day after the date on which the employee's parental leave ends] be given preference by ([Name of employer] or me) over other applicants for any position which is vacant and which is substantially similar to the position held by you at the beginning of your parental leave.

3. You should read the information on the back of this notice.

Dated this ..... day of ..... 19.....

.....

Employer.

[Back]

INFORMATION ABOUT EARLY ENDING AND EXTENSION OF PARENTAL LEAVE

An employee who is on parental leave and whose job is not being kept open may end his or her parental leave early in certain circumstances.

These circumstances are—

- (a) If the child is miscarried; or
- (b) If the child is stillborn or dies; or
- (c) If the employee or the employee's spouse has consented to the adoption of the child and some other person has the care of the child with a view to its adoption; or
- (d) If the employee ceases to have care of the child; or
- (e) If his or her employer consents (which consent may, in the case of a female employee who has been pregnant, be conditional on a medical certificate stating that the employee is fit to return to work).

In any of these circumstances the employee may choose to end the parental leave and begin the period of preference by giving his or her employer not less than 21 days' notice in writing of the date on which he or she intends to begin the period of preference.

An employee who is on parental leave may extend the parental leave if his or her employer consents.

\_\_\_\_\_

SCHEDULE—continued

Form 4

Reg. 3 (3)

NOTICE TO TEMPORARY EMPLOYEE

(To be given to an employee who is employed to replace an employee who is on parental leave).

Section 48, Parental Leave and Employment Protection Act 1987

To [Name and address of temporary employee]

1. You are being employed on a temporary basis in the place of an employee who is on parental leave.

2. You cannot expect to continue to be employed by ([Name of employer] or me) after that employee returns to work.

3. That employee is required to return to work on [Date].

4. That employee may end his or her parental leave by returning to work before that date in certain circumstances.

5. Those circumstances are—

(a) If the child is miscarried; or

(b) If the child is stillborn or dies; or

(c) If the employee or the employee's spouse has consented to the adoption of the child and some other person has the care of the child with a view to its adoption; or

(d) If the employee ceases to have care of the child; or

(e) If consent is given by ([Name of employer] or me).

6. If the employee ends his or her parental leave by returning to work early, you will be given [State period] notice of termination of employment.

Dated this ..... day of ..... 19.....

.....

Employer.

NOTE: The employer must give this notice to the temporary employee before employing the temporary employee.

SCHEDULE—continued

Reg. 3 (4)

Form 5

Under the Parental Leave and Employment Protection Act 1987

EX PARTE APPLICATION TO LABOUR COURT FOR INTERIM ORDER  
REINSTATING AN EMPLOYEE IN HIS OR HER POSITION or CANCELLING THE  
NOTICE TERMINATING HIS OR HER EMPLOYMENT

In the Labour Court  
..... Registry

In the matter of section 55 (1) of the  
Parental Leave and Employment  
Protection Act 1987;

And

In the matter of an ex parte application by  
[Full name of employee] for an interim order  
(\*reinstating him (or her) in his (or her)  
position with [Full name of employer]) or  
(\*cancelling the notice terminating his (or  
her) employment with [Full name of  
employer])

To the Registrar of the Court.

I, [Name and address of employee], hereby apply to the Court for an interim  
order under section 55 (1) of the Parental Leave and Employment  
Protection Act 1987—

- \*(a) Reinstating me in my position with [Name and address of employer]; or
- \*(b) Cancelling the notice terminating my employment with [Name and  
address of employer].

I allege that, within the 2 months preceding the date of this application  
and in contravention of section 49 (1) of the Parental Leave and  
Employment Protection Act 1987, the said [Name of employer] has—

- \*(a) Terminated my employment; or
- \*(b) Given me notice terminating my employment.

The facts on which I base this allegation are [Set out facts].

Dated at ..... this ..... day of ..... 19.....

.....

Employee.

\*Delete if inapplicable.

This application is filed by [Name of employee], whose address for service  
is .....

\_\_\_\_\_

SCHEDULE—continued

Form 6

Reg. 3 (5)

Under the Parental Leave and Employment Protection Act 1987

REFERENCE TO LABOUR COURT OF PARENTAL LEAVE COMPLAINT

In the Labour Court  
.....Registry

In the matter of section 60 (1) (b) of the  
Parental Leave and Employment  
Protection Act 1987;

And

In the matter of a parental leave complaint  
Between [Full name of employee] of [Address],  
[Occupation]

Applicant

And [Full name of employer] of [Address],  
[Occupation]

Respondent

To the Registrar of the Court.

A parental leave complaint having been made by the abovenamed applicant, and the members of the complaint committee constituted pursuant to section 58 (or section 59) of the Parental Leave and Employment Protection Act 1987 (other than the chairperson) being equally divided in opinion, I, [Name], the chairperson of that complaint committee, hereby refer that complaint to the Court for settlement.

The following is a statement setting out the nature of—

- (a) The parental leave complaint:
- (b) The issues for the consideration of the Court:
- (c) The facts in consequence of which it is claimed that the complaint has arisen.

[Set out statement]

Dated at ..... this ..... day of ..... 19.....

.....  
Chairperson.

\_\_\_\_\_

SCHEDULE—continued

Reg. 3 (6)

Form 7

Under the Parental Leave and Employment Protection Act 1987

NOTICE OF APPEAL TO LABOUR COURT AGAINST DECISION OF  
COMPLAINT COMMITTEE

In the Labour Court  
..... Registry

In the matter of section 61 of the Parental  
Leave and Employment Protection Act  
1987;

And

In the matter of a parental leave complaint  
Between [Full name of employee] of [Address],  
[Occupation]

Applicant

And [Full name of employer] of [Address],  
[Occupation]

Respondent

And

In the matter of the decision of a  
complaint committee dated .....

To the Registrar of the Court.

1. The undersigned, being a party to the complaint, hereby appeals to  
the Court against (the decision) or ([Specify the part of the decision to which the  
appeal relates]).

2. The decision was made known to me on [Date], being a date not earlier  
than 21 days before the date of this notice.

3. I have given to every other party written notice of my appeal.

4. The appeal is based on the following grounds:  
[Set out grounds in detail].

Dated at ..... this ..... day of ..... 19.....

.....

Appellant.

This notice of appeal is filed by [Name of Appellant], whose address for  
service is .....

\_\_\_\_\_

SCHEDULE—continued

Form 8

Reg. 3 (7)

Under the Parental Leave and Employment Protection Act 1987

APPLICATION TO LABOUR COURT FOR LEAVE TO REFER PARENTAL LEAVE  
COMPLAINT TO LABOUR COURT

In the Labour Court  
.....Registry

In the matter of section 67 of the Parental  
Leave and Employment Protection Act  
1987;

And

In the matter of a parental leave complaint  
Between [Full name of employee] of [Address],  
[Occupation]

Applicant

And [Full name of employer] of [Address],  
[Occupation]

Respondent

To the Registrar of the Court.

I, [Name and address of employee], hereby apply to the Court for leave to refer a parental leave complaint to the Court for settlement under section 61 (3) of the Parental Leave and Employment Protection Act 1987.

I make this application on the ground that I have been unable to get my parental leave complaint dealt with or dealt with promptly because of a failure on the part of another person to act or to act promptly in accordance with the procedure applicable under any of the provisions of sections 57 to 59 of the Parental Leave and Employment Protection Act 1987.

The following is a statement setting out the nature of—

- (a) The parental leave complaint:
- (b) The issues for the consideration of the Court if this application is granted:
- (c) The facts in consequence of which it is claimed that the complaint has arisen:
- (d) The failure to act or to act promptly that gives rise to this application.

[Set out statement]

Dated at ..... this ..... day of ..... 19.....

.....  
Applicant.

This application is filed by [Name of Applicant], whose address for service is .....

P. G. MILLEN,  
Clerk of the Executive Council.

## EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 1 October 1987, prescribe forms for the purposes of the Parental Leave and Employment Protection Act 1987.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 3 September 1987.

These regulations are administered in the Department of Labour.