



CHAMBRE DES SALARIÉS
LUXEMBOURG



LABOUR
LAW

PRACTICAL GUIDE TO PARENTAL LEAVE IN LUXEMBOURG

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**YOU'LL
NEVER
WORK
ALONE.**

IMPRESSUM

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The mark of
responsible forestry



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PREFACE

Parental leave enables every employed parent to suspend or reduce their working activity in order to devote themselves fully to bringing up their child. This right can be exercised until the child reaches the age of 6 or, in the case of adoption, until the child's 12th birthday.

Luxembourg recognises the importance of supporting families in this process. This is why it guarantees parents specific protection during their parental leave, as well as financial compensation in the form of a monthly allowance paid by the Children's Future Fund.

The various parental leave formulas are designed to adapt to the diversity of family situations and make it easier to reconcile work and family life. They are also intended to encourage greater involvement by fathers, thereby helping to promote equality between women and men, whether in the private or professional life.

With this new edition, the Chamber of Employees is providing the public with an updated practical guide to parental leave, designed to provide comprehensive information and practical support for those concerned. This guide is aimed primarily at employed parents, but also at employers, staff representatives and employment law professionals.

To make it easier to understand the legal framework and the procedures for exercising this right, the book uses a clear question-and-answer format, structured around the main stages of parental leave: definition, conditions for granting leave, beneficiaries, possible formulas (full-time, part-time or split leave), steps to be taken with the employer and the Children's Future Fund, the employer's response, compensation, employee rights during and after leave. Special situations such as the death of a child, a change of employer or a new maternity leave should also be addressed.

In addition, the guide provides several useful documents, including sample letters and forms for parental leave application. Based on the legislation currently in force, this guide aims to make access to parental leave clearer and simpler, and to encourage greater use of this right, which is essential for balancing work and family life.

Enjoy your reading!

Luxembourg, December 2025

The greatest care has been taken in the preparation of this publication. Neither the publisher nor the author shall be held responsible for any omissions or errors in this booklet, nor for any consequences arising from the use of the information contained herein.

The information contained in this publication is without prejudice to the legal texts and their interpretation and application by the competent state authorities or courts.

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In this publication, the masculine gender is used without discrimination and solely for the sake of brevity. It refers to all gender identities and covers both male and female people, transgender people, as well as people who do not feel they belong to either sex or those who feel they belong to both sexes.

The translation of legislation is not legally binding but is for information purposes only. Only the official French version of the legislation has legal force.

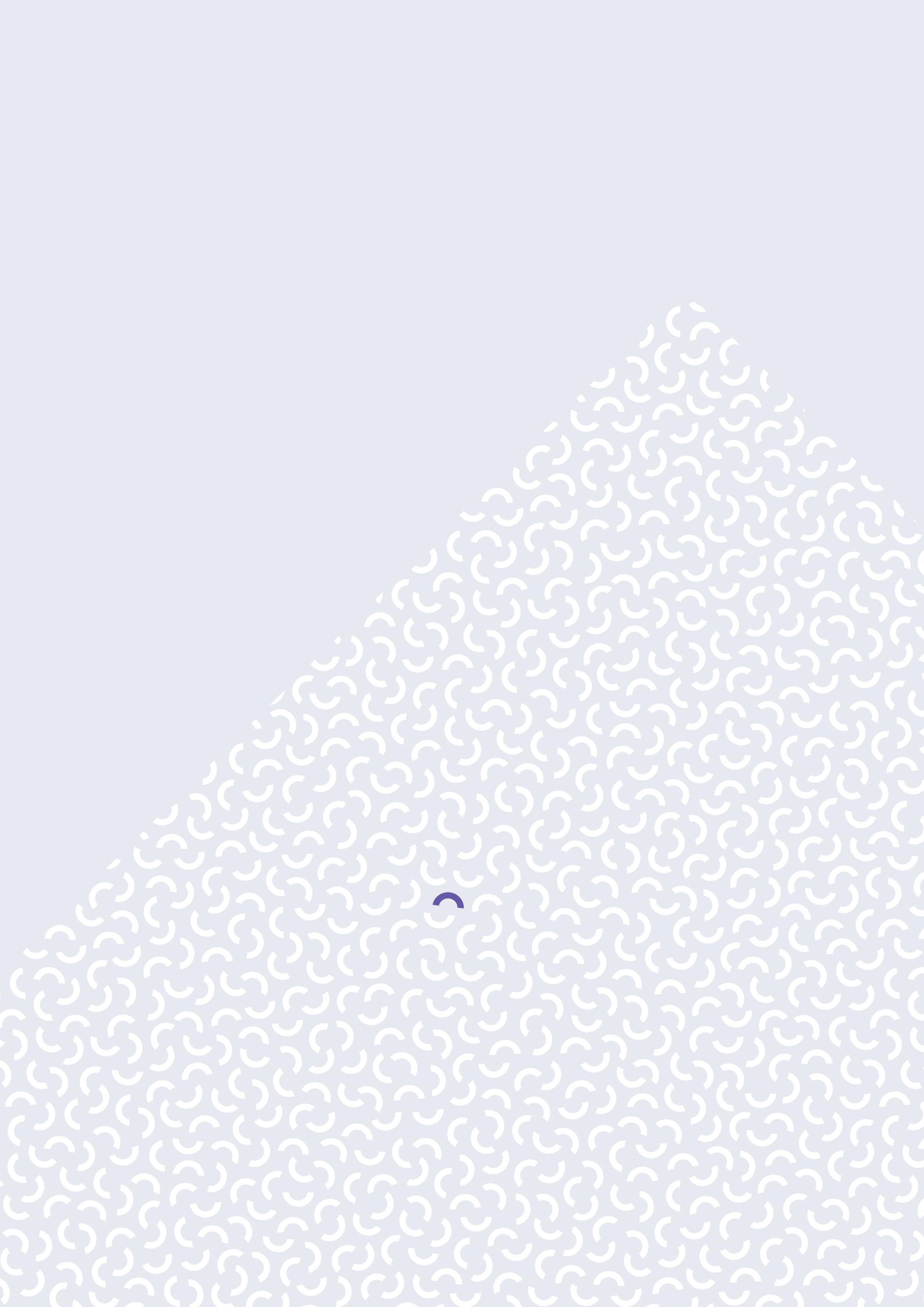
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I. PARENTAL LEAVE





1. DEFINITION¹

Question 1. What is parental leave?

Parental leave is the leave that can be taken by parents of a child under the age of six or the age of 12 in the case of adoption, who wish to interrupt their professional career to devote themselves to the education of their child for a certain period of time.

ATTENTION: Parental leave must begin before the child's sixth birthday or the adopted child's twelfth birthday.

In the case of adoption, parental leave may be taken within six years of the end of the foster care leave or, if foster care leave has not been taken, within six years of the adoption ruling until the child reaches the age of 12 at the latest.

2. CHARACTERISTIC FEATURES

Question 2. Can any parent take parental leave?²

Parental leave can be taken by either parent. Both parents are individually entitled to parental leave.

The initial parental leave must be taken by either parent directly at the end of maternity or foster care leave or it will be lost.

If maternity or adoption leave is not due or has not been taken, the first period of parental leave may be taken from the 1st day of the 3rd week following the birth or, in the case of adoption, from the date of the adoption order.

The second parental leave can be taken up to the age of under the age of 6 or the age of 12 in the case of adoption by the parent who did not take the initial parental leave.

In the case of adoption, parental leave may be taken within six years of the end of the foster care leave or, if foster care leave has not been taken, within 6 years of the adoption judgment until the child reaches the age of 12 at the latest.

If neither parent has taken the first parental leave, the second parental leave can be taken by one parent.

Question 3. Can both parents take parental leave at the same time?³

Parents can take parental leave at the same time by indicating in their respective applications who takes the first and who takes the second parental leave.

If the parents cannot agree, the first parental leave entitlement goes to the parent whose surname comes first alphabetically.

Question 4. Is a parent entitled to double parental leave if the other parent gives up theirs?

No, if a parent does not take parental leave themselves, it is lost.

They cannot waive their right to parental leave in favour of the other parent. The law clearly states that parental leave is not transferable from 1 parent to the other⁴.

¹ Art. L. 234-43 (1) of the Labour Code.

² Art. L. 234-43 (1), 234-45 (1) and L. 234-46 (1) of the Labour Code.

³ Art. L. 234-45 (1) of the Labour Code.

⁴ Art. L. 234-47 (2) of the Labour Code.

Question 5. Can the child attend a childcare facility⁵ during parental leave?

The Labour Code stipulates that the applicant must devote themselves primarily to the child's education.

Therefore, during full-time parental leave, attendance at a nursery or other childcare facility must remain an exception. The CAE authorises attendance for a few hours per week at most, for example during the child's adjustment period. The CAE must be notified of such attendance in advance and in writing.

In the event of a breach of this provision, the parent may be required to reimburse the full amount of the parental leave allowance.

3. ELIGIBILITY CONDITIONS

Question 6. Under what conditions can parental leave be taken?⁶

The employee or apprentice⁷ is entitled to parental leave under the following conditions:

- He or she must have been affiliated for at least 12 continuous months before the start of the parental leave.

However, one or more interruptions shall not result in the loss of the right to parental leave, where such interruption(s) do not exceed 7 days in total, during the year preceding the commencement of the parental leave.

Employees requesting parental leave must have worked for at least 12 months with the same employer(s) for a total of at least ten working hours per week. The condition of employment with the same employer is presumed to be fulfilled if, as a result of a sale, merger or transfer of the company, the employee parent is transferred without interruption to another job.

If an employee changes employer during the 12-month period preceding or during the period of parental leave, leave may be granted only with the agreement of the new employer.

In addition, the period of affiliation under an employment measure organised by the Employment Development Agency and a work integration activity organised by the National Social Action Service immediately preceding a period covered by an employment contract concluded with the same employer or, where applicable, with the entity promoting the measure or the assigning body, is taken into account as part of the required period of affiliation of 12 months.

- The employment of the head of one or more employment contracts or an apprenticeship contract must continue throughout the period of parental leave. The employee's working time is at least 10 hours per week.

The working time of the employed parent corresponds to the monthly hours specified in their employment contract. Should this working time change during the year preceding the start of the parental leave, the average calculated over the year in question shall be taken into account.

PLEASE NOTE:

- To be entitled to part-time parental leave, the working time applicable to the parent must be at least half the normal working time applicable in the establishment/company, i.e. in principle at least 20 hours per week.
- To be entitled to split parental leave, the parent's working hours must be equal to the normal working hours applicable in the establishment/company (full-time work).

To determine whether the applying parent is entitled to a particular form of parental leave, their working time at the date of the request to the employer is taken into account. However, the parent is only entitled to full-time parental leave if, between the notification of the parental leave request and the start of the parental leave, the required working time conditions are no longer met.

Note that apprentices are only entitled to full-time parental leave of 4 or 6 months.

⁵ nursery, childminder, after-school care centre

⁶ Art. L. 234-43 and L. 234-44 of the Labour Code.

⁷ It should be noted that civil servants, state and municipal employees, as well as self-employed persons, are also entitled to parental leave, subject to legal conditions.

Question 7. Can an employee with a fixed-term contract (CDD) benefit from parental leave?

The law requires the existence of an employment contract during the entire period of parental leave as a condition for the granting of parental leave.

Consequently, an employee holding a fixed-term contract whose expiry date is not later than the end date of the parental leave cannot be granted parental leave.

The fact that a person is on parental leave does not prevent the fixed-term contract from ending at the end of the original term.

Parental leave does not suspend fixed-term contracts.

Question 8. Can an employee be granted parental leave during the trial period?

Employees with an employment contract that includes a trial period clause are not entitled to parental leave during that period.

They must wait until the end of this period before submitting their application ⁸.

Question 9. Can an apprentice get parental leave?⁹

Apprentices are entitled to only 4 or 6 months of full-time parental leave.

⁸ Art. L. 234-48 of the Labour Code.

⁹ Art. L. 234-44 (6) of the Labour Code.

4. DURATION

EMPLOYEE ACTIVITIES BEFORE PARENTAL LEAVE	PARENTAL LEAVE FORMULA		WORKING TIME DURING PARENTAL LEAVE
Several employment contracts/professional activities of at least 10 hours per week	Full time parental leave • 4 months • 6 months		Full suspension of activity
One employment contract between 10 hours per week and half-time	Full time parental leave • 4 months • 6 months		Full suspension of activity
One employment contract between half-time and full-time	Full time parental leave • 4 months • 6 months		Full suspension of activity
	Full time parental leave • 4 months • 6 months		50% reduction in activity during parental leave
One full-time employment contract	Full time parental leave • 4 months • 6 months		Full suspension of activity
	Parental leave on a part-time basis • 8 months • 12 months		50% reduction in activity during parental leave
	Parental leave fractionated	8 hours per week over a period of 20 months	20% reduction in activity per week during parental leave
		4 periods of 1 month over a maximum period of 20 months	Full suspension of activity during 4 periods of parental leave
Apprenticeship contract	Full time parental leave • 4 months • 6 months		Full suspension of activity

Question 10. What are the possible forms of parental leave?¹⁰

a. Full-time parental leave of 4 or 6 months

If the parent suspends their work entirely, they are entitled to full-time leave of 4 or 6 months, even if they were only working part-time before parental leave.

This leave is a legal right and the employer cannot refuse it if the request has been notified in the proper manner.

¹⁰ Art. L. 234-44 of the Labour Code.

b. 8 or 12 months part-time parental leave

If the parent does not want to suspend work entirely, they can take part-time parental leave for 8 or 12 months. In this case, they must reduce their working hours by at least half of the hours worked before parental leave. To be eligible for part-time parental leave, the parent's working hours must be at least half of the normal working hours applicable in the establishment/company, i.e. in principle at least 20 hours per week.

The employee continues to work for their employer according to a schedule to be defined in an amendment to the employment contract (see sample model page 29).

Examples :

1. *The legal working week of 40 hours applies in the company. If an employee working 40 hours per week wants to take part-time parental leave, they must reduce their working hours to $40 - 20 = 20$ hours per week.*
2. *If the employee works only 32 hours per week, for example, they must reduce their working hours by half, i.e. $32 : 2 = 16$ hours per week.*
3. *Employees working only 20 hours per week can choose between full-time leave of 4 or 6 months or part-time leave of 8 or 12 months:*
 - *they opt for full-time parental leave and suspend their work entirely;*
 - *they opt for 12 months of part-time parental leave. They will continue to work 10 hours per week.*

c. Split parental leave

An employee working full time for the same employer, i.e. in principle 40 hours per week, may, with the agreement of his employer, reduce his work activity by 20% per week or reduce his work activity over a period of four separate months, through a period extending over 20 months.

The terms and conditions of split parental leave must be set out in a parental leave plan agreed upon by the employer and the parent within four weeks of the parent's request. This plan covers the entire period of parental leave and must be submitted to the Children's Future Fund (CAE) at the same time as the request itself.

Any changes, to be approved by mutual agreement between the parent and the employer, are only possible for adjustments to working hours or calendar months.

If the employer refuses to grant parental leave in one of these forms, they must justify their decision and inform the beneficiary parent by registered letter with acknowledgement of receipt no later than two weeks after the request and invite the parent to a meeting within two weeks of this notification.

During this meeting, the employer must offer the parent, in writing, an alternative form of parental leave or a different parental leave plan from the one requested by the parent.

If, two weeks after this meeting, the two parties have not agreed on and signed a parental leave plan, the parent is entitled to parental leave of their choice, either 6 months or four months full-time.

ATTENTION: While full-time leave is a right for beneficiaries, part-time or split leave is subject to an employer's agreement. An employer may refuse to grant part-time or split leave, in which case the applicant must either take the full-time leave over 4 or 6 months or abandon the leave.

Question 11. Which option can a parent with multiple employers choose?

If the parent has multiple employers, they can only opt for full-time parental leave of 4 or 6 months. This provision also applies if they are registered as both an employee and a self-employed person.

Question 12. Is it possible to change options during parental leave?

No, once parental leave has begun, it is no longer possible to change the option.

Question 13. How long is parental leave in the case of multiple births/adoptions?

In the case of multiple births or multiple adoptions, the right to parental leave is available for each of the children from the same birth or adoption. Different parental leave options can be taken for each child (e.g. full-time parental leave for child A and part-time parental leave for child B).

It is necessary to submit a request for each child to the CAE.

5. REQUEST FOR PARENTAL LEAVE AND THE EMPLOYER'S RESPONSE

Question 14. How to apply for parental leave?¹¹

The first step is for an individual to apply to their employer for parental leave.

This request must be submitted via a registered letter with acknowledgement of receipt (see sample models pages 23 and 24).

For an initial parental leave, the written request must be sent to the employer two months before the start of maternity leave.

In the case of adoption, an application must be submitted to the employer before the start of the leave.

If this is the second parental leave, the request must be made with 4 months' notice. In other words, parental leave can begin no earlier than 4 months after the day of application.

Please note that the CAE accepts applications signed by the employer even if these deadlines are not met.

After submitting the application to the employer, applicants must apply to the CAE to obtain a special form (see form page 25) or download it from the website www.cae.lu.

Employees then complete the form, have it signed by their employer and return it to the CAE:

- for an initial parental leave, within 15 days of the notification of the request for parental leave to the employer;
- for the second parental leave, within 15 days of notification of the employer's reply or, in the absence of a reply, within 15 days of expiry of the 4-week period provided for in the case of postponement of leave.

CAE endeavours to send confirmation of parental leave no later than two weeks before the start date.

For the sake of completeness, various other information must also be reported to the CAE:

- the birth of a child must be declared within 15 days of the declaration at the civil registry;
- in the case of the adoption of a child, applications for parental leave allowance must be accompanied by a court certificate stating that the adoption proceedings have been initiated.

Question 15. Can the employer refuse to grant parental leave?¹²

The answer to this question varies depending on whether it is the initial or second parental leave and whether it is taken full time, part time or split basis.

Employers who receive an application for a full-time parental leave following maternity or foster care leave are obliged to grant the leave. However, an employer may refuse the leave if the application was not submitted in the legal form within the stated deadline or if the applicant does not meet the legal requirements.

However, failure to comply with the form and time limits alone has no effect on an application following the death of a mother before the expiry of her maternity leave or parental leave following maternity leave. The same provision applies to the mother in the event of a father's death before the expiry of his parental leave.

In these cases, simply informing the employer will suffice, so that the surviving parent can then take parental leave following the death.

With regard to the second parental leave, an employer may demur from refusing it, instead postponing the beginning of the leave to a later date (see next question).

¹¹ Art. L. 234-45 (2) and L. 234-46 (2) of the Labour Code ; Art. 308 of the Social Security Code.

¹² Art. L. 234-45 (3) and L. 234-46 (3) of the Labour Code.

In 4 cases, however, employers can refuse an application for parental leave:

1. The individual requests a part-time parental leave of 8 or 12 months or a split leave. The employer may refuse to grant this type of leave. The parent must then either take the leave full-time over 4 or 6 months or withdraw the application. If an employer rejects split leave, he must offer an alternative;
2. The application is made by a person who has changed employers in the year before the leave is to begin. This person can obtain parental leave if the new employer agrees. The new employer may refuse it;
3. If an employee who is already on parental leave is hired, the new employer is not obliged to accept the continuation of the parental leave. However, if the new employer agrees, the parental leave shall be continued without interruption;
4. As long as the employee is in a trial period, parental leave cannot be requested.

An employer wishing to decline flexible parental leave, such as part-time or split parental leave, must notify the requesting parent within two weeks of the request via registered letter with acknowledgment of receipt. The employer must also invite the parent to an interview within two weeks of this notification while stating the reasons for the decision.

Question 16. Can the employer delay the start of parental leave?¹³

The answer to this question varies depending on whether it refers to the first or second parental leave.

In the case of the first leave, an employer cannot put back the start of the leave to a later date. The first leave always begins at the end of maternity or foster care leave.

For the second leave, the employer may postpone the start of the leave to a date other than that indicated on the employee's application.

The justification an employer may have for this deferral is one of the following situations:

- when a significant proportion of a company or a company department requests parental leave at the same time and the organisation within the company would be seriously disrupted as a result;
- the replacement of an employee on leave cannot be arranged during the 4-month notice period because of the specific nature of the work that person performs or because of a shortage of labour in the industry in question;
- the applicant is a senior manager who is involved in the actual management of this type of application in a company with less than 15 employees;
- where the work is seasonal in nature and the claim is for a period within the high season;
- when the company regularly employs less than 15 people.

In principle, the employer may delay the start of the leave by up to two months. This period is extended:

- to a maximum of 6 months for companies with less than 15 employees;
- until the end of the season for companies with seasonal business.

The employer must justify the decision to postpone parental leave and notify the parent by registered letter with acknowledgement of receipt within 4 weeks of the request.

If it is decided to postpone parental leave, the employer must, if possible, offer the employee an alternative form of part-time or shared parental leave.

The employer must propose a new date for taking leave to the employee within one month, which may not be more than two months (six months for companies with less than 15 employees) after the date of commencement of the requested leave, unless the employee expressly requests otherwise. In this case, the employee's request can no longer be refused.

Furthermore, the employer must inform the employee delegation if one exists.

If the parent considers that the reason for postponement given by the employer is not justified, he or she may apply to the Inspectorate of Labour and Mines. The same right belongs to the employee delegation (including the equality representative), as well as to the nationwide representative trade unions present in the employee delegation or bound by the collective agreement applicable to the company.

¹³ Art. L. 234-46 (3) et (4) of the Labour Code.

If no agreement is reached within 8 days, one of the parties may refer the matter to the Labour tribunal for summary proceedings.

It should be noted that no postponement is possible:

- once an employer has agreed to the parental leave;
- if an employer has not responded to the parent's request within 4 weeks;
- when the parent works for several employers and these disagree about the deferral;
- in the event of a serious event related to the child.

6. REMUNERATION DUE DURING PARENTAL LEAVE

Question 17. Remuneration due during parental leave?¹⁴

During the period of parental leave, the loss of professional income is compensated by a replacement income, hereinafter referred to as «allowance», which is paid monthly by the Children's Future Fund (CAE). A calculator is available on the CAE website¹⁵.

The allowance is based on the average monthly professional income earned during the 12 months preceding the start of parental leave. Only pensionable income is taken into account when calculating parental leave allowance.

However, there is a ceiling on this allowance:

- lower limit equal to the unskilled minimum social wage (€2,703.74 at index 968.04 applicable on 1 September 2025)¹⁶;
- upper limit equal to 5/3 of the unskilled minimum social wage (€4,506.23 at index 968.04 applicable on 1 September 2025)¹⁷.

ATTENTION: The compensation ceilings vary according to the number of hours worked. These amounts correspond to full-time employment contracts for full-time parental leave.

The allowance is subject to the tax and social security charges applicable to salaries but exempt from contributions for sick pay and accident insurance and family allowances. The employer's share of the social security contributions is borne by CAE.

Changes in income after the start of parental leave will trigger a recalculation of the allowance.

Question 18. Can parental leave allowance be garnished?¹⁸

Parental leave allowance may be assigned, garnished or pledged within the limits set by the amended law dated 11 November 1970 on the assignment and garnishment of work compensation and pensions¹⁹.

Such garnishment, assignment or pledge may only be for the purpose of covering:

- claims against municipalities, social agencies, public institutions and administrations for the reimbursement of assistance granted insofar as such assistance concerns beneficiary children or for the reimbursement of expenses advanced for the maintenance or education of beneficiary children;
- a debt owed by the recipient to a social security institution;

14 Art. 307 of the Social Security Code.

15 www.cae.public.lu > Parental leave > Calculateur "Revenu congé parental"

16 Amounts available at: csl.lu > Your rights > Legal library > Social parameters

17 Amounts available at: csl.lu > Your rights > Legal library > Social parameters

18 Art. 314 of the Social Security Code.

19 Loi du 11 novembre 1970 sur les cessions et saisies des rémunérations de travail ainsi que des pensions et rentes.

- the monthly instalments due for the repayment of a loan granted for the construction or acquisition of a family home, provided that the beneficiary children are statutorily entitled heirs of the debtor concerned.

In no other cases may the indemnity be assigned, garnished or pledged.

Question 19. What if the employee falls ill during his parental leave?

Illness during parental leave has no effect on parental leave; it continues as normal.

7. EMPLOYEE PROTECTION DURING AND AFTER PARENTAL LEAVE

Question 20. What are the employee's rights during parental leave?²⁰

As parental leave must not have a negative impact on the rights of the beneficiary, these rights must be guaranteed.

It is with this in mind that the period of parental leave is taken into account in calculating the beneficiary's length of service. Similarly, the beneficiary does not lose any of the benefits acquired before the start of the parental leave (bonuses, gratuities, etc.).

The period of parental leave shall be taken into account to calculate a trial period for entitlement to full unemployment allowance.

Parental leave allowance will be taken into account when calculating the amount of full unemployment benefit.

Question 21. Are beneficiaries of parental leave entitled to participate in continuing education courses, departmental meetings, information sessions, etc., organised by the employer?

To facilitate the return to work of a parent who has been absent on parental leave, they have the right to access continuing training measures organised or offered by the employer in order to keep up with technical developments and production processes.

For this purpose, the employer and the employee on parental leave may stipulate by mutual agreement that the employee will attend events organised by or at the request of the employer. This should be done via an amendment to the employment contract, to be signed no later than 1 month before the start of parental leave. These include departmental meetings, meetings or information sessions (e.g. on the development of the company, changes in procedures or techniques, the operation of the department or the company or the introduction of innovations) as well as further training likely to ensure or improve the employee's employability when he or she returns to work.

The amendment sets out the number, times and other practical arrangements for these events.

Such measures may not, however, have the purpose or effect of involving the employee in the normal and routine work of the undertaking, or in the performance of additional work. Violation of this provision shall entitle the employee to damages.

A worker may unilaterally terminate this agreement, either by registered letter, or by hand-delivery to the employer or his representative, or by e-mail, all with acknowledgement of receipt. Such termination shall not give rise to any sanction and shall not constitute grounds for dismissal.

During their participation in the aforementioned events, employees remain covered by accident insurance.

²⁰ Art. L. 234-47 of the Labour Code.

Question 22. Is the employee entitled to carry over their leave?

Accumulated leave not yet taken before the start of parental leave is carried over to the post-parental leave period, but within the legal time limits (either 31 December of the current year, or 31 March or 31 December of the following year, depending on the date on which the employee returns to work after parental leave).

It should be noted that the period of parental leave does not entitle employees to paid annual leave.

Question 23. Can the employer dismiss a person on parental leave?²¹

The employer is not only obliged to take back the beneficiary at the end of the parental leave, but also to keep the beneficiary's previous job to the extent possible.

a. What is the starting point for legal protection against dismissal with notice, and what are the consequences if the employer breaches this protection?

The prohibition on the employer's dismissal with notice of parental leave (or on summoning the employee to an interview prior to dismissal with notice) applies from the last day of the period for giving notice of the request for parental leave.

Therefore, in the case of the initial parental leave, the protection takes effect two months before the start of maternity leave / from the day before the start of foster care leave.

For the second parental leave, it applies during the 4 months preceding the start of the parental leave.

From these dates and throughout the period of parental leave, the beneficiary shall not be subject to dismissal with notice or to a notice of interview prior to dismissal with notice.

Any termination of the contract despite this prohibition is considered null and void. However, an employee must apply to the Chief Judge of the Labour tribunal in order to assert this nullity. This official will declare the dismissal null and void and order the continuation of the employment contract. The employee has a period of 15 days after the dismissal to do this (see sample model page 32).

b. Is the beneficiary of parental leave protected against dismissal for serious misconduct, and what impact does this have on parental leave?

Beneficiaries of parental leave have no protection if they are guilty of gross misconduct. In this case, the employer retains the right to terminate the employment contract with immediate effect.

The termination of the employment contract means the end of the parental leave and employees must return the parental leave payments already received.

Question 24. Does the employer have to reinstate the person at the end of the parental leave?²²

The employer is not only obliged to take back the beneficiary at the end of the parental leave, but also to keep that person's previous job open to the extent possible.

Only in exceptional and objectively justified cases may the employer offer the employee a similar job, corresponding to his or her qualifications and with equivalent remuneration.

The main thing is that the working conditions after parental leave are not diminished. Naturally, an employer may give the beneficiary a better position after returning from parental leave.

²¹ Art. L. 234-47 (8) and (14) of the Labour Code.

²² Art. L. 234-47 (9) of the Labour Code.

8. RETURNING TO WORK AFTER PARENTAL LEAVE

Question 25. Can a parent ask to have their working conditions relaxed?

Yes, the parent may request an interview with the employer to this end, in order to ask him for an adjustment of his work schedule or work rhythm for a specified period of time, which may not exceed one year from the date set for his or her return to work (see sample model page 31).

If the employer refuses such a request by an employee, he must substantiate this rejection. If the rejection is not effectively substantiated, the employee may be entitled to damages, an issue to be determined by the Labour tribunal.

Question 26. What happens if a beneficiary decides at the end of the parental leave not to return to work? ²³

At the end of the parental leave, the beneficiary of the parental leave is in principle obliged to return to his job immediately. However, he or she may resign afterwards in accordance with the legal rules on resignation.

An employee who does not wish to return to work at all at the end of the parental leave shall inform the employer during the parental leave, by registered letter with acknowledgement of receipt, within a period equal to that which would be required for resignation with notice, the notice period depending on the employee's length of service.

An employee who does not wish to return to work at all at the end of the parental leave may inform his employer in advance during the parental leave, by registered letter with acknowledgement of receipt, within a period equal to the period he would have to respect in the event of resignation with notice, the notice period depending on his length of service.

This obligation to inform does not exempt the employee from notifying the employer of his resignation in due form, although such notification may only take place at the earliest on the first day of the statutory notice period.

In practice, according to ITM, this information and notification may be given in a single letter (see sample model page 30).

NOTE: Failure to return to work at the end of the parental leave without a serious and legitimate reason and failing to inform an employer of intent to resign as explained above constitutes a legitimate reason for the employer to terminate the employment contract with immediate effect for serious reasons.

²³ Art. L. 234-47 (13) of the Labour Code.

9. TERMINATION OF PARENTAL LEAVE

Question 27. What happens if a child dies or an adoption is rejected during the parental leave?²⁴

If a child dies during the parental leave or if an adoption procedure is unsuccessful, the parental leave that has been started is terminated.

The beneficiary is then required to return to work no later than 1 month after the death of the child or the rejection of the adoption application.

Where the employer has replaced the beneficiary during the period of parental leave, this person shall be entitled to priority re-employment in the same company for any similar vacant post corresponding to his or her qualifications and offering at least equivalent remuneration. If it is not possible to take up such employment, the parental leave shall be extended, but not beyond its initial term.

In the event of the death of a child of a multiple birth or adoption before the period of extension of parental leave, the period of leave shall be reduced accordingly.

For each month that the parental leave begins, the beneficiary receives a pro rata share of the parental leave allowance. The monthly payments received up to that point shall be retained.

Question 28. What happens if the beneficiary parent dies?²⁵

If the beneficiary parent dies, that person's parental leave shall cease. Such termination of parental leave shall not entail the return of any allowances already received.

The other parent may, if necessary, take parental leave following the death, after duly informing the employer.

Question 29. What is the impact of further maternity or adoption leave during parental leave?²⁶

The occurrence of a new maternity or adoption leave during a mother's parental leave interrupts the current parental leave.

In this case, maternity leave or adoption leave replaces parental leave. Parental leave allowance shall cease to be paid and shall be replaced by maternity allowance.

The remaining part of the parental leave shall be attached to the new maternity leave.

If the employee decides to take parental leave for the new child, subsequent to the maternity or adoption leave, this new parental leave is then automatically postponed until the end of the part of the parental leave attached to the maternity or adoption leave and must be taken consecutively to it.

However, if the parental leave was taken by the father, it is not interrupted by a new maternity leave.

Question 30. Can a person change employer during parental leave?

A change of employer during the parental leave is possible if the new employer agrees to the employee continuing the parental leave. In this case, a letter from the new employer must be sent to the CAE certifying agreement that the employee continue the parental leave, together with a copy of the new employment contract.

This new contract must contain the same number of working hours as the employment contract that gave rise to the right to parental leave. The period between the end of the old employment contract and the start of the new contract may not exceed 7 days.

However, the CAE considers that in the event of a change of employer during parental leave, the employee may also decide to return to work with the new employer before the leave expires, with the allowance paid up to that date being retained.

²⁴ Art. L. 234-47 (4) of the Labour Code.

²⁵ Art. L. 234-47 (3) of the Labour Code.

²⁶ Art. L. 234-47 (6) of the Labour Code ; Art. 307 of the Social Security Code.

ATTENTION: If parental leave is interrupted for no reason beyond the employee's control and does not involve a change of employer, any parental leave allowance already received must be repaid. For example, it is not possible to interrupt parental leave after 2 months and return to work with your employer.

Question 31. How does the termination of the employer's business due to bankruptcy, death, or physical disability affect parental leave?

If the employer's business ceases, due to bankruptcy, death or physical incapacity, the law provides for the automatic termination of employees' employment contracts, unless the business is continued by a receiver (in case of bankruptcy) or the employer's successor (in case of death or physical incapacity).

The termination of the employment contract should in these cases also result in the termination of the parental leave, but without the employee having to return the parental leave allowances already received, as the cause is outside of the beneficiary's control.

10. ARRANGEMENTS FOR CONCLUDING A FIXED-TERM EMPLOYMENT CONTRACT (CDD) TO REPLACE AN EMPLOYEE ON PARENTAL LEAVE²⁷

a. Cascading replacements are allowed.

Replacing an employee who is absent due to parental leave (maternity leave or leave for family reasons) does not necessarily mean that the new hire will have the job occupied by the absent employee. It can be done on another position freed up in the company or establishment as a result of internal reorganizations or transfers that took place following this employee's absence.

b. The fixed-term contract must state the name of the employee on parental leave who is being replaced.

A fixed-term contract concluded to replace an absent employee must specify the employee's name.

In the event of a cascade replacement, the CDD will indicate the name of the employee on parental leave who is indirectly replaced.

c. Start and end date of the fixed-term contract.

A contract to replace an employee absent on parental leave may begin 3 months prior to the start date of the parental leave or 3 months prior to the start date of the maternity leave, if the parental leave is taken following maternity leave.

Similarly, it may cease 3 months after the end of the replaced employee's parental leave.

²⁷ Art. L. 122-1 (2) and L. 122-3 (2) et (3) of the Labour Code.



II. SAMPLE MODELS AND FORM







APPLICATION FOR THE 1ST PARENTAL LEAVE

> question 14 for more details

(Name and address of employee)

(Name and address of employer)

(Place and date)

BY REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT

Concerning: Application for parental leave

Ms/Mr ¹,

I hereby notify you of my application for:

Select the desired parental leave option:

- ☐ full-time parental leave of 4/6 ¹ months;
- ☐ part-time parental leave of 8/12 ¹ months;
- ☐ split parental leave according to the following arrangements:

For split parental leave, choose one of the following two options:

- ☐ a split parental leave with a reduction of my working time by 20% per week for a period of 20 months, or
- ☐ a split parental leave taken in four separate periods of one month each, within a maximum overall period of 20 months..

I wish to take this parental leave immediately following the end of my maternity/adoption leave ¹.

This application is based on Articles L. 234-43 and following of the Labour Code.

Yours sincerely,

(signature)

ATTENTION : This application must be sent to the employer no later than two months before the start of maternity leave. In the case of adoption, this application must be submitted to the employer before the start of the adoption leave. The request for full-time parental leave may not be refused by the employer if it meets the formal requirements and time limits laid down by law. However, the employer may object to part-time or split parental leave, in which case the applicant must either take the leave on a full-time basis or withdraw the application.

¹ Unnecessary wording should be deleted.



APPLICATION FOR THE 2ND PARENTAL LEAVE

> question 14 for more details

(Name and address of employee)

(Name and address of employer)

(Place and date)

BY REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT

Concerning: Application for parental leave

Ms/Mr¹,

I hereby notify you of my application for:

Select the desired parental leave option:

- ☐ full-time parental leave of 4/6¹ months;
- ☐ part-time parental leave of 8/12¹ months;
- ☐ split parental leave according to the following arrangements:

For split parental leave, choose one of the following two options:

- ☐ a split parental leave with a reduction of my working time by 20% per week for a period of 20 months, or
- ☐ a split parental leave taken in four separate periods of one month each, within a maximum overall period of 20 months.

In compliance with the statutory notice period of four months, I wish to take this parental leave as from²
_____.

This application is based on Articles L. 234-43 and following of the Labour Code.

Yours sincerely,

(signature)

ATTENTION : The 4 or 6 months, or respectively 8 or 12 months, of parental leave must begin before the child's 6th birthday, or before the 12th birthday in the case of adoption. Given that the employer may request a postponement of the starting date of parental leave, it is therefore advisable to submit the application at least 6 months before the child's 6th or 12th birthday. In companies with fewer than 15 employees, it is recommended to submit the application at least 10 months before the child's 6th or 12th birthday. It should also be recalled that, in the case of adoption, parental leave must in any event begin within 6 years following the end of the adoption leave, or, if no adoption leave was taken, within 6 years from the date of the adoption judgment.

¹ Unnecessary wording should be deleted.

² Parental leave can start no earlier than four months after the day of application. CAUTION: employees are only protected against dismissal during the legal notice period.



APPLICATION FOR PARENTAL LEAVE ALLOWANCE -

FORM TO BE SENT TO THE CAISSE POUR L'AVENIR DES ENFANTS (CAE) > question 14 for more details



Adresse postale:
B.P. 394
L-2013 Luxembourg

Tél. (352) 47 71 53-1
www.cae.lu



Demande d'indemnité de congé parental

Informations relatives au demandeur

Demandeur / Demanderesse	Adresse
Nom: _____	Rue: _____
Prénom: _____	Numéro: _____
Numéro matricule de la sécurité sociale: Année Mois Jour	Code postal: _____
Nationalité: _____	Localité: _____
Nodetéléphone: _____ (Domicile) _____ (Portable/Travail)	Pays: _____
Courriel: _____	
Situation familiale*	Coordonnées bancaires
☐ célibataire ☐ marié(e) ☐ pacsé(e) ☐ séparé(e) ☐ divorcé(e) ☐ veuf(ve)	IBAN: _____
	BIC: _____

Congé parental pour lequel l'indemnité est demandée*

EN CAS DE NAISSANCE

☐ 1^{er} congé parental – consécutif au congé de maternité

Date présumée de l'accouchement ____/____/____

Date début du congé de maternité ____/____/____

Grossesse multiple* ☐ Oui⁽¹⁾ ☐ Non

Au cas où un congé de maternité n'est pas dû ou n'a pas été pris, le congé parental doit débuter le premier jour de la 3e semaine qui suit l'accouchement (c. à d.: jour de naissance + 14 jours).

EN CAS D'ADOPTION

☐ 1^{er} congé parental – consécutif au congé d'accueil

Date de naissance de l'enfant ____/____/____

Date début du congé d'accueil ____/____/____

Date fin du congé d'accueil ____/____/____

Adoption multiple* ☐ Oui⁽¹⁾ ☐ Non

Au cas où un congé d'accueil n'est pas dû ou n'a pas été pris, le congé parental doit être pris à partir de la date du jugement d'adoption.

☐ 2^e congé parental – jusqu'à l'âge de 6 ans

Nom de l'enfant: _____

Prénom de l'enfant: _____

Matricule de l'enfant:

Année
Mois
Jour

Début souhaité du congé parental: ____/____/____

☐ 2^e congé parental – jusqu'à l'âge de 12 ans⁽²⁾

Nom de l'enfant: _____

Prénom de l'enfant: _____

Matricule de l'enfant:

Année
Mois
Jour

Début souhaité du congé parental: ____/____/____

Au cas où le congé parental est pris simultanément par les deux parents, veuillez indiquer le numéro matricule de l'autre parent:

Année
Mois
Jour

* Cocher ce qui convient

(1) En cas d'une grossesse multiple ou d'adoption multiple, une demande doit être déposée pour chaque enfant.

(2) Maximum 6 ans après la date du jugement d'adoption

028-0000620040525FR V15

Informations relatives à l'activité professionnelle*

☐ **Salarié(e)** (données à compléter et à certifier par l'employeur)

Dénomination et adresse de l'employeur:	
Nom et prénom du salarié demandant le congé parental:	
Profession / engagé(e) en qualité de:	
Type de contrat*:	☐ Contrat à durée indéterminée ☐ Contrat à durée déterminée – <i>indiquer la date fin</i> ____/____/____ ☐ Contrat d'apprentissage – <i>indiquer la date fin</i> ____/____/____ ☐ Contrat de réinsertion – <i>indiquer la date fin</i> ____/____/____
Date d'engagement ou de début du contrat:	____/____/____
Nombre d'heures hebdomadaires prévues au contrat:	____ heures par semaine
Nombre d'heures hebdomadaires prestées:	____ heures par semaine
Est-ce que le nombre d'heures hebdomadaires prestées a été modifié au cours des 12 mois avant le début du congé parental?*	☐ Oui ☐ Non <i>Si oui, veuillez joindre à la demande une déclaration explicative.</i>
Est-ce qu'un congé sans solde a été pris au cours des 12 mois avant le début du congé parental?*	☐ Oui ☐ Non <i>Si oui, indiquer la date</i> Début ____/____/____ Fin ____/____/____
Une période d'essai est-elle en cours?*	☐ Oui ☐ Non <i>Si oui, indiquer la date fin</i> ____/____/____

Cachet et signature de l'employeur

Nom et prénom du signataire

Par sa signature, l'employeur certifie l'exactitude des informations reprises sur le présent formulaire.

☐ **Non-salarié(e)** (indépendant)

Profession:	_____
Lieu de travail:	_____
Date début d'activité au Luxembourg:	___ / ___ / _____
Nombre d'heures hebdomadaires prestées:	_____ heures par semaine
Est-ce que le nombre d'heures hebdomadaires prestées a été modifié au cours des 12 mois précédant le début du congé parental?*	☐ Oui ☐ Non
<i>Si oui, veuillez joindre à la demande une déclaration explicative.</i>	
Signature du demandeur non-salarié Par sa signature, le demandeur non-salarié certifie l'exactitude des informations reprises sur le présent formulaire.	

* Cocher ce qui convient

Informations relatives au congé parental demandé

Forme souhaitée du congé parental*

A. Vous exercez une **seule** activité professionnelle à **plein temps** ☐ Oui ☐ Non (passer à B)

☐ Congé parental à <u>plein temps</u>	☐ de 4 mois ☐ de 6 mois	➤ Suspension intégrale de l'activité durant le congé parental
☐ Congé parental à <u>mi-temps</u>	☐ de 8 mois ☐ de 12 mois	➤ Réduction de 50% de l'activité durant le congé parental
☐ Congé parental fractionné en 8 heures par semaine sur une période de 20 mois		➤ Réduction de 20% de l'activité par semaine durant le congé parental
☐ Congé parental fractionné en 4 périodes d'un mois sur une période maximale de 20 mois		➤ Suspension intégrale de l'activité durant les 4 périodes de congé parental
Période 1: du ____/____/____ au ____/____/____	Période 2: du ____/____/____ au ____/____/____	Période 3: du ____/____/____ au ____/____/____
		Période 4: du ____/____/____ au ____/____/____

B. Vous exercez une **seule** activité professionnelle à temps partiel entre **20 et 40 h/sem** ☐ Oui ☐ Non (passer à C)

☐ Congé parental à <u>plein temps</u>	☐ de 4 mois ☐ de 6 mois	➤ Suspension intégrale de l'activité durant le congé parental
☐ Congé parental à <u>mi-temps</u>	☐ de 8 mois ☐ de 12 mois	➤ Réduction de 50% de l'activité durant le congé parental

C. Vous exercez une **seule** activité professionnelle à temps partiel entre **10 et 20 h/sem** ☐ Oui ☐ Non (passer à D)

☐ Congé parental à <u>plein temps</u>	☐ de 4 mois ☐ de 6 mois	➤ Suspension intégrale de l'activité durant le congé parental
--	--	---

D. Vous exercez **plusieurs** activités professionnelles ou vous êtes en **apprentissage** ☐ Oui ☐ Non

☐ Congé parental à <u>plein temps</u>	☐ de 4 mois ☐ de 6 mois	➤ Suspension intégrale de l'activité durant le congé parental
--	--	---

Employeur

Je soussigné(e) déclare avoir pris connaissance de la présente demande de congé parental selon les indications figurant sur le présent formulaire et avoir marqué mon accord concernant la période et la forme du congé choisies.

Fait à _____, le ____/____/____

Cachet et signature
de l'employeurNom et prénom
du signataire

Demandeur salarié

En vertu de l'article 312 du Code de la sécurité sociale, ceux qui ont frauduleusement amené la caisse à fournir une prestation qui n'était pas due ou qui n'était due qu'en partie sont punis par des peines prévues à l'article 496 du Code pénal, indépendamment du remboursement des sommes indûment perçues. Lorsque des prestations ont été payées sur base de faux, notre caisse en informe, conformément à l'article 23 du Code de procédure pénale le procureur d'Etat, lequel peut engager des poursuites pénales.

Fait à _____, le ____/____/____

Signature du demandeur salarié

Demandeur non-salarié (indépendant)

Je soussigné(e) déclare sur l'honneur que pendant la durée entière du congé parental, je suspens intégralement mon activité ou réduit mon activité à concurrence de 20% respectivement de 50% suivant la forme de congé parental choisie. En vertu de l'article 312 du Code de la sécurité sociale, ceux qui ont frauduleusement amené la caisse à fournir une prestation qui n'était pas due ou qui n'était due qu'en partie sont punis par des peines prévues à l'article 496 du Code pénal, indépendamment du remboursement des sommes indûment perçues. Lorsque des prestations ont été payées sur base de faux, notre caisse en informe, conformément à l'article 23 du Code de procédure pénale le procureur d'Etat, lequel peut engager des poursuites pénales.

Fait à _____, le ____/____/____

Signature du demandeur non-salarié

* Cocher ce qui convient

Dispositions légales

1. Qui peut bénéficier d'un congé parental et à quel moment?

Les parents qui élèvent leur enfant dans leur foyer ont chacun un droit individuel au congé parental:

- L'un d'eux doit prendre son congé consécutivement au congé de maternité ou au congé d'accueil. Ce 1^{er} congé parental ne peut pas être reporté.
- L'autre parent peut prendre le 2^e congé parental jusqu'à ce que l'enfant ait atteint l'âge de 6 ans accomplis ou 12 ans accomplis en cas d'adoption (maximum 6 ans après la date du jugement d'adoption). Le 2^e congé parental peut exceptionnellement être reporté par l'employeur dans les conditions précisées dans l'article 234-46 (3) et (4) du Code du travail.

Le 1^{er} et le 2^e congé parental peuvent être pris simultanément par les deux parents pour un même enfant.

Le parent qui élève son enfant seul peut prendre le congé à sa convenance jusqu'à ce que l'enfant ait atteint l'âge de 6 ans accomplis ou 12 ans accomplis en cas d'adoption (maximum 6 ans après la date du jugement d'adoption).

2. Quels sont les délais à respecter?

- Le parent salarié doit demander le 1^{er} congé parental au moins 2 mois avant le début du congé de maternité ou le début du congé d'accueil, et le 2^e congé parental au moins 4 mois avant le début du congé parental. Cette demande doit être notifiée à l'employeur par lettre recommandée avec avis de réception.
- Les indépendants doivent faire leur demande à la CAE dans le même délai que celui prévu pour la demande des salariés à l'employeur.

3. Quelles sont les conditions générales à remplir?

Le parent qui demande le congé parental:

- doit être affilié sans interruption pendant au moins 12 mois continus précédant le début du congé parental (maximum 7 jours d'interruption);
- doit être détenteur d'un ou de plusieurs contrats de travail totalisant au moins 10 heures de travail par semaine;
- doit être détenteur de ce(s) contrat(s) pendant toute la durée du congé parental;
- élève dans son foyer le ou les enfants et s'adonne principalement à leur éducation pendant la durée du congé parental.

Le congé ne reste valable qu'aussi longtemps que toutes les conditions d'octroi sont remplies.

4. Traitement des données à caractère personnel

Les informations personnelles recueillies sur ce formulaire sont traitées par la CAE afin d'examiner votre demande sur base de la loi portant sur les prestations familiales et du Code de la sécurité sociale. Pour en savoir plus sur la gestion de vos données personnelles et pour exercer vos droits, reportez-vous à la rubrique «Protection des données» sur le site Internet de la CAE (www.cae.lu).

Pièces justificatives à joindre

Afin de garantir un traitement rapide et efficace des demandes, les documents cités ci-dessous sont à envoyer à la CAE dans les plus brefs délais possibles. Le moment de l'envoi varie selon le type de congé parental (1^{er} ou 2^e):

1^{er} Congé parental

(consécutif au congé de maternité ou d'accueil)

à joindre **avec la demande**:

- Relevé d'identité bancaire (les copies des cartes bancaires ne sont pas acceptées). Attention: Le versement de l'indemnité de congé parental ne peut être effectué que sur un compte courant ou compte à vue.
- Pour les non-résidents, un certificat de résidence de date récente en reprenant tous les membres de la famille
- Un certificat de grossesse de date récente à établir par le gynécologue nous indiquant la date présumée de l'accouchement

à envoyer à la CAE après la **naissance**:

- **Acte de naissance**
- Pour les non-résidents au Luxembourg, un **certificat de résidence de date récente en reprenant tous les membres de la famille**

à envoyer ultérieurement à la CAE en cas d'**adoption**:

- Copie de la requête en adoption avec la date de dépôt au tribunal (resp. jugement d'adoption si disponible)
- Pour les non-résidents, un **certificat de résidence de date récente en reprenant tous les membres de la famille**

2^e Congé parental

(jusqu'à l'âge de 6 ans de l'enfant resp. 12 en cas d'adoption)

à joindre **avec la demande** en cas de **naissance**:

- **Acte de naissance**
- Relevé d'identité bancaire (les copies des cartes bancaires ne sont pas acceptées). Attention: Le versement de l'indemnité de congé parental ne peut être effectué que sur un compte courant ou compte à vue.
- Pour les non-résidents, un **certificat de résidence de date récente en reprenant tous les membres de la famille**

à joindre avec la demande en cas d'**adoption**:

- Copie de la requête en adoption avec la date de dépôt au tribunal (resp. jugement d'adoption si disponible)
- Relevé d'identité bancaire (les copies des cartes bancaires ne sont pas acceptées)
- Pour les non-résidents, un **certificat de résidence de date récente en reprenant tous les membres de la famille**



AMENDMENT TO THE EMPLOYMENT CONTRACT

> question 10 for more details

Between the undersigned:

1. The company _____¹ having its registered office at _____² represented by _____³, hereinafter referred to as "the employer";

and

2. Ms/Mr _____⁴, residing at _____⁵, hereinafter referred to as "the employee";

This addendum to the employment contract of the employee, concluded _____⁴ on conclu en date du _____⁶ is hereby agreed upon.

Entry into force and duration of the addendum:

This addendum shall take effect on the first day of the employee's parental leave which he/she shall take _____⁴ directly following the end of his/her maternity leave/as from _____⁴, and shall end on the last day of the parental leave, i.e. from _____ au _____⁷.

Parental leave formula:

Choose one of the following 2 options:

- ☐ part-time parental leave for 8 months/12 months⁴
- ☐ split parental leave of 8 hours per week over a period of 20 months

This addendum amends the employment contract concluded on _____⁷ regarding the following point:

Working time:

By mutual agreement between the parties, it is decided that the employee's working time during the parental leave, which amounts to _____⁸ per week, shall be distributed as follows over the different days of the week _____⁹.

Drawn up in duplicate and signed at _____ on _____.

The employee

The employer

- 1 Indicate the employer.
- 2 Indicate the registered office.
- 3 Indicate the name of the legal representative.
- 4 Unnecessary wording should be deleted.
- 5 Indicate name and surname(s).
- 6 State the date hired by the company.
- 7 Indicate the period covered by the parental leave.
- 8 Indicate the number of hours.
- 9 Indicate the number of working hours per day as well as the daily work schedule.



RESIGNATION AT THE END OF PARENTAL LEAVE > question 26 for more details

(Name and address of employee)

(Name and address of employer)

(place and date)

BY REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT

Concerning: Information and resignation following parental leave

Ms/Mr ¹,

I hereby regret to inform you that I do not intend to return to work at the end of my parental leave, which will end on _____ ², and therefore resign, with notice, from my employment contract concluded on _____ ³.

In accordance with Article L.124-4, paragraph 2 of the Labour Code, and in view of my length of service, my notice period is 1/2/3 ¹ months.

This letter constitutes both the information and notification as provided for in Article L. 234-47 (13) of the Labour Code.

Yours sincerely,

(signature)

¹ Unnecessary wording should be deleted.

² Indicate the date on which the parental leave ends. This letter should be sent to the employer within the notice period applicable to resignations.

³ Indicate the date on which the employment contract started.



REQUEST FOR FLEXIBLE WORKING CONDITIONS UPON RETURN FROM PARENTAL LEAVE

> question 25 for more details

(Name and address of employee)

(Name and address of employer)

(place and date)

BY REGISTERED LETTER

Concerning: Request for an interview to discuss changing my working conditions when I return from parental leave

Ms/Mr ¹,

I hereby notify you of my request to adjust my working conditions as permitted by Article L.234-47(11) of the Labour Code.

I would like to have my working time/hours ¹ amended as follows:

- _____
- _____
- _____
- _____ ²

This request concerns the period from _____ to _____ ³.

I kindly ask you to grant me a meeting in order to discuss this matter further.

Yours sincerely,

(signature)

¹ Unnecessary wording should be deleted.

² To be completed as desired.

³ A fixed period not exceeding one year from the date set for the return to work.



APPLICATION FOR ANNULMENT OF THE DISMISSAL OF AN EMPLOYEE ON PARENTAL LEAVE (IN SUMMARY PROCEEDINGS)

> question 23 for more details

À Madame, Monsieur le Président du Tribunal du travail de _____¹

statuant d'urgence et comme en matière sommaire

À l'honneur de Vous exposer très respectueusement

Madame/Monsieur² _____³, _____⁴,

demeurant à _____; qu'il/elle² est, depuis le _____⁵,

aux services de _____⁶, établi(e) à _____⁷,

inscrit(e) au RC sous le numéro _____⁸;

qu'il/elle² a reçu une lettre de licenciement en date du _____;

qu'un tel licenciement est toutefois nul du fait qu'elle a demandé son congé parental en date du _____
_____ qu'il/elle² est en congé parental du _____ au _____;

que la partie défenderesse refuse à ce jour de réintégrer la partie demanderesse ;

qu'il y a partant lieu à contrainte judiciaire ;

que la présente demande est basée sur l'article L. 234-47(8) of the Labour Code ;

À ces causes :

la partie requérante Vous prie, Madame, Monsieur le Président du Tribunal du travail de _____¹,
de bien vouloir convoquer les parties devant Vous ;

avec renvoi exprès à l'article 80 du Nouveau Code de procédure civile et stipulant que si la notification de l'acte introductif d'instance est faite au défendeur en personne et s'il ne comparait pas, le jugement à intervenir est réputé contradictoire, et n'est pas susceptible d'opposition ;

et pour autant que de besoin avec renvoi à l'article 101 in fine du Nouveau Code de procédure civile, renvoyant à l'article 106(2) du même code et stipulant que :

1 Le lieu de travail principal du salarié détermine la compétence territoriale du Tribunal du travail (Luxembourg, Diekirch ou Esch-sur-Alzette), (voir www.csl.lu > Vos droits > Salariés > Action devant le Tribunal du travail > Tribunal du travail : Quel tribunal saisir pour agir contre son employeur ?).

2 La mention inutile est à supprimer.

3 Indiquer les nom et prénom(s).

4 Indiquer la profession.

5 Indiquer la date d'entrée dans l'entreprise.

6 Indiquer l'employeur comme suit :

Société à responsabilité limitée (SARL) :

la société à responsabilité limitée _____ (indiquer la raison sociale), représentée par son ou ses gérants actuellement en fonction.

Société anonyme (SA) :

la société anonyme _____ (indiquer la dénomination sociale), représentée par le Président de son conseil d'administration/directoire actuellement en fonction, sinon par son conseil d'administration/directoire actuellement en fonction, sinon par son administrateur délégué actuellement en fonction.

Commerçant, exploitant en nom personnel :

Madame/Monsieur _____ (indiquer les nom et prénom(s)), exerçant le commerce sous la dénomination _____ (indiquer la dénomination).

Non-commerçant :

_____ (indiquer les nom et prénom(s)/la dénomination de l'organisation), représenté par _____ (indiquer le représentant légal).

7 Indiquer le siège social de l'employeur tel qu'il est mentionné dans le contrat de travail du salarié.

8 Concerne uniquement les sociétés commerciales et les commerçants en nom personnel : indiquer le numéro du registre de commerce.

Le numéro du registre de commerce doit, de préférence, être vérifié auprès du Registre du commerce et des sociétés compétent (Luxembourg ou Diekirch, en fonction de l'adresse d'exploitation).

« Les parties peuvent se faire assister ou représenter par :

- un avocat ;
- leur conjoint ou leur partenaire au sens de la loi du 9 juillet 2004 relative aux effets légaux de certains partenariats ;
- leurs parents ou alliés en ligne directe ;
- leurs parents ou alliés en ligne collatérale jusqu'au 3^e degré inclus ;
- les personnes exclusivement attachées à leur service personnel ou à leur entreprise,

(Le représentant lorsqu'il n'est pas avocat doit justifier d'un pouvoir spécial.) » ;

pour les concilier si faire se peut, sinon, constater la nullité du licenciement/de la convocation à l'entretien préalable au licenciement intervenu à l'encontre de la partie requérante, ordonner son maintien, le cas échéant sa réintégration conformément aux dispositions des articles L. 234-47 (8) et L. 124-12 paragraphe (4) du Code du travail, avec effet immédiat, et sous peine d'astreinte d'un montant de _____⁹ euros par jour de retard ;

l'employeur préqualifié s'entendre condamner à payer à la partie requérante une indemnité de procédure de _____¹⁰ euros sur base de l'article 240 du Nouveau Code de procédure civile alors qu'il serait inéquitable de laisser à sa charge les frais non compris dans les dépens occasionnés par la présente instance en justice ;

l'employeur préqualifié s'entendre condamner à tous les frais et dépens de l'instance ;

dire que l'ordonnance à intervenir sera exécutoire par provision nonobstant appel ou opposition, avant enregistrement et sans caution, en application de l'article L. 234-47 (8) du Code du travail ;

voir réserver à la partie requérante tous autres droits, moyens, dus et actions.

Inventaire des pièces versées à l'appui de la requête (sous réserve d'autres pièces à verser en cours d'instance) :

- copie du contrat de travail ;
- copie de la lettre de licenciement ;
- copie de la lettre de demande de congé parental ;
- document attestant le congé parental.

_____,¹¹ le _____ .

Profond respect,

(signature)

⁹ Indiquer un montant ou demander au Président du Tribunal du travail de le fixer ex aequo et bono (= en équité).

¹⁰ Il faudra, lors de l'audience, détailler et justifier les frais occasionnés, comme par exemple le fait d'avoir dû prendre une journée de congé pour l'audience.

¹¹ Indiquer son lieu de résidence.

NOTES

[illegible]

NOTES

The purpose of this publication is to set out the rules governing parental leave. As an introduction, it provides a historical overview of the statutory provisions relating to parental leave.

The first part explains the different types of parental leave, their eligibility conditions, the procedure for obtaining leave, as well as the guarantees to which parents are entitled.

The second part contains standard letter templates required for the practical implementation of these provisions, as well as a specimen of the form to be completed and submitted to the Fund.

**YOU'LL
NEVER
WORK
ALONE.**



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