

## **Rationale for the extension of Entitlement to Lactation Breaks for mothers in Ireland**

### Proposal:

**To extend the entitlement period for employed mothers to breastfeeding breaks until their children are 1 years of age.**

The Department of Health and Children and the World Health Organisation (WHO) recommend exclusive breastfeeding for infants for the first 6 months, after which mothers are recommended to continue breastfeeding, in combination with suitably nutritious and safe complementary foods (semi-solid and solid foods) until their children are 2 years of age or older.

This recommendation is based on a vast scientific literature demonstrating the substantial health, social and economic importance of breastfeeding. The advantages of breastfeeding include lower infant and young child morbidity and mortality from diarrhoea, other infectious diseases as well as chronic illnesses like asthma, eczema, diabetes, obesity and heart disease later in life. Increasingly breastfeeding research is demonstrating a dose response relationship that strongly indicates health and nutritional advantages can be maximised in the short, medium and long term by extending the duration of breastfeeding into the second year of life and beyond. Women too benefit as breastfeeding lowers their risk of getting breast and ovarian cancers and diabetes (AHRQ, 2007, Ip et al, 2007, Hector et al, 2010) .

Returning to work has been identified as a barrier to continuing breastfeeding, and a reason for cessation of breastfeeding as women wean from breastfeeding earlier than planned in preparation for return to work. Full-time employment in particular is associated with earlier cessation of breastfeeding. Returning to work has been identified as a cause of anxiety with mothers in Ireland with many feeling the need to establish infants on formula milk (McGorrian et al, 2010)., thereby discontinuing breastfeeding and introducing health risks

From the 1st of March 2007, entitlement maternity leave in Ireland was extended to 26 weeks, with the option of 16 weeks additional unpaid maternity leave. Under the Maternity Protection (Amendment) Act 2004 at least 2 weeks of maternity leave have to be taken before the end of the week of the baby's expected birth. Many women in Ireland may, therefore, return to work when their baby is 24 weeks old, as they may not be in a financial position to take unpaid leave. As current entitlement to breastfeeding breaks is 26 weeks after the date of confinement (estimated delivery date), those women may only be entitled to 2 weeks of paid breastfeeding breaks.

Complementary foods (or solids) are introduced around 26 weeks, or 6 months (FSAI, 2011), and infants will become more established on solid foods over the 7th to 9th months. Thus, women are returning to work at a stage when their infants are dependent on milk feeds as their main source of nutrition. Breastfeeding mothers returning to work will need time to feed their baby during the working day, or to express and store milk. Expressed milk can be given to the childminder to provide to the infant. Expressing is also important to help maintain the mother's milk supply.

In relation to supporting breastfeeding mothers the ILO Convention 183 on Maternity Protection states that:

*Breastfeeding mothers (Article 10)*

1. A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.
2. The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.

*Breastfeeding Mothers*

Paragraph 7. On production of a medical certificate or other appropriate certification as determined by national law and practice, the frequency and length of nursing breaks should be adapted to particular needs.

Paragraph 8. Where practicable and with the agreement of the employer and the woman concerned, it should be possible to combine the time allotted for daily nursing breaks to allow a reduction of hours of work at the beginning or at the end of the working day.

Paragraph 9. Where practicable, provision should be made for the establishment of facilities for nursing under adequate hygienic conditions at or near the workplace.

Working mothers in Ireland have a legal right to both paid and unpaid maternity leave and working parents have a legal right to unpaid parental leave. Compared to other European countries, the overall extent of paid and unpaid maternity, paternity and parental leave is relatively low. (Banks and Russell, 2011). Entitlements to lactation or breastfeeding breaks in Ireland also fall short in comparison to other European countries, where entitlement to breastfeeding breaks until the child is one year old is the norm.

In 2010 the EU adopted a set of proposed amendments to the EU Pregnant Workers Directive, which included time off for breastfeeding. Amendment 71 in relation to breastfeeding breaks provides for legislated breastfeeding breaks, these apply to all workers who are breastfeeding without limitation on the age of the child. This provided full time employees with entitlement to 2 separate breastfeeding breaks per day of an hour each. The time allocated for breaks increases by 30 minutes per child in the case of multiple births.

In Ireland, entitlement to Lactation or Breastfeeding breaks for working mothers, is up to 26 weeks after the date of confinement (estimated delivery date). Mothers returning to work after this time period do not have a legal entitlement to breastfeeding break. Mothers returning to work must negotiate arrangements with management, with no definite outcome. The exception is the Civil Service as civil service unions successfully negotiated an entitlement to lactation breaks for female employees up until their child's 2nd birthday, to bring it into line with Department of Health and Children best evidence based recommendations for breastfeeding. This is the only sector of the workforce where this exists.

The forthcoming Family Leave Bill, provides an opportunity to extend the entitlement to lactation breaks until an infants first birthday.

Women returning to work, if not supported by their employers may have difficulty expressing and storing milk and thus not able to maintain breastfeeding. While RCTs in this area are recommended, 'by promoting and supporting workplace programmes, employers may be able to influence the duration of breastfeeding and so improve the health of mother and baby, and also benefit from less work absenteeism and increased employee morale and retention' (Abdulwadud and Snow, 2012).

The extension of paid maternity leave in Ireland to 26 weeks in March 2007 renders obsolete the current entitlement to paid breastfeeding breaks in the workplace under the Maternity Protection (Amendment) Act 2004 for women returning to work from 26 weeks after the date of confinement. The provision for women to breastfeed at work was brought into effect on the 18th October, 2004 through SI 654 of the Maternity Protection (Protection of Mothers who are Breastfeeding Regulations) 2004. "Employee who is breastfeeding" means at any time an employee whose date of confinement was not more than twenty-six weeks earlier.

Section 9 of the 2004 Act expands these rights. This section provides that an employee who is breastfeeding her child is entitled without loss of pay at the option of her employer to either: a) time off from work for the purpose of breastfeeding in the workplace where facilities for breastfeeding are provided there by her employer or, b) a reduction of her working hours. This legislation also applies to mothers expressing breast milk. The 2004 regulations provided for a minimum entitlement of one hour a day for paid breastfeeding breaks. This paid break can be split up into one 60 minute break, two 30 minute breaks or three 20 minute breaks. If the breastfeeding facilities aren't provided then the option of reduced hours without loss of pay to provide for breastfeeding off site was available.

There has to be recognition of the fact that six months is generally the time when women return to work from maternity leave so it neutralises the provision supporting breastfeeding at work, which needs to be expanded.

As well as being a health enhancing opportunity, the need to accommodate breastfeeding in the workplace is an important equal employment opportunity and anti-discrimination consideration for employers for the following reasons:

- Women's labour market participation rates have been increasing over recent decades, with a rise in employment among women with young children.
- Through smoothing the transition back to work, the introduction of workplace policies and provisions to support breastfeeding can positively influence new mothers' workforce participation.
- The provision of workplace support for breastfeeding through breastfeeding/lactation breaks may facilitate more new mothers return to paid work after childbirth. Thereby reducing recruitment and training cost savings for employers.
- As breastfed babies are healthier there is a reduction in workplace absenteeism to care for sick children.

Ireland continues to have among lowest levels of breastfeeding initiation and duration rates in the world. Legislation that supports mothers to breastfeed, endorses the practice at the highest level in Irish society. The current very low rates for

breastfeeding in Ireland (approx. 55% of mothers currently start breastfeeding and approx 37% are still breastfeeding at 3 months) does, however, provide an opportunity to introduce an extension to the entitlement to paid breastfeeding breaks in the workplace at a time when it will only minimally impact on employers' responsibility and resources.

Some of the main reasons why the legislative entitlement to paid breastfeeding breaks in the workplace need extending, include:

1. The entitlement to paid maternity leave was to be extended to 26 weeks from March 2007 of this year, thus making the current entitlement to breastfeeding breaks for the same period utterly redundant.
2. Based on the major health benefits of breastfeeding for babies, their mothers and society generally, the Department of Health and Children recommend that mothers breastfeed until their children are two years of age or beyond. However, this recommendation is not achievable for mothers returning to paid work outside home unless some provisions for breastfeeding breaks in the workplace are made for the duration of this period.

Because of the major research-based health, nutritional, environmental, economic and societal importance of breastfeeding the Department of Health and Children's evidence-based Five Year Strategic Action Plan for Breastfeeding (2005) recommends that children be breastfed up to the age of two years. To make this achievable for the increasing percentage of women in the workforce it is necessary to facilitate combining breastfeeding and work following statutory maternity leave provision. The Maternity Protection (Amendment) Act 2004 did for the first time provide employed breastfeeding women with an entitlement to breastfeeding breaks during their working day without loss of pay. However, under this legislation the entitlement period only lasts until their infants are 6 months old.

Currently Ireland's breastfeeding rates are by far the lowest in Europe and probably in the World. To address this public health concern, breastfeeding must be re-established as the normal and optimal method of infant and young child feeding in Ireland. The importance of breastfeeding for the health of children and mothers is well established. Artificial formula feeding substantially increases the risk of gastrointestinal illness, respiratory illness and infection, eczema, and necrotizing enterocolitis, with increasing scientific evidence of its links with chronic or serious illnesses or conditions such as childhood diabetes, urinary tract infection, certain types of cancers, diseases of the digestive system such as coeliac disease and Crohn's disease, liver disease and cot death. Breastfeeding is known to promote cognitive development and higher IQ, central nervous system development and visual acuity, and speech and jaw development. Breastfeeding also helps protect mothers against breast and ovarian cancers.

Action 35 of the Department of Health (2005) Strategic Action Plan – Breastfeeding in Ireland Action 35 of the breastfeeding Strategic Action Plan (2005) requires that:

*“the protection and support for the continuation of breastfeeding is being afforded an integral place in maternity protection legislation, family-friendly workplace initiatives and Social Partnership Agreements”*

Another expected outcome of this Action is that “ *appropriate working conditions and suitable premises and facilities for workplace breastfeeding/lactation breaks... are being provided in accordance with the standards and guidelines set down by the Department of Health and Children and Health and Safety Legislation*”.

Employers are also encouraged to offer greater flexibility in working hours to facilitate the continuation of breastfeeding.

The need to return to the paid workforce following the birth of a baby has a major influence on both the up-take and duration of breastfeeding. Employed women who opt to breastfeed identify their return to the workforce following maternity leave as being incompatible with the continuation of breastfeeding. This needs to be addressed as the evidence for the positive health outcomes of longer duration breastfeeding are compelling. These outcomes do not just accrue to breastfeeding/breastfed babies, their mothers and families, but also to employers in fewer employee work absences and to all tax payers in reduced national health cost savings.

With the welcome increases in maternity leave entitlement in recent years, it is essential to also include extensions to the breastfeeding break entitlement in the workplace in order to make it possible for employed mothers to achieve optimum breastfeeding duration rates as recommended by the Department of Health and Children.

The World Health Organisation, in its Global Strategy on Infant and Young Child Feeding, states, “breastfeeding is an unequalled way of providing ideal food for the healthy growth and development of infants.” This strategy cites paid maternity leave, part-time work arrangements, on-site crèches, facilities for expressing and storing breast milk and breastfeeding breaks as conditions which enable women in employment to continue breastfeeding.

Section 9 of the Maternity Protection (Amendment) Act provides that an employee who is breastfeeding and has informed her employer that she is doing so shall be entitled until her child is six months old to paid breastfeeding breaks, where facilities for breastfeeding or breast milk expression are provided in the workplace, or to a reduction of working hours, without loss of pay. This should now be extended to until the child is one year old. The forthcoming Family Leave Bill, provides an opportunity to extend the entitlement to lactation breaks until an infants first birthday. The health outcomes of breastfeeding justify the introduction of these provisions. These outcomes are maximised when breastfeeding is sustained for longer periods.

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