



**An Bille um Shaoire Bhreiteachta agus um Shaoire do Thuismitheoirí
(Covid-19), 2020**

Sick Leave and Parental Leave (Covid-19) Bill 2020

Mar a tionscnaíodh

As initiated



**AN BILLE UM SHAOIRE BHREOITEACHTA AGUS UM SHAOIRE DO
THUISMITHEOIRÍ (COVID-19), 2020
SICK LEAVE AND PARENTAL LEAVE (COVID-19) BILL 2020**

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ACTS REFERRED TO

Child Care Act 1991 (No. 17)

Education Act 1998 (No. 51)

Organisation of Working Time Act 1997 (No. 20)

Parental Leave Act 1998 (No. 30)

Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37)

Unfair Dismissals Acts 1977 to 2015

Workplace Relations Act 2015 (No. 16)



**AN BILLE UM SHAOIRE BHREOITEACHTA AGUS UM SHAOIRE DO
THUISMITHEOIRÍ (COVID-19), 2020
SICK LEAVE AND PARENTAL LEAVE (COVID-19) BILL 2020**

Bill

entitled

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An Act to provide for an entitlement for employees to paid leave during periods of illness or injury; to amend the entitlement to leave on grounds of *force majeure* for parents whose children are unable to attend school or a pre-school service by reason of Covid-19 measures, and to provide for connected matters.

Be it enacted by the Oireachtas as follows:

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Interpretation

1. In this Act—

“Act of 1997” means the Organisation of Working Time Act 1997;

“employee”—

(a) subject to *paragraph (b)*, has the meaning assigned to it by the Act of 1997, and

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(b) does not include a public servant;

“employer”, in relation to an employee, has the meaning assigned to it by the Act of 1997;

“public servant” means a person who is a public servant within the meaning of section 5 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 and whether or not that person is either—

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(a) a member of the Single Public Service Pension Scheme, or

(b) a pre-existing public service pension scheme within the meaning of the said section 5,

and, in relation to a person who is a member of the Reserve Defence Force, includes any period while serving as a member of the Defence Forces otherwise than during and in respect of any period for which such person, not being a public servant to whom *paragraph (a)* or *(b)* relates, is on annual leave within the meaning of the Act of 1997.

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Entitlement to sick leave

2. (1) Subject to *subsection (2)*, an employee is entitled to paid leave from his or her employment (referred to in this Act as “sick leave”) in respect of any day or days,

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after the expiry of the first 4 weeks of that employment, on which the employee is incapable of work as a result of illness or injury.

- (2) The entitlement of an employee to sick leaves ceases after—
- (a) a continuous period of 6 weeks of sick leave, or
 - (b) sick leave amounting to 30 days in total in any period of 12 months. 5
- (3) The pay in respect of an employee’s sick leave shall be at the employee’s normal weekly rate of pay (or at a rate which is proportionate to the normal weekly rate of pay), as determined in accordance with regulations made for the purposes of section 20 of the Act of 1997.

Leave on grounds of *force majeure*: Covid-19 10

3. The Parental Leave Act 1998 is amended by the insertion of the following after section 13:

“13A. (1) This section applies to a specified employee where, as a result of Covid-19 measures—

- (a) a recognised school (within the meaning of the Education Act 1998) or a pre-school service (within the meaning of section 58A of the Child Care Act 1991) is not open to receive a child of whom the specified employee is the parent or adoptive parent and who is enrolled at that school or service and would otherwise be attending it, or 15
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- (b) a child of whom the specified employee is the parent or adoptive parent and who is enrolled at that school or service is otherwise unable to attend it.

(2) Where this section applies, a specified employee shall be entitled to *force majeure* leave under section 13 where and for so long as— 25

- (a) the child concerned is unable to attend the recognised school or pre-school service concerned, and
- (b) the presence of the specified employee is required at his or her home in order to care for that child.

(3) In subsection (1)— 30

‘Covid-19 measures’ means measures required to be taken in order to comply with, or as a consequence of, Government policy to prevent, limit, minimise or slow the spread of infection of Covid-19;

‘specified employee’ means an employee who is not a public servant within the meaning of *section 1* of the *Sick Leave and Parental Leave (Covid-19) Act 2020*.” 35

Voidance or modification of certain provisions

4. (1) Save as provided by this section, a provision in an agreement—

- (a) in so far as it purports to exclude or limit the application of this Act, is void, or
 - (b) which is or becomes less favourable in relation to an employee than the entitlement conferred by this Act is deemed to be so modified as to be not less favourable.
- (2) Notwithstanding *subsection (1)*, if a collective agreement or a registered employment agreement provides that this Act shall not apply in relation to the employees to whom the agreement for the time being has effect, or to a specified class or classes of those employees, this Act does not apply in relation to those employees, or to the specified class or classes of employees. 5
- (3) Nothing in this section prohibits the inclusion in an agreement of a provision more favourable to an employee than the entitlement conferred on the employee by this Act. 10
- (4) In this section—
- “agreement” means any agreement, whether a contract of employment or not and whether made before or after the coming into operation of this Act;
- “collective agreement” means an agreement by or on behalf of an employer on the one hand and by or on behalf of a body or bodies representative of the employees to whom the agreement relates on the other hand. 15

Complaints and disputes

5. (1) A complaint or dispute relating to an employee’s entitlement to sick leave may be presented or referred under the Workplace Relations Act 2015 in like manner as a complaint or dispute in relation to an employee’s entitlement to paid annual leave. 20
- (2) Section 27 (1) of the Act of 1997 is amended by the insertion after paragraph (aa) of the following:
- “(aaa) the *Sick Leave and Parental Leave (Covid-19) Act 2020*,”.

Saver in relation to Unfair Dismissals Acts 25

6. Nothing in this Act amends the law relating to the grounds that would justify the dismissal of an employee for the purposes of the Unfair Dismissals Acts 1977 to 2015.

Short title

7. This Act may be cited as the Sick Leave and Parental Leave (Covid-19) Act 2020.

An Bille um Shaoire Bhreiteachta agus um Shaoire do Thuismitheoirí (Covid-19), 2020

BILLE

(*mar a tionscnaíodh*)

dá ngairtear

Acht do dhéanamh socrú maidir le teidlíocht a bheith ag fostaithe chun saoire le pá le linn tréimhsí tinnis nó díobhála; do leasú na teidlíochta chun saoire ar fhorais *force majeure* do thuismitheoirí nach bhfuil a leanaí in ann freastal ar scoil nó ar sheirbhís réamhscoile mar gheall ar bhearta Covid-19; agus do dhéanamh socrú i dtaobh nithe comhghaolmhara.

An Teachta Alan Ó Ceallaigh a thug isteach,

17 Meán Fómhair, 2020

Sick Leave and Parental Leave (Covid-19)
Bill 2020

BILL

(*as initiated*)

entitled

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Introduced by Deputy Alan Kelly,

17th September, 2020

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