



**An Bille Rialtais Áitiúil (Saoire Mháithreachais agus
Saoire Theaghlaigh do Chomhaltaí Tofa), 2021**
**Local Government (Maternity and Family Leave for
Elected Members) Bill 2021**

Meabhrán Míniúcháin
Explanatory Memorandum



**AN BILLE RIALTAIS ÁITIÚIL (SAOIRE MHÁITHREACHAIS
AGUS SAOIRE THEAGHLAIGH DO CHOMHALTAÍ TOFA), 2021
LOCAL GOVERNMENT (MATERNITY AND FAMILY LEAVE
FOR ELECTED MEMBERS) BILL 2021**

EXPLANATORY MEMORANDUM

Background and Purpose of Bill

The purpose of the Bill is to provide an entitlement for a member of a local authority to take leave from attending meetings of the authority as a consequence of maternity or an adoption. At present, leave from attendance at such meetings for a period has to be approved by a resolution of the local authority under section 18(4) of the Local Government Act 2001. If no such resolution is passed, then absence from those meetings for a continuous period as set out in section 18(4)(b) (see below) results in the person concerned being deemed to have resigned from membership of the authority.

The Bill also makes provision for taking into account certain other types of family leave by members of local authorities.

Paragraphs (a) and (b) of section 18(4) of the Local Government Act 2001 provide:

(4) (a) A person shall be deemed to have resigned from membership of a local authority where the person is absent from attendance at any meeting of the authority for a continuous period of 6 consecutive months (“the relevant period”) from the date (“the relevant date”) of his or her last attendance at a meeting of the authority.

(b) paragraph (a) does not apply where the absence was—

(i) due to illness, or

(ii) in good faith for another reason,

and which, in either case, is accepted by the local authority and approved by resolution under this paragraph before the end of the relevant period, in which case the period shall stand extended to 12 months from the relevant date.

Paragraph (c) of section 18(4) provides that, by resolution, the local authority can extend the relevant period so that the period extends to 18 months from the “relevant date” as provided for by paragraph (a) of section 18(4).

Accordingly, section 18(4) could adversely affect membership of a local authority for a member who has not attended meetings of the authority as a consequence of giving birth or adopting a child where no resolution has been passed in time by the local authority under that provision.

In addition, where a person is deemed to have resigned as a member of a local authority because of the application of section 18(4), such absence might in part be due to circumstances which, if the person had been a member of the staff of a local authority rather than a member of it, would entitle the person to take parental leave or *force majeure* leave under the Parental Leave Acts 1998 to 2019.

Section 1 proposes to amend the Local Government Act 2001 by inserting a new section as section 18A. That section would entitle a member of a local authority to take certain types of leave from attendance at meetings of the local authority concerned without a resolution being required under section 18(4)(b).

The entitlement to take such leave from attendance would be on a basis that in general terms correspond to leave that can be taken by a member of the staff of the local authority concerned under any of the following leave entitlements:

- maternity leave under the Maternity Protection Acts 1994 and 2004
- adoptive leave under the Adoptive Leave Acts 1995 and 2005
- parental leave or *force majeure* leave under the Parental Leave Acts 1998 to 2019.

The member taking any such leave from attendance would duly notify the chief executive of the local authority concerned, and the notification would have the following effect:

- in the case of leave for maternity or an adoption—
 - as if a resolution under section 18(4)(b) were duly passed by the local authority;
 - the leave entitlement would cover the entire period that would apply in a similar corresponding case to a member of the staff of the local authority under the Maternity Protection Acts 1994 and 2004 or the Adoptive Leave Acts 1995 and 2005, as the case may be;
 - the leave period entitlement would not be affected if the member attended any meeting of the local authority during that period,and
- in a case corresponding to parental leave or *force majeure* leave by a member of the staff of the local authority, by extending the relevant period (see section 18(4)(a)) to take account of such leave where such leave occurs on a day of a meeting of the local authority.

Section 2 is a standard form provision and provides for the short title of the proposed Act and a commencement provision.

Holly Cairns, TD,
Samhain, 2021