



An Bille um Shaoire Theaghlaigh, 2021
Family Leave Bill 2021

Meabhrán Mínitheach agus Airgeadais
Explanatory and Financial Memorandum



AN BILLE UM SHAOIRE THEAGHLAIGH, 2021
FAMILY LEAVE BILL 2021

EXPLANATORY AND FINANCIAL MEMORANDUM

Purpose of the Bill

The purpose of the Bill is to amend the Adoptive Leave Act 1995 to provide for adoptive leave for male same sex couples and to enable adoptive couples to choose which parent may avail of adoptive leave. The Bill also amends the Parent's Leave and Benefit Act 2019 to extend the entitlements to parent's leave for each parent of a qualifying child and to extend the period in which such leave can be taken from two to five weeks, which may now be taken over two years. In addition, a number of consequential amendments to the Parental Leave Act 1998, the Social Welfare Consolidation Act 2005 and the Workplace Relations Act 2015 are included.

The Bill also amends the Child and Family Agency Act 2013 to provide for an increase in the Board of the Child and Family Agency from seven ordinary members to nine ordinary members and for a number of consequential amendments.

Financial Implications

There are no significant cost implications arising from the amendments to the Adoptive Leave Act 1995. Amendment of the Parent's Leave and Benefit Act 2019 will result in an estimated cost of €28.6 million in 2021 and €22 million in a full year and will support up to 39,000 parents. Any additional expenditure arising from the increase in the Child and Family Agency Board membership will be provided from within the Agency's annual budget allocation.

Provisions of the Bill

PART 1

Preliminary and General

Section 1 is a standard provision which provides for the short title and commencement of the Bill.

Section 2 provides that in this Bill "Minister" means the Minister for Children, Equality, Disability, Integration and Youth.

Section 3 repeals section 177 of the Children and Family Relationships Act 2015.

PART 2

Amendment of Adoptive Leave Act 1995

Section 4 provides that in Part 2 of the Bill “Act of 1995” means the Adoptive Leave Act 1995.

Section 5 inserts definitions for “Act of 2010”, “civil partner”, “cohabitant”, “cohabiting couple”, “qualifying adopter” and “surviving parent” into section 2(1) of the Act of 1995. It also amends the definitions of “adopting parent” and “Minister” and deletes the definitions of “adopting father”, “adopting mother”, “employed adopting mother” and “sole male adopter”.

Section 6 amends section 6 of the Act of 1995 to provide that a person may not avail of adoptive leave under the 1995 Act where they have availed of paternity leave under the Paternity Leave and Benefit Act 2016.

Section 7 substitutes references to “employed adopting mother (or sole male adopter)” and “adopting mother” with “qualifying adopter” and substitutes references to “adopting father” with “surviving parent” throughout the Act of 1995; and provides for miscellaneous and consequential amendments to the Act of 1995 as specified in the *Schedule*.

PART 3

Amendment of Parental Leave Act 1998

Section 8 amends section 6(9) of the Parental Leave Act 1998 by inserting a new definition of “adopting parent”.

PART 4

Amendment of Social Welfare Consolidation Act 2005

Section 9 provides that in Part 4 of the Bill, “Act of 2005” means the Social Welfare Consolidation Act 2005.

Section 10 amends section 58 of the Act of 2005 provides for the substitution of the references to ‘adoptive mother’ and ‘sole male adopter’ with ‘qualifying adopter’ to provide for entitlement to Adoptive Benefit for an adoptive parent in accordance with the amendments to the provisions for Adoptive Leave.

Section 11 amends section 60 of the Social Welfare Consolidation Act 2005 with regard to conditions concerning entitlement to adoptive benefit.

Section 12 amends Section 61A of the Act of 2005, to delete the definitions, under Paternity Benefit, of “adopting mother”, “relevant adopting parent” and “sole male adopter”. It also inserts a definition for “qualifying adopter” and amends the definition of “relevant parent” and “surviving parent”.

Section 13 amends Section 61B of the Act of 2005, on the entitlement to Paternity Benefit, to substitute references to “the relevant adopting parent” with “the qualifying adopter”.

Section 14 amends Section 61F of the Act of 2005, to delete the definitions, under Parent’s Benefit, of “adopting mother”, “relevant adopting parent” and “sole male adopter”. It also inserts a definition for “qualifying adopter” and amends the definition of “relevant parent” and “surviving parent”.

Section 15 amends Section 61G of the Act of 2005 to extend the entitlement of Parent’s Benefit for each qualifying parent from two weeks

to five weeks. This section also extends the time period in which parent's benefit can be taken from one year to two years.

PART 5

Amendment of Child and Family Agency Act 2013

Section 16 provides that in Part 5 of the Bill, "Act of 2013" means the Child and Family Agency Act 2013.

Section 17 amends section 19(1) of the Act of 2013 for the purpose of increasing the membership of the Board of the Agency by two from seven ordinary members to nine ordinary members.

Section 18 amends section 22 of the Act of 2013 to provide for a number of consequential amendments as a result of the increase in Board membership provided for in *section 17*. These relate to the number of Board members required to call a meeting of the Board, the number of ordinary members required to achieve a quorum, and the number of ordinary members required to achieve a quorum where there is a vacancy on the Board.

PART 6

Amendment of Workplace Relations Act 2015

Section 19 amends a number of terms used in section 41 of the Workplace Relations Act 2015. In section 41(7)(a)(ii) the reference to "adopting father" is deleted and substituted with "surviving parent" and the reference to "adopting mother" is deleted and substituted with "qualifying adopter who was the spouse, civil partner or cohabitant, as the case may be, of the surviving parent". In section 41(7)(f)(iii) the reference to "the relevant adopting parent" is deleted and substituted with "the qualifying adopter".

Part 7

Amendment of Paternity Leave and Benefit Act 2016

Section 20 provides that in Part 7 of the Bill, "Act of 2016" means the Paternity Leave and Benefit Act 2016.

Section 21 amends section 2(1) of the Act of 2016 to delete the definitions of "adopting mother", "employed adopting mother", "relevant adopting parent" and "sole male adopter". It also inserts a definition for "qualifying adopter" and amends the definition of "day of placement", "relevant parent" and "surviving parent".

Section 22 amends section 6(1) of the Act of 2016 to substitute "the qualifying adopter" for "the relevant adopting parent".

Section 23 amends section 7 of the Act of 2016 in subsections (3)(a)(ii) and (3)(b)(ii), by the substitution of "the qualifying adopter" for "the employed adopting mother or sole male adopter concerned, as the case may be," and in subsection (4)(a) by the substitution of "the qualifying adopter" for "the adopting mother or sole male adopter concerned, as the case may be".

PART 8

Amendment of Parent's Leave and Benefit Act 2019

Section 24 provides that in Part 8 of the Bill, "Act of 2019" means the Parent's Leave and Benefit Act 2019.

Section 25 amends section 2(1) of the Act of 2019 to delete the definitions of “adopting father”, “adopting mother”, “employed adopting mother” and “sole male adopter” and to insert a definition for “qualifying adopter”. This subsection also amends the definition of “day of placement”, “relevant parent” and “surviving parent”.

Section 26 amends section 5(1) of the Act of 2019 to extend the entitlement of parent’s leave for each qualifying parent from two weeks to five weeks.

Section 27 makes a number of amendments to section 6 of the Act of 2019 to replace subsections (b) and (c) in keeping with amendments to the definition of “relevant parent” in section 25 and substitutes the term “qualifying adopter” for “adopting mother or sole male adopter” throughout the section.

Section 28 amends section 7 of the Act of 2019 to extend the time period in which parent’s leave can be taken from one year to two years, in the case of a child who is or is to be adopted.

Section 29 amends section 16 of the Act of 2019 to extend the entitlement to parent’s leave from two weeks to five weeks, for an employee who is a surviving parent, where the employee entitled to parent’s leave dies on or before the expiration of the period of the entitlement concerned.

Schedule

The *Schedule* lists amendments to the Adoptive Leave Act 1995 relating to references to “adopting mother (or sole male adopter)”, “adopting father” and miscellaneous and consequential amendments to the Adoptive Leave Act 1995 provided for in section 7 of the Bill.

An Roinn Leanaí, Comhionannais, Michumais, Lánpháirtíochta agus Óige, Márta, 2021.