



# **DÁIL ÉIREANN**

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## **AN BILLE UM CHOITHROMAÍOCHT OIBRE AGUS SAOIL AGUS FORÁLACHA ILGHNÉITHEACHA, 2022 WORK LIFE BALANCE AND MISCELLANEOUS PROVISIONS BILL 2022**

### **LEASUITHE COISTE COMMITTEE AMENDMENTS**

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# DÁIL ÉIREANN

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## AN BILLE UM CHOTHROMAÍOCHT OIBRE AGUS SAOIL AGUS FORÁLACHA ILGHNÉITHEACHA, 2022 —ROGHCHOISTE

### WORK LIFE BALANCE AND MISCELLANEOUS PROVISIONS BILL 2022 —SELECT COMMITTEE

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#### *Leasuithe Amendments*

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#### SECTION 3

1. In page 5, line 18, to delete “26 weeks” and substitute “one week”.

—Kathleen Funchion, Louise O'Reilly, Mark Ward.

#### SECTION 4

2. In page 5, line 34, to delete “ “sickness”,” and substitute “ “sickness”,”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

#### SECTION 5

3. In page 6, line 4, to delete “after section 13”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

4. In page 6, line 15, to delete “employee; or” and substitute “employee;”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

5. In page 7, lines 14 to 30, to delete all words from and including “, and” in line 14, down to and including “reason” in line 30.

—Holly Cairns.

#### SECTION 6

6. In page 7, between lines 30 and 31, to insert the following:

##### **“Domestic violence leave**

6. The Principal Act is amended by the insertion of the following section:

“13AA. (1) An employee shall be entitled to leave with pay from his or her employment, to be known and referred to in this Act as ‘domestic violence leave’, where—

- (a) the employee or a relevant person has experienced in the past, or is currently experiencing, domestic violence, and
- (b) the purpose of the leave is to enable the employee, in relation to the domestic violence experienced by him or her or, as the case may

[SECTION 6]

be, the relevant person, to do, or to assist the relevant person in the doing of, any of the following:

- (i) seek medical attention;
  - (ii) obtain services from a victim services organisation;
  - (iii) obtain psychological or other professional counselling;
  - (iv) relocate temporarily or permanently;
  - (v) obtain an order under the Domestic Violence Act 2018;
  - (vi) seek advice or assistance from a legal practitioner;
  - (vii) seek assistance from the Garda Síochána.
- (2) When an employee takes domestic violence leave, he or she shall, as soon as reasonably practicable thereafter, by notice in the prescribed form given to his or her employer, confirm that he or she has taken such leave and the notice shall specify the dates on which it was taken.
- (3) Domestic violence leave shall consist of one or more days on which, but for the leave, the employee would be working in the employment concerned but shall not exceed 5 days in any period of 12 consecutive months.
- (4) A day on which an employee is absent from work on domestic violence leave in an employment for part only of the period during which he or she is required to work in the employment on that day shall be deemed, for the purposes of subsection (3), to be one day of domestic violence leave.
- (5) An employer shall pay an employee a prescribed daily rate of pay (in this section referred to as ‘domestic violence leave pay’) for each day on which the employee is absent from work on domestic violence leave.
- (6) Subject to subsection (7), the Minister may make regulations for the purpose of prescribing the daily rate of domestic violence leave pay which may—
- (a) specify the percentage rate of an employee’s pay, up to a maximum daily amount, at which domestic violence leave pay will be paid,
  - (b) subject to the maximum daily amount specified in accordance with paragraph (a), specify an allowance in respect of board and lodgings, board only or lodgings only in a case in which such board or lodgings constitute part of the employee’s remuneration calculated at the prescribed rate, or
  - (c) subject to the maximum daily amount specified in accordance with paragraph (a), specify basic pay and any pay in excess of basic pay in respect of shift work, piece work, unsocial hours worked or

[SECTION 6]

hours worked on a Sunday, allowances, emoluments, premium pay (or its equivalent), or any other payment as the Minister considers appropriate, that are to be taken into account in the calculation of domestic violence leave pay.

- (7) In making regulations under subsection (6), the Minister shall have regard to the following matters:
- (a) the state of the economy generally, the business environment and national competitiveness;
  - (b) the state of society generally, the public interest and employee well-being;
  - (c) the potential impact, including the potential for any disproportionate or other adverse impact, that the rate of domestic violence leave pay to be prescribed will have on the economy generally, specific sectors of the economy, employers or employees;
  - (d) annual and quarterly data on earnings and labour costs as published by the Central Statistics Office;
  - (e) expert opinion, research, national or international reports relating to the matters specified at paragraphs (a) to (d) that the Minister considers relevant;
  - (f) the views of employer representative bodies and trade unions;
  - (g) such other matters as the Minister considers relevant.

- (8) In this section—

‘dependent person’, in relation to a person, means any child of the person, or in respect of whom the person is in *loco parentis*, who is not of full age, or, if the child has attained full age, is suffering from a mental or physical disability to such an extent that it is not reasonably possible for him or her to live independently of the employee or relevant person;

‘domestic violence’ means violence, or threat of violence, including sexual violence and acts of coercive control committed against an employee or a relevant person by another person who—

- (a) is the spouse or civil partner of the employee or relevant person,
- (b) is the cohabitant of the employee or relevant person,
- (c) is or was in an intimate relationship with the employee or relevant person, or
- (d) is a child of the employee or relevant person who is of full age and is not, in relation to the employee or relevant person, a dependent person;

[SECTION 6]

‘relevant person’ means, in relation to an employee—

- (a) the spouse or civil partner of the employee,
- (b) the cohabitant of the employee,
- (c) a person with whom the employee is in an intimate relationship,
- (d) a child of the employee who has not attained full age, or
- (e) a person who, in relation to the employee, is a dependent person.

‘spouse’ has the same meaning as it has in section 2 of the Domestic Violence Act 2018.”.”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

7. In page 7, between lines 30 and 31, to insert the following:

**“Leave for reproductive health related purposes**

6. The Principal Act is amended by the insertion of the following section after section 13A:

**“13AA.** (1) An employee shall be entitled to leave without pay from his or her employment, to be known as reproductive health related leave (and referred to in this section as ‘RHR leave’)—

- (a) where the employee has miscarried a child having a gestational age of 28 weeks or less, or
  - (b) in order to receive treatment from a registered medical practitioner in the State in relation to pregnancy, childbirth or assisted human reproduction.
- (2) (a) In relation to a day or part of a day where an employee avails of *force majeure* leave under section 13, the employee may not avail of RHR leave under this section.
- (b) A day which would be regarded for the purposes of this section as RHR leave shall, if the employee concerned is ill on that day and furnishes to his or her employer a certificate of a registered medical practitioner in respect of his or her illness, not be so regarded.
- (3) RHR leave shall consist of one or more days on which, but for the leave, the employee would be working in the employment concerned but such leave shall not exceed—
- (a) in a case to which subsection (1)(a) applies, 20 working days, and
  - (b) in a case to which subsection (1)(b) applies, 10 working days, in any leave year.
- (4) A day on which an employee is absent from work on RHR leave in an employment for less than half of the period during which he or she is required to work in the employment on that day shall be deemed, for

[SECTION 6]

the purposes of subsection (3), to be half a working day of RHR leave.

- (5) Subject to subsection (6), when an employee intends to take RHR leave, he or she shall notify the employer of that intention as soon as is reasonably practicable before the employee is due to start work on the day that is intended to be taken as RHR leave.
- (6) Where it is not reasonably practicable to notify an employer of an intention to take RHR leave before the start of the working day of the employee concerned, the employee shall notify the employer as soon as reasonably practicable after the start of that working day.
- (7) For the purposes of subsections (5) and (6), a notification shall—
  - (a) be given in the prescribed form,
  - (b) specify the dates on which the employee intends to take RHR leave or the dates on which such leave was taken, as the case may be, and
  - (c) contain a statement of the facts entitling the employee to RHR leave.
- (8) An employer—
  - (a) shall maintain confidentiality in respect of all matters that come to the employer's knowledge in relation to RHR leave taken by the employee concerned, and
  - (b) shall not disclose personal information, or information that may otherwise identify the person, relating to the RHR leave taken by the employee concerned except—
    - (i) to employees or agents of the employer who require the information to carry out their duties,
    - (ii) as required by law, or
    - (iii) with the consent of the employee to whom the RHR leave relates.
- (9) Nothing in this section shall prevent an employer and employee from entering into arrangements that are more favourable to an employee with regard to the employee's entitlement to RHR leave.
- (10) The provisions of—
  - (a) this Act, other than section 13A, and
  - (b) the enactments amended by the *Work Life Balance and Miscellaneous Provisions Act 2022*,that relate to medical care leave shall apply also to RHR leave; and accordingly every reference in those provisions to or relating to medical care leave shall be read and construed as though it was also a

[SECTION 6]

reference to or relating to RHR leave.”.”.

—Seán Sherlock.

8. In page 8, line 13, to delete “employee; or” and substitute “employee;”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

9. In page 8, line 22, to delete “12 years” and substitute “18 years”.

—Holly Cairns.

10. In page 8, line 26, to delete “12 years” and substitute “18 years”.

—Holly Cairns.

11. In page 8, line 31, to delete “16 years” and substitute “18 years”.

—Holly Cairns.

12. In page 8, to delete lines 32 and 33, and substitute the following:

“(ii) has recovered from that long-term illness or any other long-term illness,”.

—Holly Cairns.

13. In page 8, to delete lines 35 to 37.

—Kathleen Funchion, Louise O'Reilly, Mark Ward, Seán Sherlock.

14. In page 9, line 2, to delete “26 weeks” and substitute “one week”.

—Kathleen Funchion, Louise O'Reilly, Mark Ward.

15. In page 9, lines 22 to 25, to delete all words from and including “in”, where it firstly occurs, in line 22, down to and including “(b)”.

—Holly Cairns.

16. In page 9, lines 29 to 31, to delete all words from and including “, and” in line 29, down to and including “concerned”.

—Holly Cairns.

17. In page 9, to delete lines 36 to 40, and in page 10, to delete lines 1 to 7.

—Kathleen Funchion, Louise O'Reilly, Mark Ward, Holly Cairns.

18. In page 11, lines 4 and 5, to delete all words from and including “or” in line 4, down to and including “matters” in line 5.

—Holly Cairns.

19. In page 11, to delete lines 6 to 9, and substitute the following:

“request a review of the start date of the flexible working arrangement which may be agreed upon by the employee.”.

—Kathleen Funchion, Louise O'Reilly, Mark Ward.

[SECTION 6]

20. In page 13, line 6, to delete “reasonable grounds for believing” and substitute “clear evidence”.

—Holly Cairns.

SECTION 7

21. In page 13, between lines 33 and 34, to insert the following:

**“Amendment of section 14 of Principal Act**

7. Section 14 of the Principal Act is amended—

- (a) in subsection (2), by the substitution of ‘, *force majeure* leave, leave for medical care purposes and domestic violence leave’ for ‘and *force majeure* leave’,
- (b) in subsection (5), by the substitution of ‘, parental leave, leave for medical care purposes and domestic violence leave’ for ‘and parental leave’, and
- (c) by the insertion of the following subsections after subsection (5):

“(6) Where—

- (a) an employee who is on probation in his or her employment, is undergoing training in relation to that employment or is employed under a contract of apprenticeship, takes leave for medical care purposes or domestic violence leave, and
- (b) his or her employer considers that the employee’s absence from employment while on leave for medical care purposes or domestic violence leave would not be consistent with the continuance of the probation, training or apprenticeship,

the employer may require that the probation, training or apprenticeship be suspended during the period of the leave for medical care purposes or domestic violence leave and be completed by the employee at the end of that period.

- (7) An employee shall, while on leave for medical care purposes or domestic violence leave, be regarded for all purposes relating to his or her employment as still working in the employment concerned and none of his or her rights relating to the employment shall be affected by the leave.
- (8) Absence from employment while on leave for medical care purposes or domestic violence leave shall not be treated as part of any other leave from employment (including parental leave, sick leave, annual leave, adoptive leave, maternity leave and *force majeure* leave) to which the employee concerned is entitled.”.”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

[Acceptance of this amendment involves the deletion of section 7 of the Bill.]

[SECTION 8]

SECTION 8

22. In page 14, lines 24 and 25, to delete “*force majeure* leave or leave for medical care purposes,” and substitute “*force majeure* leave, leave for medical care purposes or domestic violence leave,”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

23. In page 15, line 6, to delete “*force majeure* leave or leave for medical care purposes” and substitute “*force majeure* leave, leave for medical care purposes or domestic violence leave”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

24. In page 15, line 14, to delete “*force majeure* leave or leave for medical care purposes” and substitute “*force majeure* leave, leave for medical care purposes or domestic violence leave”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

SECTION 9

25. In page 15, line 25, to delete “or leave for medical care purposes” and substitute “, leave for medical care purposes, domestic violence leave”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

SECTION 12

26. In page 16, line 21, after “purposes” to insert “, domestic violence leave”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

27. In page 16, line 25, after “purposes” to insert “, domestic violence leave”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

SECTION 13

28. In page 17, line 2, after “purposes” to insert “, domestic violence leave”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

29. In page 17, line 3, after “or,” to insert “and”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

30. In page 17, between lines 3 and 4, to insert the following:

“(b) in subsection (5), by the insertion of the following paragraph after paragraph (c):

“(ca) a period during which the employee is absent from work while on domestic violence leave within the meaning of the Organisation of Working Time Act 1997,”.

—Kathleen Funchion, Louise O'Reilly, Mark Ward.

31. In page 17, line 6, after “purposes” to insert “, domestic violence leave”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

[SECTION 14]

SECTION 14

32. In page 17, line 10, after “purposes” to insert “, domestic violence leave”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

33. In page 17, between lines 11 and 12, to insert the following:

“(2) in section 6—

- (a) in subsection (2), by the insertion of the following paragraph after paragraph (dd):

“(ddd) the exercise, or proposed exercise, by the employee of the right to domestic violence leave under and in accordance with Part IIIA\* of the Organisation of Working Time Act 1997,”

and

- (b) by the insertion of the following subsection after subsection (2D):

“(2E) Sections 3 and 4 do not apply to a case falling within paragraph (ddd) of subsection (2) and, for the purpose of that paragraph, ‘employee’ includes a person who would otherwise be excluded from this Act by paragraph (a), (c), (f) or (g) of section 2(1).”.

—Kathleen Funchion, Louise O'Reilly, Mark Ward.

[\*This is a reference to a Part proposed to be inserted by amendment No. 39.]

SECTION 15

34. In page 17, line 20, after “7(2),” to insert “and”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

SECTION 16

35. In page 17, line 28, after ““permit”,” to insert “and”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

36. In page 18, line 1, after “occurs,” to insert “and”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

37. In page 18, line 2, after ““she”,” to insert “and”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

38. In page 18, line 4, after “occurs,” to insert “and”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

SECTION 17

39. In page 18, between lines 6 and 7, to insert the following:

**“Amendment of Organisation of Working Time Act 1997**

17. The Organisation of Working Time Act 1997 is amended—

[SECTION 17]

- (a) in section 2(1), by the insertion of the following definition after the definition of “the Council Directive”:

“ ‘domestic violence leave’ shall be construed in accordance with section 23B;”,

- (b) in section 15(4)—

- (i) in paragraph (aa), by the insertion of the following after “force majeure leave”:

“, leave for medical care purposes or an approved flexible working arrangement within the meaning of the Parental Leave Act 1998” after “force majeure”,

and

- (ii) by the insertion of the following paragraph after paragraph (aa):

“(aaa) any period during which the employee was absent from work while on domestic violence leave,”,

- (c) in section 16(5)—

- (i) in paragraph (cc), by the insertion of the following after “force majeure leave”:

“, leave for medical care purposes or an approved flexible working arrangement within the meaning of the Parental Leave Act 1998”,

and

- (ii) by the insertion of the following paragraph after paragraph (cc):

“(ccc) any period during which the employee was absent from work while on domestic violence leave,”,

- (c) by the insertion of the following Part after Part III:

“PART IIIA

ADDITIONAL LEAVE ON GROUNDS OF DOMESTIC VIOLENCE

**Interpretation (Part IIIA)**

**23A. (1) In this Part—**

‘Act of 2018’ means the Domestic Violence Act 2018;

‘civil partner’ has the meaning assigned to it by section 2(1) of the Act of 2018;

‘coercive control’ means behaviour of a person, to whom paragraph (a), (b) or (c) of the definition of ‘relevant person’ applies, that—

(a) is controlling or coercive,

(b) causes an employee to whom section 23B applies—

[SECTION 17]

(i) serious alarm or distress that has a substantial adverse impact on his or her usual day-to-day activities, or

(ii) to fear that violence will be used against him or her,

and, where in those circumstances, a reasonable person would consider that behaviour to be likely to cause the employee concerned serious alarm or distress that has a substantial adverse impact on his or her usual day-to-day activities or to fear that violence will be used against him or her;

‘dependent person’, in respect of an employee to whom section 23B applies, means any person living in a domestic relationship with the employee—

(a) where in respect of that person—

(i) he or she is the child of either or both the employee and the relevant person, or

(ii) either or both the employee and the relevant person are in *loco parentis* to him or her,

and

(b) that person is either—

(i) not of full age, or

(ii) if of full age, is suffering from a mental or physical disability to such an extent that it is not reasonably possible for him or her to live independently of the employee or the relevant person;

‘domestic violence’, in relation to the employee to whom section 23B applies or a dependent person, means an act of physical violence, sexual violence, psychological abuse, emotional abuse or economic abuse committed by a relevant person and includes coercive control;

‘not primarily contractual’, in relation to a relevant person, shall be construed in accordance with subsection (4);

‘relevant person’, in respect of an employee to whom section 23B applies, means a person who—

(a) is a spouse of the employee concerned,

(b) is a civil partner of the employee concerned,

(c) is not a spouse or civil partner of the employee concerned and is not related to the employee concerned within a prohibited degree of relationship, but was in an intimate relationship with the employee concerned at the time of or before the domestic violence concerned,

(d) is a child of the employee concerned and the child is not a dependent person of the employee,

[SECTION 17]

- (e) being of full age, resides with the employee concerned in a relationship the basis of which is not primarily contractual, or
- (f) is a parent of a child whose other parent is the employee concerned;

‘spouse’ has the meaning assigned to it in the Act of 2018.

- (2) For the purposes of this Part, 2 people are related to each other within a prohibited degree of relationship if they would be prohibited from marrying each other in the State by reason of that relationship.
- (3) For the avoidance of doubt, a relationship does not cease to be an intimate relationship for the purposes of this Part by reason only that it is no longer sexual in nature.
- (4) For the purpose of paragraph (e) of the definition of ‘relevant person’, in deciding whether or not a person is residing with another person in a relationship the basis of which is not primarily contractual, regard shall be had to—
  - (a) the length of time those persons are residing together,
  - (b) the nature of any duties performed by either person for the other person or any kindred person of that other person,
  - (c) the absence of any profit or of any significant profit made by either person from any monetary or other consideration given by the other person in respect of residing at the place concerned, and
  - (d) any other matter that the person making the decision can objectively consider is appropriate in the circumstances.

**Entitlement to domestic violence leave**

- 23B.** (1) Subject to this Part, an employee shall be entitled to leave with pay from his or her employment (in this Act referred to as ‘domestic violence leave’).
- (2) Subject to subsections (3) and (4), an employee shall be entitled to domestic violence leave where the employee is—
    - (a) a person against whom a relevant person inflicts, or has inflicted, domestic violence, or
    - (b) a person with whom there ordinarily resides a child who is a dependent person of the employee and against whom it is alleged that a relevant person inflicts, or has inflicted, domestic violence.
  - (3) An employee to whom subsection (2) applies shall be entitled to domestic violence leave for any of the following purposes:
    - (a) to seek medical attention for himself or herself or for a dependent person of the employee in respect of a physical or psychological injury or disability resulting from domestic violence;

- (b) to obtain services from an organisation providing support services for victims of domestic violence;
  - (c) to obtain psychological or other professional counselling for the employee or for a dependent person of that employee as a consequence of domestic violence;
  - (d) to relocate his or her place of residence, either temporarily or permanently, as a consequence of domestic violence;
  - (e) to seek or receive legal or law enforcement assistance, including preparing for or participating in any civil or criminal proceedings related to or resulting from domestic violence;
  - (f) such other purposes as may be prescribed.
- (4) In relation to a day or part of a day where an employee avails of *force majeure* leave, under section 13 of the Parental Leave Act 1998, the employee may not avail of domestic violence leave under this Part.

**Manner in which domestic violence leave is taken**

- 23C.** (1) Domestic violence leave shall consist of one or more working days on which, but for the leave, the employee would be working in the employment concerned but such leave shall not exceed 10 working days in any leave year.
- (2) For the purposes of subsection (1), a day on which an employee is absent from work on domestic violence leave for part only of the period during which he or she is required to work in the employment on that day shall be deemed to be half a working day of domestic violence leave.
- (3) A day which would be regarded as domestic violence leave shall, if the employee concerned is ill on that day and furnishes to his or her employer a certificate of a registered medical practitioner in respect of his or her illness, not be regarded, for the purposes of this Act, as domestic violence leave.
- (4) Nothing in this Part shall prevent an employer and employee from entering into arrangements that are more favourable to an employee with regard to the employee's entitlement to domestic violence leave.

**Notice of domestic violence leave**

- 23D.** (1) Subject to subsection (2), when an employee intends to take domestic violence leave he or she shall notify the employer of that intention as soon as is reasonably practicable before the employee is due to start work on the day that is intended to be taken as domestic violence leave.
- (2) Where it is not reasonably practicable to notify an employer of an intention to take domestic violence leave before the start of the working day of the employee concerned, the employee shall notify the

[SECTION 17]

employer as soon as reasonably practicable after the start of that working day.

- (3) For the purposes of subsections (1) and (2), a notification shall—
  - (a) be given in the prescribed form,
  - (b) specify the dates on which the employee intends to take domestic violence leave or the dates on which such leave was taken, as the case may be, and
  - (c) contain a statement of the facts entitling the employee to domestic violence leave.
- (4) An employer—
  - (a) shall maintain confidentiality in respect of all matters that come to the employer's knowledge in relation to domestic violence leave taken by the employee concerned, and
  - (b) shall not disclose personal information, or information that may otherwise identify the person, relating to the domestic violence leave taken by the employee concerned except—
    - (i) to employees or agents of the employer who require the information to carry out their duties,
    - (ii) as required by law, or
    - (iii) with the consent of the employee to whom the domestic violence leave relates.
- (5) A person who fails to comply with subsection (4) commits an offence.

**Pay for domestic violence leave**

- 23E.** (1) The pay in respect of an employee's domestic violence leave shall—
- (a) where applicable, be paid to the employee in advance of his or her taking the leave,
  - (b) be at the normal weekly rate, or as the case may be, at a rate which is proportionate to the normal weekly rate, and
  - (c) in a case in which board or lodging or, as the case may be, both board and lodging constitute part of the employee's remuneration, include compensation, calculated at the prescribed rate, for any such board or lodging as will not be received by the employee whilst on domestic violence leave.
- (2) In this section, 'normal weekly rate' means the normal weekly rate of the pay of the employee concerned determined in accordance with regulations made by the Minister for the purposes of this section.

**Protection of employment rights**

- 23F.** (1) An employee shall, while on domestic violence leave be regarded for

[SECTION 17]

all purposes relating to his or her employment as still working in the employment concerned and none of his or her rights relating to the employment shall be affected by availing of domestic violence leave.

(2) Absence from employment while on domestic violence leave shall not be treated as part of any other leave (including sick leave, annual leave, adoptive leave, maternity leave, paternity leave, parental leave and *force majeure* leave) to which the employee concerned is entitled.

(3) Where an employee who is—

- (a) on probation in his or her employment,
- (b) undergoing training in relation to that employment,
- (c) employed under a contract of apprenticeship,

takes domestic violence leave, and his or her employer considers that the employee's absence from his or her employment while on such leave would not be consistent with the continuance of probation, training or apprenticeship, the employer may require that the probation, training or apprenticeship shall stand suspended during the period of leave concerned and be completed by the employee at the end of that period.

(4) Each of the following shall be void:

- (a) any purported termination of employment of an employee while the employee is absent from work on domestic violence leave;
- (b) any purported suspension from employment of an employee while the employee is absent from work on domestic violence leave;
- (c) any notice of termination of the employment of an employee given while the employee is absent from work on domestic violence leave.

(5) A notice of termination of employment given in respect of an employee or a suspension from employment imposed on an employee—

- (a) before the employee commences a period of domestic violence leave, or
- (b) before the receipt by the employee's employer of a notification for the purposes of section 23C,

and due to expire during the employee's absence from work on the leave concerned shall be extended by the period of such absence.

(6) An employee who is absent from work while on domestic violence leave shall be entitled to return to work—

- (a) with the employer with whom the employee was working immediately before the commencement of the period of absence, or

[SECTION 17]

where during the employee's absence from work there was a change of ownership of the undertaking in which the employee was employed immediately before the absence, with the owner (in this section referred to as the 'successor') of the undertaking at the expiry of the period of absence,

- (b) in the job which the employee held immediately before the commencement of that period,
  - (c) under the contract of employment under which the employee was employed immediately before the commencement of that period or, where a change of ownership such as is referred to in paragraph (a) has occurred, under a contract of employment with the successor which is identical to the contract under which the employee was employed immediately before the commencement of that period, and (in either case) under terms or conditions—
    - (i) not less favourable than those that would have been applicable to the employee, and
    - (ii) that incorporate any improvement to the terms or conditions of employment to which the employee would have been entitled, if he or she had not been so absent from work, and
  - (d) on the first working day following the date or period of dates notified for the purposes of section 23D(3)(b).
- (7) For the purposes of subsection (6)(b), where the job held by an employee immediately before the commencement of the period of absence concerned was not the employee's normal or usual job, the employee shall be entitled to return to work, either in his or her normal or usual job or in the job so held as soon as practicable without contravention by the employee or the employer of any provision of a statute or instrument made under statute.
- (8) In this subsection—
- 'expected date of return', in relation to a relevant employee, means the first working day following the date or period of dates notified for the purposes of section 23D(3)(b);
- 'relevant employee' means an employee who, having duly complied with section 23D, is entitled under this section to return to work but is not permitted to do so by the employer concerned.
- (9) For the purposes of the Redundancy Payments Acts 1967 to 2014, a relevant employee to whom those Acts apply shall be deemed to have been dismissed by reason of redundancy, the date of dismissal being deemed to be the expected date of return.
- (10) For the purposes of the Minimum Notice and Terms of Employment Act 1973, the contract of employment of a relevant employee to whom

that Act applies shall be deemed to have been terminated on the expected date of return.

- (11) For the purposes of the Unfair Dismissals Act 1977—
  - (a) a relevant employee to whom that Act applies shall be deemed to have been dismissed on the expected date of return, and
  - (b) the dismissal shall be deemed to be an unfair dismissal unless, having regard to all the circumstances, there were substantial grounds justifying the dismissal.

**Termination or refusal of domestic violence leave**

- 23G.** (1) Where an employer has reasonable grounds for believing that an employee who is on domestic violence leave is not using the leave for a purpose specified in section 23B (3), the employer may, by notice in writing given to the employee, terminate the leave and the notice shall contain a statement in summary form of the grounds for terminating the leave and shall specify the day (being a day not later than the date of the end of the leave specified in the notification given for the purposes of section 23D(3)(b) nor, subject to the foregoing requirement, earlier than 5 days after the date of the receipt by the employee concerned of the notice).
- (2) Where domestic violence leave is terminated under subsection (1), the employee concerned shall return to his or her employment on the day specified in the notice under that subsection concerned and any period between the date of such return and the date of the end of the period of the leave specified for the purposes of section 23D shall be deemed not to be domestic violence leave.
  - (3) Where an employee gives his or her employer a notice under section 23D and the employer has reasonable grounds for believing that the employee is not entitled to the domestic violence leave concerned, the employer may, by notice in writing given to the employee, refuse to grant the leave to the employee and, if the employer does so, the employee shall not be entitled to take the domestic violence leave concerned.
  - (4) A notice under subsection (3) shall contain a statement in summary form of the grounds for refusing to grant the domestic violence leave concerned.
  - (5) Where an employer proposes to give a notice under subsection (1) or (3) to an employee of his or hers, the employer shall, before giving the notice, give notice in writing of the proposal to the employee and the notice shall contain a statement in summary form of the grounds for terminating, or, as the case may be, refusing to grant, the domestic violence leave concerned and a statement that the employee may within 5 days of the receipt of the notice make representation to the employer in relation to the proposal; and any such representations

made by an employee to an employer within the period aforesaid shall be considered by the employer before he or she decides whether to give a notice under subsection (1) or (3), as the case may be, to the employee.

- (6) A person shall retain a notice given to him or her under this section for 8 years or such other period of time as may be prescribed.
- (7) A person who gives a notice under this section shall retain a copy of the notice.

**Decision under section 41 or 44 of Workplace Relations Act 2015**

**23H.** (1) A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a dispute between an employee and his or her employer relating to the entitlements of the employee under this Part (or any matter arising out of or related to those entitlements or otherwise arising under this Part) or a decision of the Labour Court under section 44 of the said Workplace Relations Act 2015 on appeal from the first-mentioned decision, may contain such directions to the parties concerned as the adjudication officer or the Labour Court, as the case may be, considers necessary or expedient for the resolution of the dispute or matter and such other redress as the adjudication officer or the Labour Court, as the case may be, considers appropriate having regard to all of the circumstances and the provisions of this Part, and accordingly may specify—

- (a) the grant to the employee of domestic violence leave of such length to be taken at such time or times and in such manner as may be so specified,
  - (b) an award of compensation in favour of the employee concerned to be paid by the employer concerned, or
  - (c) both a grant referred to in paragraph (a) and an award referred to in paragraph (b).
- (2) An award of compensation referred to in subsection (1)(b) shall be of such amount as the adjudication officer or the Labour Court, as the case may be, considers just and equitable having regard to all the circumstances but shall not exceed 2 weeks' remuneration in respect of the employee's employment calculated in such manner as may be prescribed.
- (3) In this section, 'remuneration' includes allowances in the nature of pay and benefits in lieu of or in addition to pay."."

—Kathleen Funchion, Louise O'Reilly, Mark Ward.

*[Acceptance of this amendment involves the deletion of section 17 of the Bill.]*

**40.** In page 18, line 8, after “purposes” to insert “, domestic violence leave”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

[SECTION 17]

41. In page 18, line 10, after “leave”,” to insert “and”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

42. In page 18, line 11, after “purposes” to insert “, domestic violence leave”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

SECTION 18

43. In page 18, between lines 13 and 14, to insert the following:

**“Amendment of National Minimum Wage Act 2000**

18. The National Minimum Wage Act 2000 is amended in section 8(2)(ii) by the insertion of “leave for medical care purposes, domestic violence leave,” after “parental leave,”.”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

44. In page 18, line 21, after “1994;,” to insert “and”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

45. In page 18, between lines 23 and 24, to insert the following:

“(c) in section 41(7), by the insertion of the following paragraph after paragraph (f)—

“(fa) In the case of a dispute relating to the entitlement of an employee under Part IIIA\* of the Organisation of Working Time Act 1997, it has been referred to the Director General after the expiration of the period of 6 months beginning on—

(i) the date on which the employer is notified for the purposes of section 23D of that Act of the employee’s intention to take domestic violence leave within the meaning of that Act, or

(ii) the day immediately following the date or period of dates notified for the purposes of section 23D(3)(b) of that Act,

whichever is earlier.”,

- (d) in Schedule 5, Part 3, by the insertion of the following paragraph after paragraph 6:

“7. Part IIIA\* of the Organisation of Working Time Act 1997”,

and

- (e) in Schedule 6—

(i) in Part 1, by the insertion of the following paragraph after paragraph 9:

“9A. Section 23H(1) of the Organisation of Working Time Act 1997”,

and

(ii) in Part 2, by the insertion of the following paragraph after paragraph 9:

[SECTION 18]

“9A. Section 23H(1) of the Organisation of Working Time Act 1997”.

—Kathleen Funchion, Louise O'Reilly, Mark Ward.

[\*This is a reference to a Part proposed to be inserted by amendment No. 39.]

TITLE

**46.** In page 3, line 13, after “1997” to insert “, the National Minimum Wage Act 2000”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.