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**An Bille um Chothromaíocht Oibre agus Saoil agus  
Forálacha Ilghnéitheacha, 2022**  
**Work Life Balance and Miscellaneous Provisions  
Bill 2022**

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*Meabhrán Míniúcháin agus Airgeadais*  
*Explanatory and Financial Memorandum*

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

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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**Purpose of the Bill**

The purpose of the Bill is to give further effect to Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU and, for that purpose, to amend the Parental Leave Act 1998 to entitle certain employees to leave for medical care purposes and to request flexible working arrangements for caring purposes.

The Bill also amends the Maternity Protection Act 1994 to extend the entitlement to breastfeeding breaks to two years after the birth of the child and to ensure that a transgender male who has in accordance with the Gender Recognition Act 2015, obtained a gender recognition certificate and subsequently becomes pregnant, to fall within the scope of the Maternity Protection Act 1994.

The Bill also amends the Adoptive Leave Act 1995 to correct anomalies arising from the amendments made under the Family Leaves and Miscellaneous Provisions Act 2021.

The Bill also makes necessary consequential amendments to the Redundancy Payments Act 1967, the Unfair Dismissals Act 1977, the Organisation of Working Time Act 1997 and the Workplace Relations Act 2015.

**Financial Implications**

The amendments to the Parental Leave Act 1998 will result in replacement costs in the civil and public service the staff availing of the entitlement to leave for medical care purposes.

There are no costs arising from the amendments to the Maternity Protection Act 1994 or to the Adoptive Leave Act 1995.

**Provisions of the Bill**

*Section 1* provides that ‘Principal Act’ means the Parental Leave Act 1998.

*Section 2* inserts definitions for “adopting parent”, “adoptive parent”, “approved flexible working arrangement”, “civil partner”, “cohabitant”, “continuous employment”, “flexible working arrangement”, “household”, “relevant parent”, and “request for flexible working arrangement” and substitutes the definition of “employee”. The section also inserts a new subsection 3A into the Principal Act which sets out when a person will

be considered to be in need of significant care or support. The section also replaces subsection 4 of the Principal Act with a new subsection that provides a word or expression used in the Act and also in Directive (EU) 2019/1158 of 20 June 2019 shall have the same meaning in this Act as in the Directive.

*Section 3* amends Section 6 of the Principal Act by inserting a new subsection 3A to define a period of continuous employment. The section also deletes definitions for “adopting parent”, “adoptive parent”, “continuous employment” and “relevant parent” in subsection 9 of section 6 of the Principal Act.

*Section 4* amends Section 10 of the Principal Act substituting “ill or incapacitated” for “sick” and “illness and incapacity” for “sickness”.

*Section 5* inserts a new section 13A into the Principal Act to provide for an entitlement to five days of leave for medical care purposes. The leave must be available for a relative defined as the employee’s son, daughter, mother, father, spouse or civil partner or for a person who lives in the same household as the employee and is in need of significant care or support for a serious medical condition. The leave cannot be taken in periods of less than one day. Neither a period of work qualification nor prior notice of the leave is required. However an employer can require prior medical certification of the need for significant care or support for a serious medical reason.

*Section 6* inserts a new Part IIA into the Principal Act, which provides new sections 13B, 13C, 13D, 13E, 13F and 13G. These new sections provide for a right to request flexible working and set out who may make a request, the process for making a request, the time limit for an employer to respond to a request, grounds for postponement, how an approved request could be amended, an early return by the employee to a previous working arrangement and the process should a flexible working arrangement be abused.

*Section 7* amends section 14 of the Principal Act, to provide for the protection of employment rights for employees who avail of leave for medical care purposes.

*Section 8* amends section 15 of the Principal Act, to provide an employee who avails of leave for medical care purposes or *force majeure* leave to return to work and to the job held immediately before the commencement of the leave.

*Section 9* amends section 16A of the Principal Act, to include an employee who exercises their right to avail of or who requests to avail of leave for medical care purposes or who exercising their right to make a request to avail of a flexible working arrangement for caring purposes, or commences such an arrangement, to protection from penalisation by their employer for exercising that right.

*Section 10* amends section 21 of the Principal Act, to confirm that a decision under section 41 or 44 of the Workplace Relations Act 2015 in that section relates to a dispute in relation to an entitlement under the Principal Act, other than in relation to the right to request a flexible working arrangement for caring purposes.

*Section 11* inserts a new section 21A into the Principal Act, which sets out certain directions to an employer that may be included in a decision of an Adjudication Officer under section 41 of the Workplace Relations Act 2015 or a decision of the Labour Court under section 44 of the Workplace Relations Act 2015 in relation to a dispute in relation to a request for a flexible working arrangement for caring purposes.

*Section 12* amends Section 27 of the Principal Act, to include leave for medical care purposes and an approved flexible working arrangement in the records that must be retained by an employer. The section also sets out that such records must be retained for a period of three years.

*Section 13* amends Schedule 3 of the Redundancy Payments Act 1967 to include that continuity of employment will not be broken where an employee takes leave for medical care purposes or commences a flexible working arrangement.

*Section 14* amends the Unfair Dismissals Act 1977, to include dismissal of an employee resulting wholly or mainly due to their exercising or proposing to exercise their right to leave for medical care purposes or to request a flexible working arrangement for caring purposes, to be an unfair dismissal.

*Section 15* amends the Maternity Protection Act 1994 by substituting a new definition for “employee who is breastfeeding”, the deletion of s.7(2) and by the amendment of s.16(1) by substituting “woman or other person” for “woman”.

*Section 16* amends the Adoptive Leave Act 1995 to provide for situations in which adopters are male as well as female.

*Section 17* amends the Organisation of Working Time Act 1997, to provide that a reference period for weekly working hours or for night work shall not include a period of absence while on leave for medical care purposes or a flexible working arrangement for caring purposes.

*Section 18* amends the Workplace Relations Act 2015, to amend an anomaly which arose as a result of the Children and Family Relationships Act 2015 being enacted shortly before the Workplace Relations Act 2015 (6 April 2015 and 20 May 2015 respectively) and where provisions of the Workplace Relations Bill were not amended to take account of the provisions of the Children and Family Relationships Bill. It is necessary to bring forward amendments to the Workplace Relations Act 2015 to reflect the legislative intention behind section 176(f) of the Children and Family Relationships Act 2015. The section also provides for circumstances where the mother of a baby has died and the other parent is not the baby’s father. To allow that other parent to present a complaint under the Maternity Protection Act 1994 to the Director General of the Workplace Relations Commission.

*Section 19* is a standard provision dealing with the title and commencement of the Bill.

*An Roinn Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus  
Óige  
Deireadh Fómhair, 2022.*