



**An Bille um Chothromaíocht Oibre agus Saoil agus Forálacha Ilghnéitheacha,
2022**

Work Life Balance and Miscellaneous Provisions Bill 2022

Mar a leasaíodh sa Roghchoiste um Leanáí, Comhionannas, Michumas, Lánpháirtíocht agus Óige

As amended in the Select Committee on Children, Equality, Disability, Integration and Youth



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

Mar a leasaíodh sa Roghchoiste um Leanaí, Comhionannas, Míchumas, Lánpháirtíocht agus Óige

As amended in the Select Committee on Children, Equality, Disability, Integration and Youth

CONTENTS

Section

1. Definition
2. Amendment of section 2 of Principal Act
3. Amendment of section 6 of Principal Act
4. Amendment of section 10 of Principal Act
5. Leave for medical care purposes
6. Domestic violence leave
7. Insertion of new Part IIA in Principal Act
8. Amendment of section 14 of Principal Act
9. Amendment of section 15 of Principal Act
10. Amendment of section 16A of Principal Act
11. Amendment of section 21 of Principal Act
12. Decision under section 41 or 44 of Workplace Relations Act 2015 in relation to request under section 13B
13. Amendment of section 27 of Principal Act
14. Amendments of Schedule 3 to Redundancy Payments Act 1967
15. Amendment of section 6 of Unfair Dismissals Act 1977
16. Amendments of Maternity Protection Act 1994
17. Amendments of Adoptive Leave Act 1995
18. Amendments of Organisation of Working Time Act 1997
19. Amendment of National Minimum Wage Act 2000
20. Amendments of Workplace Relations Act 2015
21. Short title, collective citation and commencement

ACTS REFERRED TO

Adoptive Leave Act 1995 (No. 2)
Children and Family Relationships Act 2015 (No. 9)
Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24)
Civil Service Regulation Act 1956 (No. 46)
Domestic Violence Act 2018 (No. 6)
Freedom of Information Act 2014 (No. 30)
Local Government Act 2001 (No. 37)
Local Government Reform Act 2014 (No. 1)
Maternity Protection Act 1994 (No. 34)
Medical Practitioners Act 2007 (No. 25)
National Minimum Wage Act 2000 (No. 5)
Organisation of Working Time Act 1997 (No. 20)
Parental Leave Act 1998 (No. 30)
Parental Leave Acts 1998 to 2019
Redundancy Payments Act 1967 (No. 21)
Unfair Dismissals Act 1977 (No. 10)
Workplace Relations Act 2015 (No. 16)



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ILGHNÉITHEACHA, 2022
WORK LIFE BALANCE AND MISCELLANEOUS PROVISIONS BILL 2022**

Bill

entitled

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An Act to give further effect to Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019¹ 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; and for those and other purposes to amend the Redundancy Payments Act 1967, the Unfair Dismissals Act 1977, the Maternity Protection Act 1994, the Adoptive Leave Act 1995, the Organisation of Working Time Act 1997, the National Minimum Wage Act 2000 and the Workplace Relations Act 2015; and to provide for related matters.

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Be it enacted by the Oireachtas as follows:

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Definition

1. In this Act, “Principal Act” means the Parental Leave Act 1998.

Amendment of section 2 of Principal Act

2. The Principal Act is amended in section 2—

(a) in subsection (1)—

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(i) by the insertion of the following definitions:

“ ‘adopting parent’ means a qualifying adopter or a surviving parent within the meaning of the definitions of ‘qualifying adopter’ and ‘surviving parent’ in section 2(1) of the Adoptive Leave Act 1995 but as if, in both of those definitions, ‘or is to be placed’ were omitted in each place where it occurs;

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‘adoptive parent’, in relation to a child, means a person in whose favour an adoption order in respect of the child has been made and is in force;

¹ OJ No. L 188, 12.7.2019, p.79

‘approved flexible working arrangement’ means a flexible working arrangement, the request for which has been approved under section 13C(1)(a);

‘civil partner’ shall be construed in accordance with section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010; 5

‘cohabitant’ shall be construed in accordance with section 172(1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘continuous employment’ includes employment completed by an employee under two or more continuous fixed-term contracts with the same employer; 10

‘flexible working arrangement’ means a working arrangement where an employee’s working hours or patterns are adjusted, including through the use of remote working arrangements, flexible working schedules or reduced working hours; 15

‘household’ means a person who lives alone or 2 or more persons who live together;

‘relevant parent’, in relation to a child, means a person who is—

(a) the parent, the adoptive parent or the adopting parent in respect of the child, or 20

(b) acting in *loco parentis* to the child;

‘request for a flexible working arrangement’ means a request referred to under section 13B(1);”;

(ii) by the substitution of the following definition for the definition of “employee”: 25

“ ‘employee’ means a person of any age who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and includes a part-time employee and a fixed-term employee, and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer; and for the purposes of this Act, a person holding office under, or in the service of, the State (including a member of the Garda Síochána or the Defence Forces or a civil servant within the meaning of the Civil Service Regulation Act 1956) shall be deemed to be an employee employed by the head (within the meaning of the Freedom of Information Act 2014), of the public body (within the meaning aforesaid) in which he or she is employed and an officer or servant of a local authority for the purposes of the Local Government Act 2001 (as amended by the Local Government Reform Act 2014), or of a harbour authority, the Health Service Executive or a member of staff of an education and training board shall be deemed to 30 35 40

be an employee employed by the authority, Executive or board, as the case may be;”,

(b) by the insertion of the following subsection after subsection (3):

“(3A) For the purposes of this Act, a person shall be considered to be in need of significant care or support for a serious medical reason where, owing to the person’s disability, injury or illness, he or she requires such care or support that includes the presence of the employee at the place where the person is.”, 5

and

(c) by the substitution of the following subsection for subsection (4): 10

“(4) A word or expression used in this Act and also in Directive (EU) 2019/1158 of 20 June 2019² shall have the same meaning in this Act as in that Directive.”.

Amendment of section 6 of Principal Act

3. Section 6 of the Principal Act is amended— 15

(a) by the insertion of the following subsection after subsection (3):

“(3A) For the purposes of this section, where an employee ceases to be the employee of an employer and, not more than 26 weeks after the date of cesser, the employee again becomes the employee of the employer, the period of service of that employee with that employer before the date of cesser shall be deemed to be continuous with the period of service of that employee with that employer after again becoming such employee.”, 20

and

(b) in subsection (9) by the deletion of the following definitions: 25

- (i) “adopting parent”;
- (ii) “adoptive parent”;
- (iii) “continuous employment”;
- (iv) “relevant parent”.

Amendment of section 10 of Principal Act

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4. Section 10 of the Principal Act is amended—

(a) in subsection (2)(b), by the substitution of—

- (i) “ill or incapacitated” for “sick”, in each place that it occurs, and
- (ii) “illness or incapacity” for “sickness”,

and

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2 OJ No. L 188, 12.7.2019, p.79

- (b) in subsection (5), by the substitution of “illness or incapacity” for “sickness”, in each place that it occurs.

Leave for medical care purposes

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

- “13A.(1) An employee shall be entitled to leave without pay from his or her employment, to be known and referred to in this Act as leave for medical care purposes, for the purposes of providing personal care or support to a person to whom this subsection applies. 5
- (2) Subsection (1) applies to a person who—
- (a) is one of the following: 10
- (i) a person of whom the employee is the relevant parent;
 - (ii) the spouse or civil partner of the employee;
 - (iii) the cohabitant of the employee;
 - (iv) a parent or grandparent of the employee;
 - (v) a brother or sister of the employee; 15
 - (vi) a person, other than one specified in any of subparagraphs (i) to (v), who resides in the same household as the employee,
- and
- (b) is in need of significant care or support for a serious medical reason. 20
- (3) Leave for medical care purposes 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 and shall not be taken in a period of less than one day. 25
- (4) A day on which an employee is absent from work on leave for medical care purposes 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 leave for medical care purposes. 30
- (5) When an employee takes or intends to take leave under this section, he or she shall, as soon as reasonably practicable, confirm in the prescribed form given to his or her employer, that he or she has taken or intends to take, as the case may be, such leave.
- (6) A confirmation under subsection (5) shall— 35
- (a) specify the date of commencement of the leave for medical care purposes and its duration,
 - (b) contain a statement of the facts entitling the employee to the leave, and

- (c) be signed by the employee concerned.
- (7) On receipt of a confirmation under subsection (5), an employer shall retain the confirmation and shall provide the employee with a written acknowledgment of the receipt of the confirmation, which shall be retained by the employee. 5
- (8) An employee who has given a confirmation to his or her employer under subsection (5) shall, if the employer so requests, furnish to the employer such information as the employer may reasonably require in relation to—
 - (a) the employee’s relationship with the person in respect of whom the leave for medical care purposes is proposed to be taken or was taken, as the case may be, 10
 - (b) the nature of the personal care or support required to be given by the employee to the person concerned, and
 - (c) relevant evidence relating to the need of the person for the significant care or support concerned. 15
- (9) In subsection (8)(c), ‘relevant evidence’, in relation to the person for whom the care or support is or is proposed to be provided, means—
 - (a) a medical certificate—
 - (i) stating that the person named in the certificate is (or where the leave has already been taken) was in need of significant care or support for a serious medical reason, and 20
 - (ii) signed by a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007,
 - or 25
 - (b) if the employee does not have a medical certificate referred to in paragraph (a), such evidence as the employer concerned may reasonably require in order to show that the person concerned is or was in need of significant care or support for a serious medical reason.”. 30

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— 35
- (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

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; 5
 - (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. 10
- (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. 15
- (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. 20
- (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. 25
- (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, 30
 - (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 35
 - (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 hours worked on a Sunday, allowances, emoluments, premium pay (or its equivalent), or any other payment as the Minister considers 40

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; 5
 - (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; 10
 - (d) annual and quarterly data on earnings and labour costs as published by the Central Statistics Office; 15
 - (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. 20
- (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; 25
- ‘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— 30
- (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; 35
- ‘relevant person’ means, in relation to an employee—
- (a) the spouse or civil partner of the employee,
 - (b) the cohabitant of the employee, 40

- (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.”.

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Insertion of new Part IIA in Principal Act

7. The Principal Act is amended by the insertion of the following Part after Part II:

“PART IIA

REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS FOR CARING PURPOSES

Right to request a flexible working arrangement for caring purposes 10

13B. (1) The following may request a flexible working arrangement:

- (a) an employee who is a relevant parent of a child and who is or will be providing care to that child for the purpose of providing care to that child;
- (b) an employee who is or will be providing personal care or support to a person to whom this paragraph applies for the purpose of providing such care or support to that person. 15

(2) Subsection (1)(b) applies to a person who—

- (a) is one of the following:
 - (i) a person of whom the employee is the relevant parent; 20
 - (ii) the spouse or civil partner of the employee;
 - (iii) the cohabitant of the employee;
 - (iv) a parent or grandparent of the employee;
 - (v) a brother or sister of the employee;
 - (vi) a person, other than one specified in any of subparagraphs (i) to (v), who resides in the same household as the employee, 25

and

(b) is in need of significant care or support for a serious medical reason.

(3) A flexible working arrangement for the care of a child referred to in subsection (1)(a) shall end— 30

- (a) subject to paragraphs (b) and (c), not later than the day on which the child concerned has attained the age of 12 years,
- (b) subject to paragraph (c), in the case of a child who—

- (i) is the subject of an adoption order, and
 - (ii) has, on or before the date of the making of that order, attained the age of 10 years but not 12 years,
 - not later than the expiration of the period of 2 years beginning on that date, or 5
- (c) if the child concerned has a disability or a long-term illness, as defined in section 6(9), not later than the date on which the child—
 - (i) attains the age of 16 years, or
 - (ii) ceases to have that disability or long-term illness or any other disability or long-term illness, 10
 whichever first occurs.
- (4) An employee's approved flexible working arrangement shall not commence before a time when the employee concerned has completed 6 months continuous employment with the employer concerned.
- (5) For the purposes of this section, where an employee ceases to be the employee of an employer and, not more than 26 weeks after the date of cesser, the employee again becomes the employee of the employer, the period of service of that employee with that employer before the date of cesser shall be deemed to be continuous with the period of service of that employee with that employer after again becoming such employee. 15
- (6) A request for a flexible working arrangement referred to in subsection (1) shall—
 - (a) be in writing and signed by the employee,
 - (b) specify the form of the flexible working arrangement requested and the date of commencement and duration of the flexible working arrangement, and 25
 - (c) be submitted to his or her employer as soon as reasonably practicable but not later than 8 weeks before the proposed commencement of the flexible working arrangement. 30
- (7) An employee who has submitted a request in accordance with subsection (6) to his or her employer shall, if the employer so requests, furnish to the employer such information as the employer may reasonably require in relation to the person in respect of whom the request is made, including— 35
 - (a) in the case of a child referred to in subsection (1)(a), a copy of the child's birth certificate or a certificate of placement within the meaning of the Adoptive Leave Act 1995, or
 - (b) in the case of a person referred to in subsection (1)(b):
 - (i) the employee's relationship with the person in respect of whom the request is made, 40

- (ii) the nature of the significant care or support which the person concerned is in need of, and
 - (iii) relevant evidence relating to the need of the person for the significant care or support concerned.
- (8) Before the date on which an agreement referred to in section 13C(1)(a) is signed, the employee may, by notice in writing signed by him or her and given to the employer, withdraw a request submitted in accordance with subsection (6) by him or her. 5
- (9) In subsection (7)(b)(iii), ‘relevant evidence’, in relation to the person for whom the care or support is to be provided, means— 10
- (a) a medical certificate—
 - (i) stating that the person named in the certificate is in need of significant care or support for a serious medical reason, and
 - (ii) signed by a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007, 15
 - or
 - (b) if the employee does not have a medical certificate referred to in paragraph (a), such evidence as the employer concerned may reasonably require in order to show that the person concerned is in need of significant care or support for a serious medical reason. 20

Time limit to make a decision

- 13C.** (1) An employer who receives a request for a flexible working arrangement submitted in accordance with section 13B(6) shall consider that request, having regard to his or her needs and the employee’s needs and, as soon as reasonably practicable but, subject to subsection (3), not later than 4 weeks after receipt of the request, shall— 25
- (a) approve the request, which approval shall include an agreement prepared and signed by the employer and employee setting out—
 - (i) the details of the flexible working arrangement, and 30
 - (ii) subject to subsection (2), the date of the commencement of the proposed flexible working arrangement,
 - (b) provide a notice in writing informing the employee that the request has been refused and the reasons for the refusal, or
 - (c) where subsection (3) applies, provide a notice in writing to the employee that the employer has extended the 4-week period under this subsection for a further period specified in the notice. 35
- (2) Where the commencement of a proposed flexible working arrangement is postponed in accordance with section 13D, the agreement referred to in paragraph (1)(a) shall set out the commencement date agreed to under section 13D(1). 40

(3) Where an employer is having difficulty assessing the viability of the request for a flexible working arrangement, the employer may extend the 4-week period referred to in subsection (1) by a further period not exceeding 8 weeks.

(4) When the agreement referred to in subsection (1)(a) is signed by the employer and the employee, the employer shall retain the agreement and provide a copy of the agreement to the employee who shall retain it. 5

Grounds for postponement

13D. (1) Subject to this section, where an employer is satisfied that the commencement of a proposed flexible working arrangement would have a substantial adverse effect on the operation of his or her business, profession or occupation, by reason of seasonal variations in the volume of the work concerned, the unavailability of a person to carry out the duties of the employee in the employment, the nature of those duties, the number of employees in the employment or the number thereof whose periods, or parts of whose periods, of an approved flexible working arrangement will fall within the period specified in the employee's approved flexible working arrangement or any other relevant matters, the employer may, by notice in writing, postpone the commencement of the flexible working arrangement to such time not later than 6 months after the date of commencement specified in the request for a flexible working arrangement as may be agreed upon by the employer and the employee. 10 15 20

(2) A notice under subsection (1) shall contain a statement in summary form of the grounds for the postponement of the commencement of the flexible working arrangement concerned. 25

(3) Before informing the employee of a postponement of the commencement of the employee's approved flexible working arrangement, the employer shall consult with the employee in relation to the postponement. 30

(4) The commencement of a flexible working arrangement in respect of a particular child or person may not be postponed more than once under this section unless a ground for the postponement is a seasonal variation in the volume of the work concerned, and, where that is a ground for the postponement, such commencement in respect of a particular child or person may not be postponed more than twice. 35

(5) This section does not apply if an agreement in respect of a request for a flexible working arrangement under section 13C(1)(a) has already been signed by the parties concerned. 40

(6) An employer shall retain a copy of a notice under this section given by him or her to an employee and the employee shall retain the notice.

Changes to proposed flexible working arrangements

13E. (1) If, after the date on which an agreement referred to in section 13C(1) (a) is signed (whether or not the approved flexible working 45

arrangement to which it relates has commenced), the employer and the employee so agree, in writing—

- (a) the flexible working arrangement or part of it may be postponed to such time as may be agreed to,
- (b) the period of the flexible working arrangement may be curtailed in such manner and to such extent as may be agreed to, or
- (c) the form of the flexible working arrangement may be varied in such manner as may be agreed to,

and in such a case the agreement referred to in section 13C(1)(a) shall be deemed to be amended accordingly.

- (2) If, after the date on which an agreement referred to in section 13C(1)(a) is signed and the flexible working arrangement has not commenced, the employee concerned becomes ill or incapacitated such that the employee is unable to care for the person who is the subject of an approved flexible working arrangement, the employee may, by notice in writing given to the employer concerned, as soon as is reasonably practicable after becoming ill or incapacitated, and accompanied by the relevant evidence in respect of the illness or incapacity, postpone the commencement of the flexible working arrangement to such time as the employee is no longer ill or incapacitated, and in such a case the agreement referred to in section 13C(1)(a) shall be deemed to be amended accordingly.

- (3) In subsection (2), ‘relevant evidence’, in relation to an employee, means—

- (a) a medical certificate—
 - (i) stating that the employee named in the certificate is, by reason of the illness or incapacity specified in the certificate, unable to care for the person named in the certificate, and
 - (ii) signed by a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007,

or

- (b) if the employee does not have a medical certificate referred to in paragraph (a), such evidence as the employer concerned may reasonably require in order to show that the employee is, by reason of illness or incapacity, unable to care for the person concerned.

Early return to previous working arrangement

- 13F.** (1) After the date on which an agreement referred to in section 13C(1)(a) is signed and prior to the expiration of the employee’s approved flexible working arrangement, the employee may by notice in writing signed by him or her and given to the employer, request an early return to the original working arrangements that he or she held immediately before the commencement of the flexible working arrangement.

- (2) The notice referred to in subsection (1) shall set out the reasons for the early return to the original working arrangements and the proposed date for the early return.
- (3) An employer who receives a request referred to in subsection (1) shall consider that request, having regard to his or her needs and the employee's needs and, as soon as reasonably practicable but not later than 4 weeks after receipt of the request, shall respond to the employee in writing signed by him or her. 5
- (4) If the employer refuses to agree to the early return to the original working arrangements set out in the notice referred to in subsection (1), the response under subsection (3) by the employer shall provide reasons for the refusal. 10
- (5) On the expiration of the employee's approved flexible working arrangement, the employee concerned shall be entitled to return to the original working arrangement that he or she held immediately before the commencement of the flexible working arrangement. 15

Abuse of flexible working arrangement

- 13G.** (1) An approved flexible working arrangement is subject to the condition that it is used for the purpose for which it was approved.
- (2) Where an employer has reasonable grounds for believing that an employee of his or hers who is on an approved flexible working arrangement is not using the arrangement for the purpose for which it was approved, the employer may, by notice in writing given to the employee, terminate the approved flexible working arrangement and the notice shall contain a statement in summary form of the grounds for terminating the arrangement and shall specify the day (being a day not later than the date of the end of the period of the arrangement specified in the agreement referred to in section 13C(1)(a), nor, subject to the foregoing requirement, earlier than 7 days after the date of the receipt by the employee concerned of the notice). 20 25 30
 - (3) Where an approved flexible working arrangement is terminated under subsection (2), the employee concerned shall return to the employee's original working arrangement on the day specified in the notice under that subsection.
 - (4) Where an employer proposes to give a notice under subsection (2) 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 the flexible working arrangement concerned and a statement that the employee may within 7 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 (2) to the employee. 35 40 45

- (5) A person shall retain a notice under this section given to him or her and a copy of a notice under this section given by him or her.”.

Amendment of section 14 of Principal Act

8. 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”, 5
- (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— 10

(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, 15

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. 20

(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. 25

(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.”. 30

Amendment of section 15 of Principal Act

9. Section 15 of the Principal Act is amended by the insertion of the following after subsection (3): 35

“(4) On the expiration of a day or days of *force majeure* leave, leave for medical care purposes or domestic violence leave, the employee concerned shall be entitled to return to work—

(a) with the employer with whom he or she was working immediately before the start of the day or days concerned or, where during the 40

employee's absence from work there was or were a change or changes of ownership of the undertaking in which he or she was employed immediately before the absence, the owner on the expiration of the day or days ('the successor'),

- (b) in the job that the employee held immediately before the commencement of the day or days concerned, and 5
- (c) under the contract of employment under which the employee was employed immediately before the commencement of the day or days concerned or, where a change of ownership such as is referred to in paragraph (a) has occurred, under a contract of employment with the successor that is identical to the contract under which the employee was employed immediately before such commencement, and (in either case) under terms or conditions— 10
 - (i) not less favourable than those that would have been applicable to the employee, and 15
 - (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.
- (5) For the purposes of subsection (4)(b), where the job held by an employee immediately before the commencement of a day or days of *force majeure* leave, leave for medical care purposes or domestic violence leave to which he or she is entitled was not the employee's normal or usual job, he or she shall be entitled to return to work, either in his or her normal or usual job or in that job as soon as is practicable without contravention by the employee or the employer of any provision of a statute or provision made under statute. 20 25
- (6) Where, because of an interruption or cessation of work at an employee's place of employment, existing on the expiration of a day or days of *force majeure* leave, leave for medical care purposes or domestic violence leave taken by the employee, it is unreasonable to expect the employee to return to work on such expiration, the employee may return to work instead when work resumes at the place of employment after the interruption or cessation, or as soon as reasonably practicable after such resumption." 30

Amendment of section 16A of Principal Act 35

10. Section 16A of the Principal Act is amended by the substitution of the following for subsection (1):

- “(1) An employer shall not penalise an employee for proposing to exercise or having exercised his or her entitlement to parental leave, *force majeure* leave, leave for medical care purposes, domestic violence leave or his or her entitlement to make a request referred to in section 13B(1) or 15A(2).” 40

Amendment of section 21 of Principal Act

11. Section 21 of the Principal Act is amended—

- (a) in subsection (1), by the insertion of “, other than a decision referred to in section 21A(1),” after “A decision”, and
- (b) in subsection (6)(b), by the insertion of “not” after “parental leave”.

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Decision under section 41 or 44 of Workplace Relations Act 2015 in relation to request under section 13B

12. The Principal Act is amended by the insertion of the following section after section 21:

“21A.(1) 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 that Act on appeal from the first mentioned decision, to the effect that an employer has failed to comply with section 13C(1) may—

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(a) direct that the employer comply with subsection (1) of section 13C as if the reference in that subsection to the date that is 4 weeks after the receipt of the employee’s request under section 13B was a reference to such date as may be specified in the direction,

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(b) award compensation in favour of the employee concerned to be paid by the employer concerned, or

(c) specify both a direction referred to in paragraph (a) and an award referred to in paragraph (b).

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(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 20 weeks’ remuneration in respect of the employee’s employment calculated in such manner as may be prescribed.

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(3) In this section ‘remuneration’ includes allowances in the nature of pay and benefits in lieu of or in addition to pay.”

Amendment of section 27 of Principal Act

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13. Section 27 of the Principal Act is amended—

(a) by the substitution of the following for subsection (1):

“(1) An employer shall make a record of the parental leave, *force majeure* leave, leave for medical care purposes, domestic violence leave and approved flexible working arrangements taken by his or her employees showing the period of employment of each employee and the dates and times upon which each employee was on parental leave, *force majeure* leave, leave for medical care purposes, domestic violence leave or an approved flexible working arrangement.”

35

(b) in subsection (2)—

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(i) in paragraph (a), by the substitution of “12 years,” for “12 years, and”, and

(ii) by the insertion of the following paragraphs after paragraph (b):

“(c) where the record is in respect of leave for medical care purposes, for a period of 3 years, and

(d) where the record is in respect of an approved flexible working arrangement, for a period of 3 years.”, 5

and

(c) in subsection (4), by the substitution of “paragraph (a), (b), (c) or (d)” for “paragraph (a) or (b)”.

Amendments of Schedule 3 to Redundancy Payments Act 1967

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14. The Redundancy Payments Act 1967 is amended in Schedule 3—

(a) by the substitution of the following for paragraph 5(c)(ii):

“(ii) while on parental leave, *force majeure* leave, leave for medical care purposes, domestic violence leave or on a flexible working arrangement under the Parental Leave Act 1998, or”, 15

and

(b) by the substitution of the following for paragraph 8A(b)(ii):

“(ii) while on parental leave, *force majeure* leave, leave for medical care purposes, domestic violence leave or on a flexible working arrangement under the Parental Leave Act 1998, or”. 20

Amendment of section 6 of Unfair Dismissals Act 1977

15. The Unfair Dismissals Act 1977 is amended in section 6(2)(dd), by the insertion of “, leave for medical care purposes, domestic violence leave or a request for a flexible working arrangement” after “*force majeure* leave”. 25

Amendments of Maternity Protection Act 1994

16. The Maternity Protection Act 1994 is amended—

(a) in section 2(1), by the substitution of the following definition for the definition of “employee who is breastfeeding”: 30

“ ‘employee who is breastfeeding’ means at any time an employee whose date of confinement was not more than one hundred and four weeks earlier, who is breastfeeding and who has informed her employer of her condition;”,

(b) by the deletion of section 7(2), and 35

(c) in section 16(1), by the substitution of “woman or other person” for “woman”.

Amendments of Adoptive Leave Act 1995

17. The Adoptive Leave Act 1995 is amended—

- (a) in section 7(2)(c)(ii), by the insertion of “his or” before “her employer”,
- (b) in section 7(3), by the insertion of “his or” before “her employer”,
- (c) in section 9(3)(d), by the substitution of “surviving parent” for “adopting father”, 5
- (d) in section 19(1)—
 - (i) by the insertion of “him or” after “permit”, and
 - (ii) by the insertion of “he or” after “in accordance with that section,”,
- (e) in section 42(2), by the insertion of “his or” before “her” in each place that it occurs, 10
- (f) in section 42(4), by the insertion of “his or” before “her” in each place that it occurs,
- (g) in section 43(1), by the insertion of “he or” before “she” in each place that it occurs,
- (h) in section 43(2)— 15
 - (i) by the insertion of “his or” before “her” in each place that it occurs, and
 - (ii) by the insertion of “he or” before “she”,and
- (i) in section 44(1)—
 - (i) by the insertion of “his or” before “her” in each place that it occurs, and 20
 - (ii) by the insertion of “he or” before “she” in each place that it occurs.

Amendments of Organisation of Working Time Act 1997

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

- (a) in section 15(4)(aa), by the insertion of “, leave for medical care purposes, domestic violence leave or an approved flexible working arrangement within the meaning of the Parental Leave Act 1998” after “*force majeure* leave”, and 25
- (b) in section 16(5)(cc), by the insertion of “, leave for medical care purposes, domestic violence leave or an approved flexible working arrangement within the meaning of the Parental Leave Act 1998” after “*force majeure* leave”.

Amendment of National Minimum Wage Act 2000

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19. 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,”.

Amendments of Workplace Relations Act 2015

20. The Workplace Relations Act 2015 is amended—

(a) in section 2, by the insertion of the following definitions:

“ ‘Act of 2015’ means the Children and Family Relationships Act 2015;

‘expectant father’ has the same meaning as it has in the Maternity Protection Act 1994;

‘other parent’ has the same meaning as it has in the Maternity Protection Act 1994;” 5

and

(b) in section 41, by the substitution in subsection (7)(c)(iii) of “father or other parent” for “father”.

Short title, collective citation and commencement

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21. (1) This Act may be cited as the Work Life Balance and Miscellaneous Provisions Act 2022.

(2) The Parental Leave Acts 1998 to 2019 and *sections 2 to 13* may be cited together as the Parental Leave Acts 1998 to 2022.

(3) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions. 15

An Bille um Chothromaíocht Oibre agus
Saoil agus Forálacha Ilghnéitheacha, 2022

BILLE

(mar a leasaíodh sa Roghchoiste um Leanaí,
Comhionannas, Míchumas, Lánpháirtíocht agus
Óige)

dá ngairtear

Acht do thabhairt tuilleadh éifeachta do Threoir (AE) 2019/1158 ó Pharlaimint na hEorpa agus ón gComhairle an 20 Meitheamh 2019 maidir le cothromaíocht oibre agus saoil do thuismitheoirí agus do chúramóirí agus lena n-aisghairtear Treoir 2010/18/AE ón gComhairle agus, chun na críche sin, do leasú an Achta um Shaoire do Thuismitheoirí, 1998 d'fhonn teideal a thabhairt d'fhostaithe áirithe maidir le saoire chun críoch cúraim liachta a bheith acu agus maidir le socrúithe oibre solúbtha chun críoch cúraim a iarraidh; agus, chun na gcríoch sin agus chun críoch eile, do leasú an Achta um Iocaíochtaí Iomarcaíochta, 1967, an Achta um Dhífhostú Éagórach, 1977, an Achta um Chosaint Mháithreachais, 1994, an Achta um Shaoire Uchtaíoch, 1995, an Achta um Eagrú Ama Oibre, 1997, an Achta um Pá Íosta Náisiúnta, 2000 agus an Achta um Chaidreamh san Áit Oibre, 2015; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*Ordaíodh ag an Roghchoiste a chlóbhualadh,
8 Samhain, 2022*

Work Life Balance and Miscellaneous
Provisions Bill 2022

BILL

(as amended in the Select Committee on Children,
Equality, Disability, Integration and Youth)

entitled

An Act 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; and for those and other purposes to amend the Redundancy Payments Act 1967, the Unfair Dismissals Act 1977, the Maternity Protection Act 1994, the Adoptive Leave Act 1995, the Organisation of Working Time Act 1997, the National Minimum Wage Act 2000 and the Workplace Relations Act 2015; and to provide for related matters.

*Ordered by the Select Committee to be printed,
8th November, 2022*

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó

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