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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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*Mar a ritheadh ag dhá Theach an Oireachtais*

*As passed by both Houses of the Oireachtas*

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

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## ACTS REFERRED TO

Adoption Act 2010 (No. 21)  
Adoptive Leave Act 1995 (No. 2)  
Birth Information and Tracing Act 2022 (No. 14)  
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)  
Employment Agency Act 1971 (No. 27)  
Freedom of Information Act 2014 (No. 30)  
Human Rights Commission Act 2000 (No. 9)  
Irish Human Rights and Equality Commission Act 2014 (No. 25)  
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  
Protection of Employees (Fixed-Term Work) Act 2003 (No. 29)  
Protection of Employees (Part-Time Work) Act 2001 (No. 45)  
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**AN BILLE UM CHOITHROMAÍOCHT OIBRE AGUS SAOIL AGUS FORÁLACHA  
ILGHNÉITHEACHA, 2022  
WORK LIFE BALANCE AND MISCELLANEOUS PROVISIONS BILL 2022**

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# 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 2019<sup>1</sup> on work-life balance for parents and carers and repealing Council Directive 2010/18/EU and, for that purpose and other purposes, to amend the Parental Leave Act 1998 to provide for the entitlement of certain employees to leave for medical care purposes and domestic violence leave and to request flexible working arrangements for caring purposes; to provide for the entitlement of employees to request remote working arrangements; 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, the Adoption Act 2010, the Irish Human Rights and Equality Commission Act 2014, the Workplace Relations Act 2015 and the Birth Information and Tracing Act 2022; and to provide for related matters.

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**Be it enacted by the Oireachtas as follows:**

## PART 1

### PRELIMINARY AND GENERAL

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#### **Short title, collective citation and commencement**

1. (1) This Act may be cited as the Work Life Balance and Miscellaneous Provisions Act 2023.
- (2) The Parental Leave Acts 1998 to 2019 and *Part 2* may be cited together as the Parental Leave Acts 1998 to 2023.
- (3) This Act, other than *Parts 3* and *4* and *sections 40* and *41*, shall come into operation on such day or days as the Minister for Children, Equality, Disability, Integration and Youth 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 or different provisions.

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<sup>1</sup> OJ No. L188, 12.7.2019, p.79

- (4) *Part 3* shall come into operation on such day or days as the Minister for Enterprise, Trade and Employment 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 or different provisions.
- (5) *Part 4* and *section 40* shall come into operation on such day or days as the Minister for Enterprise, Trade and Employment, in consultation with the Minister for Children, Equality, Disability, Integration and Youth, 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 or different provisions. 5

PART 2 10

AMENDMENT OF PARENTAL LEAVE ACT 1998

**Definition – Part 2**

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

**Amendment of section 2 of Principal Act**

3. The Principal Act is amended in section 2— 15

(a) in subsection (1)—

(i) by the insertion of the following definitions:

“ ‘Act of 2015’ means the Workplace Relations Act 2015;

‘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; 20

‘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; 25

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

‘civil partner’ shall be construed in accordance with section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010; 30

‘code of practice’ means any code of practice for the time being standing approved in accordance with *Part 4* of the *Work Life Balance and Miscellaneous Provisions Act 2023*; 35

‘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;

‘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;

‘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

(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”:

“ ‘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 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.”

and

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

“(4) A word or expression used in this Act and also in Directive (EU) 2019/1158 of 20 June 2019<sup>2</sup> shall have the same meaning in this Act as in that Directive.”.

#### **Amendment of section 6 of Principal Act**

**4.** Section 6 of the Principal Act is amended— 5

(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.”, 10

and

(b) in subsection (9), by the deletion of the following definitions: 15

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

#### **Amendment of section 10 of Principal Act**

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

#### **Leave for medical care purposes**

**6.** 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. 30

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

2 OJ No. L188, 12.7.2019, p.79

- (a) is one of the following:
  - (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; 5
  - (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,

and
- (b) is in need of significant care or support for a serious medical 10  
reason.
- (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 15  
consecutive months and shall not be taken in a period of less than one  
day.
- (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 20  
leave for medical care purposes.
- (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. 25
- (6) A confirmation under subsection (5) shall—
  - (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 30
  - (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. 35
- (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,
  - (b) the nature of the personal care or support required to be given by the employee to the person concerned, and 5
  - (c) relevant evidence relating to the need of the person for the significant care or support concerned.
- (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— 10
    - (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
    - (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 or was in need of significant care or support for a serious medical reason.”. 20

**Domestic violence leave**

7. 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— 25
- (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: 30
    - (i) seek medical attention;
    - (ii) obtain services from a victim services organisation;
    - (iii) obtain psychological or other professional counselling; 35
    - (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;
  - (viii) seek or obtain any other relevant services.
- (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. 5
  - (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. 10
  - (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. 15
  - (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— 20
    - (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 25
    - (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 appropriate, that are to be taken into account in the calculation of domestic violence leave pay. 30 35
  - (7) In making regulations under subsection (6), the Minister shall have regard to the following matters:
    - (a) the state of society generally, the public interest and employee well being; 40
    - (b) 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;
- (c) annual and quarterly data on earnings and labour costs as published by the Central Statistics Office;
- (d) expert opinion, including that of victim services organisations, research and national and international reports relating to the matters specified at paragraphs (a) to (c) that the Minister considers relevant; 5
- (e) the views of employer representative bodies and trade unions;
- (f) such other matters as the Minister considers relevant. 10
- (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; 15
- ‘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— 20
- (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; 25
- ‘relevant person’ means, in relation to an employee—
- (a) the spouse or civil partner of the employee,
- (b) the cohabitant of the employee, 30
- (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.”. 35

### **Insertion of new Part IIA in Principal Act**

8. 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**

**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; 5
  - (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. 10
- (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;
    - (ii) the spouse or civil partner of the employee;
    - (iii) the cohabitant of the employee; 15
    - (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, and 20
  - (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—
- (a) subject to paragraphs (b) and (c), not later than the day on which the child concerned has attained the age of 12 years, 25
  - (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, 30not later than the expiration of the period of 2 years beginning on that date, or
  - (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 35
    - (ii) ceases to have that disability or long-term illness or any other disability or long-term illness,

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.
- (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
  - (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.
- (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—
- (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,
    - (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)(b)(i) is signed by the employer and the employee, 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.
- (9) In subsection (7)(b)(iii), 'relevant evidence', in relation to the person for whom the care or support is to be provided, means—



- (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, 5

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. 10

**Obligation on employer to consider request under section 13B**

- 13C.** (1) An employer who receives a request for a flexible working arrangement submitted in accordance with section 13B(6) shall—
- (a) consider that request, having regard to his or her needs and the employee’s needs, and 15
  - (b) as soon as reasonably practicable but, subject to subsection (2), not later than 4 weeks after receipt of the request—
    - (i) approve the request, which approval shall include an agreement prepared and signed by the employer and employee setting out— 20
      - (I) the details of the flexible working arrangement, and
      - (II) the date of commencement and the duration of the flexible working arrangement,
    - (ii) provide a notice in writing informing the employee that the request has been refused and of the reasons for the refusal, or 25
    - (iii) where subsection (2) 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.
  - (2) Where an employer is having difficulty assessing the viability of the request for a flexible working arrangement, the employer may extend 30 the 4 week period referred to in subsection (1) by a further period not exceeding 8 weeks.
  - (3) When the agreement referred to in subsection (1)(b)(i) 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 35 it.

**Changes to flexible working arrangements**

- 13D.** (1) If, after the date on which an agreement referred to in section 13C(1) (b)(i) is signed by the employer and the employee (whether or not the approved flexible working arrangement to which it relates has commenced), the employer and the employee so agree, in writing— 40

- (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, 5
- and in such a case the agreement referred to in section 13C(1)(b)(i) shall be deemed to be amended accordingly.
- (2) If, after the date on which an agreement referred to in section 13C(1)(b)(i) is signed by the employer and the employee 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)(b)(i) shall be deemed to be amended accordingly. 10 15 20
  - (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 25
      - (ii) signed by a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007, 30
    - or 30
    - (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.

**Termination in certain circumstances of flexible working arrangement 35**

- 13E.** (1) If, after the date on which an agreement referred to in section 13C(1)(b)(i) is signed by the employer and the employee (whether or not the approved flexible working arrangement to which it relates has commenced), the employer is satisfied that the flexible working arrangement would have, or is having, a substantial adverse effect on the operation of his or her business, profession or occupation, by reason of— 40
- (a) seasonal variations in the volume of the work concerned,

- (b) the unavailability of a person to carry out the duties of the employee in the employment,
  - (c) the nature of the duties of the employee in the employment,
  - (d) the number of employees in the employment,
  - (e) the number of employees in the employment 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 5
  - (f) any other matters relevant to the substantial adverse effect on the operation of his or her business, profession or occupation, 10
- the employer may, having regard to his or her needs, the employee's needs and the requirements of the code of practice, by notice in writing terminate the arrangement and the notice 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) 15
- (b)(i), nor, subject to the foregoing requirement, earlier than 4 weeks after the date of the receipt by the employee concerned of the notice) on which the employee must return to work.
- (2) Where an approved flexible working arrangement is terminated under subsection (1), the employee concerned shall return to the employee's original working arrangement on the day specified in the notice under that subsection. 20
  - (3) A notice under subsection (1) shall contain a statement in summary form of the grounds for terminating the flexible working arrangement concerned. 25
  - (4) Where an employer proposes to give a notice under subsection (1) 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 (1) to the employee. 30 35
  - (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.
  - (6) Where a flexible working arrangement is terminated under subsection (1), the agreement referred to in section 13C(1)(b)(i) shall be deemed to be revoked accordingly. 40

### **Early return to previous working arrangement**

- 13F.** (1) After the date on which an agreement referred to in section 13C(1)(b) (i) is signed by the employer and the employee 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 approval of the flexible working arrangement. 5
- (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. 10
- (3) An employer who receives a request referred to in subsection (1) shall—
- (a) consider that request, having regard to his or her needs and the employee's needs, and 15
- (b) as soon as reasonably practicable but not later than 4 weeks after receipt of the request, by notice in writing, respond to the employee to inform him or her—
- (i) that the request has been approved, or
- (ii) that the request has been refused and of the reasons for the refusal. 20
- (4) If the employer agrees to the early return to the original working arrangements but refuses to agree to the proposed date of return set out in the notice referred to in subsection (1), the notice under subsection (3) by the employer shall propose an alternative date for the return. 25
- (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 approval of the flexible working arrangement.

### **Abuse of flexible working arrangement** 30

- 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)(b)(i), nor, subject to the foregoing requirement, earlier than 7 days after the date of the receipt by the employee concerned of the notice) on which the employee must return to work. 35 40

- (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.
- (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.

### **Review of Part**

- 13H.** (1) The Minister shall, not earlier than one year and not later than 2 years after the commencement of this Part, after consultation with the Minister for Enterprise, Trade and Employment, the Workplace Relations Commission, persons whom he or she considers to be representative of employers generally and persons whom he or she considers to be representative of employees generally, conduct a review of the operation of this Part, having regard to Directive (EU) 2019/1158 of 20 June 2019<sup>3</sup>, and may, as part of the review, consider whether the right to request a flexible working arrangement should be extended to all employees.
- (2) The Minister shall prepare a report in writing of the findings of the review conducted under subsection (1) and shall cause copies of the report to be laid before each House of the Oireachtas.”

### **Amendment of section 14 of Principal Act**

**9.** 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

<sup>3</sup> OJ No. L188, 12.7.2019, p. 79

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, 5

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. 10

- (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. 15

- (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." 20

**Amendment of section 15 of Principal Act**

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

“(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— 25

- (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 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'), 30

- (b) in the job that the employee held immediately before the commencement of the day or days concerned, and

- (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— 35 40

- (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.

(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.

(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."

**Amendment of section 16A of Principal Act** 20

11. 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)."

**Amendment of section 21 of Principal Act**

12. 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,” after “A decision”, and

(b) in subsection (6)(b), by the insertion of “not” after “parental leave”.

**Decision under section 41 or 44 of Act of 2015 in relation to dispute under Part IIA**

13. 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 Act of 2015, or a decision of the Labour Court under section 44 of that Act on appeal from the first mentioned decision, in relation to a dispute between an employee and his or her employer relating to the fulfilment by the employer of his or her obligations under section 13C(1) may—

- (a) direct that the employer comply with paragraph (a) of section 13C(1),
  - (b) direct that the employer comply with any of the requirements of paragraph (b) of section 13C(1) 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, 5
  - (c) award compensation in favour of the employee concerned to be paid by the employer concerned, or
  - (d) specify both a direction referred to in paragraph (a) or (b), or both, and an award referred to in paragraph (c). 10
- (2) A decision of an adjudication officer under section 41 of the Act of 2015, or a decision of the Labour Court under section 44 of that Act on appeal from the first mentioned decision, in relation to a dispute between an employee and his or her employer relating to the fulfilment by the employer of his or her obligations under sections 13D or 13E, may award compensation in favour of the employee concerned to be paid by the employer concerned. 15
- (3) A decision of an adjudication officer under section 41 of the Act of 2015, or a decision of the Labour Court under section 44 of that Act on appeal from the first mentioned decision, in relation to a dispute between an employee and his or her employer relating to the fulfilment by the employer of his or her obligations under section 13F(3), may— 20
- (a) direct that the employer comply with any of the requirements of section 13F(3) as if the reference in that subsection to the date that is 4 weeks after the receipt of the employee's request under section 13F(1) was a reference to such date as may be specified in the direction, 25
  - (b) award compensation in favour of the employee concerned to be paid by the employer concerned, or 30
  - (c) specify both a direction referred to in paragraph (a) and an award referred to in paragraph (b).
- (4) A decision of an adjudication officer under section 41 of the Act of 2015, or a decision of the Labour Court under section 44 of that Act on appeal from the first mentioned decision, in relation to a dispute between an employee and his or her employer relating to the entitlements of the employee under section 13G may award compensation in favour of the employee concerned to be paid by the employer concerned. 35
- (5) An award of compensation referred to in subsections (1)(c), (2), (3)(b) or (4) 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 40



in respect of the employee's employment calculated in the manner as may be prescribed.

- (6) In making a decision referred to in subsection (1), (2) or (3), an adjudication officer or the Labour Court, as the case may be, shall not assess the merits of— 5
- (a) the decision of the employer reached following his or her consideration under section 13C(1)(a) of the employee's request,
  - (b) the refusal by the employer under section 13C(1)(b)(ii) or the reasons for such refusal given under that provision,
  - (c) the decision of the employer to terminate, under section 13E, a flexible working arrangement or the grounds given by the employer under that section for such termination, 10
  - (d) the refusal by the employer under section 13F(3)(b) or the reasons for such refusal given under that provision, or
  - (e) the refusal by the employer under section 13F(4) or the alternative date proposed under that provision. 15
- (7) In this section, 'remuneration' includes allowances in the nature of pay and benefits in lieu of or in addition to pay."

#### **Amendment of section 22A of Principal Act**

14. Section 22A of the Principal Act is amended in subsection (1), by the insertion of "other than Part IIA" after "this Act". 20

#### **Amendment of section 27 of Principal Act**

15. 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 the leave or arrangement concerned.", 25 30

- (b) in subsection (2)—

- (i) in paragraph (a), by the substitution of "12 years," for "12 years, and",
- (ii) in paragraph (b), by the substitution of "8 years, and" for "8 years,", and

- (iii) by the insertion of the following paragraph after paragraph (b):

"(c) where the record is in respect of leave for medical care purposes, domestic violence leave or an approved flexible working arrangement, for a period of 3 years," 35

and

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

## PART 3

### REQUESTS FOR REMOTE WORKING ARRANGEMENTS

#### **Interpretation (*Part 3*)**

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**16. (1) In this Part—**

“Act of 1998” means the Parental Leave Act 1998;

“Act of 2015” means the Workplace Relations Act 2015;

“adjudication officer” means a person appointed under section 40 of the Act of 2015;

“approved remote working arrangement” means a remote working arrangement, the request for which has been approved under *section 21(1)(b)(i)*; 10

“code of practice” means, in relation to a provision of this Part, any code of practice for the time being standing approved in accordance with *Part 4*;

“Commission” means the Workplace Relations Commission;

“continuous employment” includes employment completed by an employee under 2 or more continuous fixed-term contracts with the same employer; 15

“contract of employment” means, subject to *subsection (2)*—

(a) a contract of service or apprenticeship, or

(b) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency (within the meaning of the Employment Agency Act 1971), and is acting in the course of that business, to do or perform personally any work or service for another person (whether or not that other person is a party to the contract); 20

“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 Part, 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 be an employee employed by the authority, Executive or board, as the case may be; 25 30 35

“employer” means, in relation to an employee, the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment subject to the qualification that the person who under a contract of employment referred to in *paragraph (b)* of the definition of “contract of employment” is liable to pay the wages of the individual concerned in respect of the work or service concerned shall be deemed to be the individual’s employer and includes, where appropriate, an associated employer of the employer; 5

“fixed-term employee” has the same meaning as it has in the Protection of Employees (Fixed-Term Work) Act 2003; 10

“Minister” means the Minister for Enterprise, Trade and Employment;

“part-time employee” has the same meaning as it has in the Protection of Employees (Part-Time Work) Act 2001;

“remote working arrangement” means an arrangement whereby some or all of the work ordinarily carried out by an employee at an employer’s place of business under a contract of employment is provided at a location other than at the employer’s place of business without change to the employee’s ordinary working hours or duties; 15

“request for a remote working arrangement” means a request referred to in *section 20(1)*.

- (2) For the purposes of this Part, 2 employers shall be taken to be associated if one is a body corporate of which the other (whether directly or indirectly) has control or if both are bodies corporate of which a third person (whether directly or indirectly) has control and “associated employer” shall be construed accordingly. 20

### **Voidance or modification of certain provisions in agreements**

17. (1) A provision in any agreement shall be void in so far as it purports to exclude or limit the application of any provision of this Part or is inconsistent with any provision of this Part. 25
- (2) A provision in any agreement which is or becomes less favourable in relation to an employee than a similar or corresponding entitlement conferred on the employee by this Part shall be deemed to be so modified as to be not less favourable. 30
- (3) Nothing in this Part shall be construed as prohibiting the inclusion in an agreement of a provision more favourable to an employee than any provision in this Part.
- (4) References in this section to an agreement are to any agreement, whether a contract of employment or not and whether made before or after the coming into operation of this section. 35

### **Regulations**

18. (1) The Minister may by regulations provide for any matter referred to in this Part or *Part 4* as prescribed or to be prescribed for the purposes of the regulations.
- (2) Before making a regulation under this Part, the Minister shall consult with persons whom he or she considers to be representative of employers generally and persons 40

whom he or she considers to be representative of employees generally in relation to the regulation.

- (3) Without prejudice to any provision of this Act, a regulation under this Part may contain such consequential, supplementary and ancillary provisions as appear to the Minister to be necessary or expedient. 5
- (4) Every regulation made under this Part shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 10

### **Expenses**

19. The expenses incurred by the Minister or the Minister for Children, Equality, Disability, Integration and Youth in the administration of this Part and *Part 4* shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of monies provided by the Oireachtas. 15

### **Right to request a remote working arrangement**

20. (1) An employee may, in accordance with this Part, request approval from his or her employer for a remote working arrangement.
- (2) An employee's approved remote working arrangement shall not commence before a time when the employee concerned has completed 6 months continuous employment with the employer concerned. 20
- (3) A request for a remote working arrangement referred to in *subsection (1)* shall—
- (a) be in writing and signed by the employee,
  - (b) specify the details of the remote working arrangement requested and the proposed date of commencement and, where applicable, expiration of the remote working arrangement, 25
  - (c) specify, having regard to the code of practice—
    - (i) the reasons why he or she is requesting approval of the remote working arrangement (in this Part referred to as “the employee's needs”), 30
    - (ii) details of the proposed remote working location, and
    - (iii) information as may be specified in the code of practice on the suitability of the proposed remote working location,
- and
- (d) be submitted to his or her employer as soon as reasonably practicable but not later than 8 weeks before the proposed commencement of the remote working arrangement. 35

- (4) An employee who has submitted a request in accordance with *subsection (3)* to his or her employer shall, if the employer so requests, furnish to the employer such further information as the employer may reasonably require in relation to the request.
- (5) Before the date on which an agreement referred to in *section 21(1)(b)(i)* is signed by the employer and the employee, 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 (3)*. 5
- (6) 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. 10

**Obligation on employer to consider request under *section 20***

- 21. (1) An employer who receives a request for a remote working arrangement submitted in accordance with *section 20(3)* shall— 15
  - (a) consider that request, having regard to—
    - (i) his or her needs,
    - (ii) the employee’s needs, and
    - (iii) the requirements of the code of practice, 20
 and
  - (b) as soon as reasonably practicable but, subject to *subsection (2)*, not later than 4 weeks after receipt of the request—
    - (i) approve the request, which approval shall include an agreement prepared and signed by the employer and employee setting out— 25
      - (I) the details of the remote working arrangement, and
      - (II) the date of the commencement and the expiration, if any, of the remote working arrangement,
    - (ii) provide a notice in writing informing the employee that the request has been refused and of the reasons for the refusal, or 30
    - (iii) where *subsection (2)* 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.
- (2) Where an employer is having difficulty assessing the viability of the request for a remote working arrangement, the employer may extend the 4 week period referred to in *subsection (1)* by a further period not exceeding 8 weeks. 35
- (3) When the agreement referred to in *subsection (1)(b)(i)* 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.

### Termination in certain circumstances of remote working arrangement

22. (1) If, after the date on which an agreement referred to in *section 21(1)(b)(i)* is signed by the employer and the employee (whether or not the approved remote working arrangement to which it relates has commenced), the employer is satisfied that the remote working arrangement would have, or is having, a substantial adverse effect on the operation of his or her business, profession or occupation, by reason of— 5
- (a) seasonal variations in the volume of the work concerned,
  - (b) the unavailability of a person to carry out the duties of the employee in the employer's place of business,
  - (c) the nature of the duties of the employee in the employment, or 10
  - (d) any other matters relevant to the substantial adverse effect on the operation of his or her business, profession or occupation,
- the employer may, having regard to his or her needs, the employee's needs and the requirements of the code of practice, by notice in writing terminate the arrangement and the notice 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 21(1)(b)(i)*, if any, nor, subject to the foregoing requirement, earlier than 4 weeks after the date of the receipt by the employee concerned of the notice) on which the employee must return to work. 15
- (2) Where an approved remote working arrangement is terminated under *subsection (1)*, the employee concerned shall return to the employee's original working arrangement on the day specified in the notice under that subsection. 20
- (3) A notice under *subsection (1)* shall contain a statement in summary form of the grounds for terminating the remote working arrangement concerned.
- (4) Where an employer proposes to give a notice under *subsection (1)* 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 remote 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 (1)* to the employee. 25 30
- (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. 35
- (6) Where a remote working arrangement is terminated under *subsection (1)*, the agreement referred to in *section 21(1)(b)(i)* shall be deemed to be revoked accordingly.

### Changes to remote working arrangements

23. If, after the date on which an agreement referred to in *section 21(1)(b)(i)* is signed by the employer and the employee (whether or not the approved remote working arrangement to which it relates has commenced), the employer and the employee so agree, in writing— 40

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

and in such a case the agreement referred to in *section 21(1)(b)(i)* shall be deemed to be amended accordingly.

### **Return to previous working arrangement**

- 24.** (1) After the date on which an agreement referred to in *section 21(1)(b)(i)* is signed by the employer and the employee and prior to the expiration of the employee's approved remote working arrangement, if any, the employee may by notice in writing signed by him or her and given to the employer, request to return to the original working arrangements that he or she held immediately before the approval of the remote working arrangement. 15
- (2) The notice referred to in *subsection (1)* shall set out the reasons for the return to the original working arrangements and the proposed date for the return.
- (3) An employer who receives a request referred to in *subsection (1)* shall—
- (a) consider that request, having regard to his or her needs, the employee's needs and the code of practice, and 20
  - (b) as soon as reasonably practicable but not later than 4 weeks after receipt of the request, by notice in writing, respond to the employee to inform him or her—
    - (i) that the request has been approved, or
    - (ii) that the request has been refused and of the reasons for the refusal.
- (4) If the employer agrees to the early return to the original working arrangements but refuses to agree to the proposed date of return set out in the notice referred to in *subsection (1)*, the response under *subsection (3)* from the employer shall propose an alternative date for the return. 25
- (5) On the expiration of the employee's approved remote working arrangement, if any, the employee concerned shall be entitled to return to the original working arrangement that he or she held immediately before the approval of the remote working arrangement. 30

### **Abuse of remote working arrangement**

- 25.** (1) An approved remote working arrangement is subject to the condition that the employee continues to discharge all of their duties of employment in accordance with the agreement referred to in *section 21(1)(b)(i)*. 35
- (2) Where an employer has reasonable grounds for believing that an employee who is on an approved remote working arrangement is not discharging all of their duties of employment in accordance with the agreement referred to in *section 21(1)(b)(i)*, the

- employer may, by notice in writing given to the employee, terminate the approved remote 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, if any, specified in the agreement referred to in *section 21(1)(b)(i)*, nor, subject to the foregoing requirement, earlier than 7 days after the date of the receipt by the employee concerned of the notice) on which the employee must return to work. 5
- (3) Where an approved remote 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. 10
- (4) Where an employer proposes to give a notice under *subsection (2)* to an employee, 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 remote 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. 15
- (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. 20

### **Protection of employees from penalisation**

26. (1) An employer shall not penalise an employee for proposing to exercise or having exercised his or her entitlement to make a request referred to in *section 20(1)* or *section 24(1)*. 25
- (2) In this section, “penalisation” means any act or omission by an employer or a person acting on behalf of an employer that affects an employee to his or her detriment with respect to any term or condition of his or her employment, and, without prejudice to the generality of the foregoing, includes—
- (a) suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2015), or the threat of suspension, lay-off or dismissal, 30
- (b) demotion or loss of opportunity for promotion,
- (c) transfer of duties, change of location of place of work, reduction in wages or change in working hours, 35
- (d) imposition or the administering of any discipline, reprimand or other penalty (including a financial penalty), and
- (e) coercion or intimidation.
- (3) If a penalisation of an employee, in contravention of *subsection (1)*, constitutes a dismissal of the employee within the meaning of the Unfair Dismissals Acts 1977 to 2015, relief may not be granted to the employee in respect of the penalisation both under this Part and under those Acts. 40



## Decision under section 41 or 44 of Act of 2015

27. (1) A decision of an adjudication officer under section 41 of the Act of 2015, or a decision of the Labour Court under section 44 of that Act on appeal from the first mentioned decision in relation to a dispute between an employee and his or her employer relating to the fulfilment by the employer of his or her obligations under *section 21(1)* may— 5
- (a) direct that the employer comply with *paragraph (a)* of *section 21(1)*,
  - (b) direct that the employer comply with any of the requirements of *paragraph (b)* of *section 21(1)* as if the reference in that subsection to the date that is 4 weeks after the receipt of the employee’s request under *section 20* was a reference to such date as may be specified in the direction, 10
  - (c) award compensation in favour of the employee concerned to be paid by the employer concerned, or
  - (d) specify both a direction referred to in *paragraph (a)* or *(b)*, or both, and an award referred to in *paragraph (c)*. 15
- (2) A decision of an adjudication officer under section 41 of the Act of 2015, or a decision of the Labour Court under section 44 of that Act on appeal from the first mentioned decision in relation to a dispute between an employee and his or her employer relating to the fulfilment by the employer of his or her obligations under *section 22* may award compensation in favour of the employee concerned to be paid by the employer concerned. 20
- (3) A decision of an adjudication officer under section 41 of the Act of 2015, or a decision of the Labour Court under section 44 of that Act on appeal from the first mentioned decision in relation to a dispute between an employee and his or her employer relating to the fulfilment by the employer of his or her obligations under *section 24(3)* may— 25
- (a) direct that the employer comply with *paragraph (a)* of *section 24(3)*,
  - (b) direct that the employer comply with any of the requirements of *paragraph (b)* of *section 24(3)* as if the reference in that subsection to the date that is 4 weeks after the receipt of the employee’s request under *section 24(1)* was a reference to such date as may be specified in the direction, 30
  - (c) award compensation in favour of the employee concerned to be paid by the employer concerned, or
  - (d) specify both a direction referred to in *paragraph (a)* or *(b)*, or both, and an award referred to in *paragraph (c)*. 35
- (4) A decision of an adjudication officer under section 41 of the Act of 2015, or a decision of the Labour Court under section 44 of that Act on appeal from the first mentioned decision in relation to a dispute between an employee and his or her employer relating to the entitlements of the employee under this Part (other than *sections 21, 22 and 24*) may award compensation in favour of the employee concerned to be paid by the employer concerned. 40
- (5) An award of compensation referred to in *subsections (1)(c), (2), (3)(c) or (4)* 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 4 weeks' remuneration in respect of the employee's employment calculated in such manner as may be prescribed.

- (6) In making a decision referred to in *subsection (1), (2) or (3)*, an adjudication officer or the Labour Court, as the case may be, shall not assess the merits of— 5
- (a) the decision of the employer reached following his or her consideration under *section 21(1)(a)* of the employee's request,
  - (b) the refusal by the employer under *section 21(1)(b)* or the reasons for such refusal given under that provision,
  - (c) the decision of the employer to terminate, under *section 22*, a remote working arrangement or the grounds given by the employer under that section for such termination, 10
  - (d) the refusal by the employer under *section 24(3)* or the reasons for such refusal given under that provision, or
  - (e) the refusal by the employer under *section 24(4)* or the alternative date proposed under that provision. 15
- (7) In this section, "remuneration" includes allowances in the nature of pay and benefits in lieu of or in addition to pay.

## Records

28. (1) An employer shall make a record of approved remote working arrangements taken by each of his or her employees showing the period of employment of each employee and the dates and times upon which each employee was on an approved remote working arrangement. 20
- (2) A record under this section shall be retained by the employer concerned for a period of 3 years. 25
- (3) Notices, or copies of notices, required by this Part to be retained by a person shall be retained by the person for a period of one year.
- (4) An employer who contravenes *subsection (1)* or *subsection (2)*, shall be guilty of an offence and shall be liable on summary conviction to a class C fine.
- (5) Proceedings for an offence under this section may be brought and prosecuted by the Minister. 30

## Review of Part

29. The Minister shall, not earlier than one year and not later than 2 years after the commencement of this section, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, the Commission, persons whom he or she considers to be representative of employers generally and persons whom he or she considers to be representative of employees generally, conduct a review of the operation of this Part and shall prepare a report in writing of the findings of the review and shall cause copies of the report to be laid before each House of the Oireachtas. 35

## PART 4

### CODE OF PRACTICE

#### Definitions – Part 4

#### 30. In this Part—

- “Act of 1998” means the Parental Leave Act 1998; 5
- “Commission” means the Workplace Relations Commission;
- “Minister” means the Minister for Enterprise, Trade and Employment.

#### Code of practice

31. (1) The Minister may, following consultation with the Minister for Children, Equality, Disability, Integration and Youth, give a direction to the Commission requiring the Commission to prepare and submit to him or her a code of practice for the purpose of practical guidance to employers, employees and any other persons as to the steps that may be taken for complying with one or more provisions of Part IIA of the Act of 1998 or *Part 3*. 10
- (2) The Commission shall comply with a direction under *subsection (1)* and shall prepare and submit to the Minister a draft code of practice. 15
- (3) Before submitting a draft code of practice to the Minister under *subsection (2)*, the Commission shall request any person that it considers appropriate, including trade unions and employer representative bodies and the Irish Human Rights and Equality Commission, to make representations to it in relation to the draft code of practice, and the Commission shall consider any such representations made. 20
- (4) The Minister may, at the request of the Commission or of his or her own volition, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, the Commission and the Irish Human Rights and Equality Commission, give a direction to the Commission to revise the draft code of practice submitted to him or her under *subsection (2)* in such manner as is specified in the direction, and the Commission shall comply with the direction and resubmit to the Minister a revised code of practice. 25
- (5) The Minister may, following consultation with the Minister for Children, Equality, Disability, Integration and Youth, by order, declare a draft code of practice submitted or resubmitted to him or her in accordance with this section to be an approved code of practice for the purposes of *Part 3* or Part IIA of the Act of 1998, and the text of the approved code of practice shall be set out in the order. 30
- (6) The Commission shall publish the approved code of practice on its website.
- (7) The Minister may, by order, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, the Commission and the Irish Human Rights and Equality Commission, revoke or amend an approved code of practice. 35
- (8) Every order under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order has 40

been laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

- (9) A code of practice standing approved under this section shall be admissible in evidence in proceedings before a court, the Labour Court or an adjudication officer appointed under section 40 of the Workplace Relations Act 2015. 5

## PART 5

### AMENDMENT OF OTHER ACTS

#### **Amendment of Schedule 3 to Redundancy Payments Act 1967**

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

- (a) by the substitution of the following for paragraph 5(c)(ii): 10

“(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”,

and 15

- (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**

33. 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”.

#### **Amendment of Maternity Protection Act 1994** 25

34. 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”:

“ ‘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;”, 30

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

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

### **Amendment of Adoptive Leave Act 1995**

**35.** 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.

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

**36.** 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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**37.** 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,”.

### **Amendment of Adoption Act 2010**

**38.** The Adoption Act 2010 is amended in section 100—

(a) by the substitution of the following for subsection (5):

“(5) Subject to subsection (7), the members present at a meeting called under subsection (4) shall choose one of their number to chair the meeting.”,

and

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(b) by the substitution of the following for subsection (6):

“(6) The quorum for a meeting of the Authority is—

(a) the chairperson or deputy chairperson, or

(b) in the case of a meeting called under subsection (4), and where applicable, the member chosen under subsection (5) to chair the meeting who, for that meeting, shall be regarded as the chairperson for the purposes of subsections (9) and (10),

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and 2 other members, one of whom may be the deputy chairperson where the chairperson or another member chosen under subsection (5) is presiding.”.

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#### **Amendment of Irish Human Rights and Equality Commission Act 2014**

39. The Irish Human Rights and Equality Commission Act 2014 is amended by the insertion of the following section after section 45:

“45A. (1) Subject to section 45, a person who was a member of the staff of the Human Rights Commission and who—

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(a) prior to the establishment day, ceased employment with the Human Rights Commission, or

(b) has a preserved superannuation benefit with the Human Rights Commission,

shall, with effect from the date of commencement of this section, be deemed to be a civil servant in the Civil Service of the State in respect of superannuation benefits payable, in accordance with the provisions of those schemes, as a result of his or her membership of the superannuation schemes created under section 20 of the Human Rights Commission Act 2000.

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(2) With effect from the date of commencement of this section, superannuation benefits referred to in subsection (1) shall be payable by the Minister for Public Expenditure, National Development Plan Delivery and Reform out of funds provided by the Oireachtas.”.

#### **Amendment of Workplace Relations Act 2015**

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40. The Workplace Relations Act 2015 is amended—

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

“ ‘expectant father’ has the same meaning as it has in the Act of 1994;

- ‘other parent’ has the same meaning as it has in the Act of 1994;”,
- (b) in section 41(7)—
- (i) by the substitution in paragraph (c)(iii) of “father or other parent” for “father”,
  - (ii) by the substitution in paragraph (g) of “the occurrence of the dispute,” for “the occurrence of the dispute, and”, 5
  - (iii) by the substitution in paragraph (h) of “the occurrence of the dispute, and” for “the occurrence of the dispute.”, and
  - (iv) by the insertion of the following paragraph after paragraph (g):
    - “(i) in the case of a dispute relating to the entitlement of an employee or the obligation of the employer, as the case may be, under *Part 3* of the *Work Life Balance and Miscellaneous Provisions Act 2023*, it has been referred to the Director General after the expiration of the period of 6 months beginning on the day immediately following the date of the occurrence of the dispute.”, 10  
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- (c) in Schedule 1, by the insertion in Part 2 of the following paragraph after paragraph 19:
- “20. *Part 3* of the *Work Life Balance and Miscellaneous Provisions Act 2023*”,
- (d) in Schedule 5 by the insertion in Part 3 of the following paragraph after paragraph 8: 20
- “9. *Part 3* of the *Work Life Balance and Miscellaneous Provisions Act 2023*.”,
- and
- (e) in Schedule 6— 25
- (i) by the insertion in Part 1 of the following paragraphs after paragraph 38:
    - “39. Section 21A of the Parental Leave Act 1998
    - 40. *Section 27* of the *Work Life Balance and Miscellaneous Provisions Act 2023*”,
  - and 30
  - (ii) by the insertion in Part 2 of the following paragraphs after paragraph 38:
    - “39. Section 21A of the Parental Leave Act 1998
    - 40. *Section 27* of the *Work Life Balance and Miscellaneous Provisions Act 2023*”.
- Amendment of Birth Information and Tracing Act 2022** 35
- 41.** The Birth Information and Tracing Act 2022 is amended—
- (a) in section 5(2), by the insertion of “In this section,” before “ ‘public body’ ”,

- (b) in section 25(2), by the insertion of “to section 33A or” after “Without prejudice”,
- (c) in section 31(2), by the insertion of “to section 33A or” after “Without prejudice”,
- (d) in section 32(4), by the substitution of “section 33 or for the purposes of section 33A,” for “section 33,”,
- (e) by the insertion of the following section after section 33:
  - “Agency and Authority may conduct trace for certain purposes under Part 3 or 4**
  - 33A.** The Agency or the Authority may—
    - (a) where either receives an application under section 21(1), 22(1), 27(1) or 28(1), or
    - (b) on the request of another relevant body that receives an application referred to in paragraph (a),
 conduct a trace for the purposes of establishing, for the purposes of section 21(3)(b), 22(3)(b), 27(3)(b) or 28(3)(b), as the case may be, whether a person is deceased.”,
- (f) in section 34(1)—
  - (i) by the insertion of “or where section 33A applies,” after “section 33,”,
  - (ii) in paragraph (a), by the substitution of “relates,” for “relates, or”,
  - (iii) in paragraph (b), by the substitution of “direction, or” for “direction.”, and
  - (iv) by the insertion of the following paragraph after paragraph (b):
    - “(c) where section 33A applies, trace the person concerned for the purposes of establishing whether the person is deceased.”,
 and
- (g) by the insertion of the following subsection after section 34(8)—
  - “(8A) Where the Agency or Authority, in a case to which section 33A(b) applies and having taken the steps referred to in subsection (1)(c)—
    - (a) establishes that the person concerned is deceased or not deceased, or
    - (b) is unable to establish whether the person concerned is deceased,
 it shall, in writing and without delay, inform the relevant body concerned of that fact.”.





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

# BILLE

(mar a ritheadh ag dhá Theach an Oireachtais)

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 agus chun críoch eile, do leasú an Achta um Shaoire do Thuismitheoirí, 1998 chun socrú a dhéanamh maidir le fostaithe áirithe a bheith i dteideal saoire chun críoch cúraim liachta agus saoire foréigin baile agus i dteideal socrúithe oibre solúbtha chun críoch cúraim a iarraidh; do dhéanamh socrú maidir le fostaithe a bheith i dteideal socrúithe cianoibre a iarraidh; agus, chun na geríoch 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, an Achta Uchtála, 2010, an Achta fã Choimisiún na hÉireann um Chearta an Duine agus Comhionannas, 2014, an Achta um Chaidreamh san Áit Oibre, 2015 agus an Achta um Fhaisnéis Bhreithe agus Rianú, 2022; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Ritheadh ag dhá Theach an Oireachtais,

29 Márta, 2023

Work Life Balance and Miscellaneous  
Provisions Bill 2022

# BILL

(as passed by both Houses of the Oireachtas)

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 and other purposes, to amend the Parental Leave Act 1998 to provide for the entitlement of certain employees to leave for medical care purposes and domestic violence leave and to request flexible working arrangements for caring purposes; to provide for the entitlement of employees to request remote working arrangements; 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, the Adoption Act 2010, the Irish Human Rights and Equality Commission Act 2014, the Workplace Relations Act 2015 and the Birth Information and Tracing Act 2022; and to provide for related matters.

Passed by both Houses of the Oireachtas,

29th March, 2023