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**Scoil an Pholasáí Shóisialta, na
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RE: Invitation to make a written submission on the General Scheme of a Work Life Balance and Miscellaneous Provisions Bill 2022

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Introduction

My research expertise covers comparative social policy, which means I have a comprehensive understanding of different social protection schemes in advanced economies and the effects these have on society. All presented analyses and conclusions are my own and based on the state-of-the-art research on the topic.

The proposed bill implements the minimum requirements resulting of the EU Directive 2019/1158 on work-life balance for parents and carers (Directive (EU) 2019/1158, 2019). This means the Irish employment law and social protection will constitute the lowest standard within the EU. While the proposed bill continues a low cost and low pay labour market policy (Linehan et al., 2017), it will have negative effects on well-being of families, drives mothers out of the labour market and risks that higher paid professionals leave Ireland when forming families. The key recommendations are:

- Implement right of part-time work for employees at larger companies (50+)
- Implement right of part-time work for specific reasons (young children, older relatives)
- Introduce 14 days of paid sick child leave
- Pay sick child leave at least at 70% of net wage

The submission focusses on Head 3 and 4, as the other headings are of technical and legal matter.

Head 3 – right to request flexible working arrangements for caring purposes

The suggested statutory measures implement the right to request flexible working arrangements, but fall short in constituting a right to flexible work. The proposed measures give employers ample scope to reject employees request for flexible working.

I will highlight how Germany grants more employee rights in larger companies, while protecting smaller employers (BMAS, 2019). It is reasonable to limit the right to part-time work in smaller companies, as these would have less flexibility among their staff to manage requests for part-time work. Therefore, German law provides more flexible working rights in larger companies. Companies with 15 or more employees have to offer the right to request flexible working arrangements. With the EU directive, this right has to be extended to all workers. The relevant policy difference is for companies with 45 or more employees (excluding apprentices). These larger employers have to grant part-time work for a limited period of 1-5 years. Employees do not have to provide a reason for their application, but this period is intended to cover the most demanding child rearing periods. Employers can reject applications only on very few grounds, most notably if they already employ 7-8% part-time workers.

In addition, there are specific rights for part-time work when caring for small children and older relatives. For instance, regardless of the company size, parents with children under 3 years old have the right to part-time work and would be partially compensated for their shortfall in income (*Elternzeit*).

Recommendation:

- Implement right to part-time work in companies with 50 or more employees.
- Implement right to part-time work for specific reasons (small children, care for older relative).
- Consider time limit of right to part-time work to provide planning horizon for companies.

Head 4 – Parental Leave and Force Majeure Leave – leave for medical care purposes

The suggested changes comply with the broad definition of the EU directive on carer's leave. Most EU countries already complied with this directive in 2018 and Ireland is one of the few countries that needs to introduce such a right (Ghailani, 2018).

The EU directive does not cover specific sick leave when caring for children, but the CDEI should consider to introduce sick child leave. In particular, the Covid-19 measures have highlighted how households with small children struggled to work while caring for children due to lockdown measures or extended periods of quarantine (Adisa et al., 2021; Lonska et al., 2021). As table 1 highlights most European countries go beyond the carer's leave of the EU directive by offering specific sick child leave. These sick child leave policies vary considerably, but they share a few commonalities.

First, most of the schemes have more generous benefits than in Ireland and offer a replacement rate of 60-100% of net salary. The average of all paid schemes is at 77% replacement rate in 2018. In response to the EU directive some countries have already introduced more generous schemes. For instance, Lithuania has introduced a replacement rate of 80% for the hitherto

unpaid leave of 14 days. Ireland's replacement rate is only at about 36% (Köppe, 2019), although some employers top-up general sick leave to 100%. Research has shown that a higher replacement rate increases gender equality, as the family income is not affected when the – on average – higher earning father takes leave (Koslowski and Kadar-Satat, 2019; Moss et al., 2019).

Second, most countries offer already more days per child. The average is at 19 and the median at 10 days per child prior to the EU directive. In the wake of the Covid-19 pandemic, several countries have further increased the days of sick child leave. For instance, Germany increased the days from 10 to 30, France from 5 days to 3 months (and being paid for the first time). Although the most recent school absence statistics do not provide a breakdown by illness, about 13% of primary school children are absent for more than 20 days (Denner and Cosgrove, 2020). About 50% of all absences are explained through illness or urgent family reasons. Although attendance is overall high, these statistics indicate that a considerable number of working families in Ireland will need more than 5 days per annum to care for a sick child. At the moment these families rely on good will by their employer and unpaid leave.

Third, the leave is often child centred in other European countries. This means the sick child leave days are granted per child or per episode of sickness. The latter schemes are particular generous, because repeated episodes can be claimed often without an upper limit (e.g. Czechia, Denmark, Estonia). In the child centred approach each parent has the right to take the allocated leave per annum, which means parents have to share the care work. In these policies, lone parents usually are allocated the leave period of the absent parent. Moreover, the child-centred approach has the advantage to account for different family sizes, which is particularly relevant in the context of larger family sizes in Ireland (Fahey and Nixon, 2014). The proposed 5 days of carer's leave do not account for the number of children adequately.

Recommendation:

- Introduce 14 days of paid sick child leave
- Pay sick child leave at least at 70% of net wage
- Offer leave per child to encourage shared care work and account for different family sizes.
- Introduce transferable rights for lone parents.

Table 1: Sick child leave legislation in EU 2018

Country	Days per child	Max days per employer	Replacement rate
Austria	n/a	10	100%
Belgium	Occupational: 10 private / 4 public		Partially
Bulgaria	n/a	60	70% first 3 days, 80% rest of leave
Croatia	60 (up to 7 years old)		100% if child under 3, 70% for rest
Cyprus	n/a	7	Unpaid
Czechia	9 (per episode)	n/a	60% (up to €32 per day)
Denmark	1-2 (per episode)	n/a	Yes, rate not specified
Estonia	14 (per episode)	n/a	80%
Finland	4 (per episode)	n/a	100% (collective agreements)
France	3-5 (14 public)		unpaid (100% collective agreements)
Germany	10	25	80%
Greece		6/8/14 (if 1/2/3+ children)	unpaid
Hungary	14-unlimited (by age of child)		50-60%
Ireland	3-5		unpaid (3 days force majeure paid)
Italy	5 (3-8 years), unlimited under 3 years		unpaid (3 days force majeure paid)
Latvia	14 (21 if hospital)		80%
Lithuania	14		unpaid
Luxemburg	2		100%
Malta	unspecified force majeure		unpaid
Netherlands		14	70%
Poland	60		80%
Portugal		30 (per child)	65%
Romania	none		none
Slovakia	10	10	55%
Slovenia	7-14 per episode (up to 30 in severe cases)	none	80%
Spain	2-4		90% (collective agreements)
Sweden	120	120	77.6% (in addition collective top-ups common)

Notes: Max days refers to working days, i.e. 10 days represent two weeks of a 5-day working week. Most countries grant the child leave for children up to 12 years, deviations are highlighted in brackets. Special arrangements for children with disability or long-term illness are not considered.

Source: compiled by author based on Ghailani (2018)

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