



MAPLES
GROUP

WORK LIFE BALANCE AND MISCELLANEOUS PROVISIONS BILL 2022

Update For Employers In Ireland

WHAT IS THE WORK LIFE BALANCE AND MISCELLANEOUS PROVISIONS BILL 2022?

The Work Life Balance and Miscellaneous Provisions Bill 2022 (“the Bill”) aims to increase the participation of women in the labour market and the take-up of family-related leave and flexible working arrangements. The Directive aims to encourage a more equal sharing of family related leave between men and women.

The Bill is being enacted to transpose the EU Work-life Balance Directive¹ (“the Directive”) by the deadline of 2 August 2022.

WHAT ARE THE NEW RIGHTS UNDER THE DRAFT LEGISLATION?

Right to Request Flexible Working

The Bill proposes to introduce that eligible employees will be allowed to request reduced, compressed or flexible working hours or flexibility of their place of work when caring for a child under the age of 12 or caring for a relative or cohabitant.

Right to Leave for Medical Care Purposes

The proposed legislation aims to provide employees with up to five days' unpaid leave per year for medical care purposes, where serious medical reasons require personal care for a sick child, relative or cohabitant. No prior notice must be given but the leave may not be taken in periods of less than one day.

This leave will be in addition to existing entitlements under the Carer's Leave Act 2011 and force majeure leave, where employees must respond to an emergency of a family member.

It is expected that the employer will be able to request evidence from the employee of the relationship with the person being cared for, the nature of that care and medical certification of the serious medical issue in respect of the person requiring the care.

Right to Extended Period of Breastfeeding

The Maternity and Adoptive Leave Protection Acts are to be amended to increase the number of weeks from 26 to 104 weeks during which mothers are entitled to take paid time off work or have reduced working hours for breastfeeding purposes.

Extension of Maternity Leave Entitlements to Transgender Men

The General Scheme proposes to provide for the right of a transgender male who has, in accordance with the Gender Recognition Act 2015, obtained a gender recognition certificate and subsequently becomes pregnant, to fall within the scope of the Maternity Protection Act 1994.

WHICH EMPLOYEES ARE IN SCOPE?

The Bill extends to all employees who have entered into a contract of employment, whether express or implied, where express whether oral or in writing and includes part-time employees and fixed-term employees.

Employees with children up to the age of 12 (or 16 if the child has a disability or long-term illness) and employees with caring responsibilities will be in scope of the Bill.

ARE THERE ELIGIBILITY CRITERIA OF EMPLOYEES?

In order to be eligible, employees will need at least six months' service with the employer before being eligible to make a request.

Eligible employees must then also submit a written request at least six weeks before the arrangement is intended to start. This request must specify the nature of the changes requested, the date of commencement and the duration of the set period.

In cases of leave for medical care purposes, the employee must, as soon as reasonably practical, provide the employer with confirmation in writing that they intend to take such leave. This confirmation must contain the date of commencement of the leave, the duration and a statement of fact entitling the employee to the leave for medical care purposes and must be signed by the employee.

WHAT ARE MY OBLIGATIONS AS AN EMPLOYER IN IRELAND?

Employers will have to respond to a request within four weeks of receiving same, either granting, refusing or postponing the request. Any decision to refuse or postpone the request must be justified by the employer. Before a postponement, the employer must consult with the employee.

Subject to the employee's approval, the response time can be extended by a further eight weeks.

The request can be refused or postponed for six months for a number of reasons. If the employer believes it would have substantial adverse effect on the operation of the business on the basis of:

- seasonal variations in the volume of work;
- the unavailability of someone to carry out the employee's duties;
- the nature of their duties;
- the number of other employees availing of flexible working arrangements; or
- any other relevant matter.

An agreement should be drawn up to document the flexible working arrangements outlining the changes to working arrangements, patterns or hours of work and stating the date of commencement and duration of the set period. This agreement must be retained by the employer and a copy of same must be provided to the employee for them to retain.

The confirmation for leave for medical care purposes must be retained by the employer and a copy of same must be provided to the employee for them to retain.

At the end of the flexible working arrangement, the employee will be entitled to return to their original working arrangements, hours or patterns and employees will be entitled to request an early return to their original working arrangements.

AS AN EMPLOYER, WHAT CAN I DO TO PREPARE?

Employers should plan to review and update their family leave and flexible working policies in light of the new legislation and in time for its enactment.

KEY CONTACT

Please liaise with your usual Maples Group Employment Team contact for further advice and assistance on the Work Life Balance and Miscellaneous Provisions Bill 2022.

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