

Work Life Balance and Miscellaneous Provisions Act 2023



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The Government has announced new employment entitlements for parents and carers which came into effect on 3rd July 2023. Further updates are expected in the coming months on how the Act can be interrupted. The full Act can be found here: <https://data.oireachtas.ie/ie/oireachtas/act/2023/8/eng/enacted/a0823.pdf>

The new legislation provides new rights to workers to support a balance between their work life, family life and caring responsibilities. The Act has been introduced as part of a wider EU commitment towards greater diversity and inclusion in the workplace. It also focuses on inclusivity and some terminology regarding gender has been adjusted.

A summary of what the Act covers is listed below:

- The right to request flexible working hours for parents and carers who provide care and support for children and persons who need significant care and support for serious medical reasons
- 5 days of unpaid leave for medical care purposes for carers and parents who meet the above criteria
- The right to request remote working for any employee
- The extension of breastfeeding breaks to cover the first 2 years (previously 6 months)
- The right to take maternity leave for transgender men
- 5 days of paid leave annually for victims of domestic violence

Please ensure you update your Company Handbook to reflect these changes in the coming weeks.

The Association can provide a more details on each of the above changes and sample policies by simply emailing Info@kala.ie.

Below are further details and sample policies regarding the Work Life Balance and Miscellaneous Provisions Act 2023.

Flexible working arrangements

Under the new legislation, an employee may request a flexible working arrangement if their situation falls under one of the following:

- The employee provides care to their child who requires significant care or support for a serious medical reason. The child must be under 12 years of age or 16 years if the child has a disability or long-term illness.
- The employee provides personal care or support to a person with whom they have a specified relationship, and that person requires significant care or support for a serious medical reason. The specified relationship includes a spouse or civil partner, cohabitant, parent or grandparent, sibling, or another person who lives with the employee.

As an employer, you must consider a request from an employee under the flexible working arrangement legislation. However, employers are not obliged to agree to the request but should try and facilitate where necessary. There is provisions within the Act for managing employee abuse of this leave.

Suggested Company Handbook Policy

Flexible working arrangements

Employees may request a flexible working arrangement if their situation falls under one of the following:

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The Company will carefully consider a request from an employee under the flexible working arrangement legislation. However, we are not obliged to agree to the request but we will try and facilitate requests where possible. Abuse of flexible work arrangements leave will be dealt with under the company disciplinary procedures.

Medical care leave

The medical care provision entitles an employee who meets the criteria for a flexible working arrangement to 5 days of unpaid leave per annum to provide personal care or support to a child or a specified person who needs significant care or support for a serious medical reason. The employer can request evidence, such as medical certificates, from the employee. There is provisions within the Act for managing employee abuse of this leave.

Suggested Company Handbook Policy

Medical care leave

The medical care provision entitles an employee who meets the criteria for a flexible working arrangement to 5 days of unpaid leave per annum to provide personal care or support to a child or a specified person who needs significant care or support for a serious medical reason. The employer can request evidence, such as medical certificates, from the employee. Abuse of medical care leave will be dealt with under the disciplinary procedures.

Domestic violence leave

This provision gives an employee who has experienced or is currently experiencing domestic violence a period of paid leave to seek medical attention, assistance from professional services or other forms of support.

The leave will be a maximum of 5 days paid leave per 12 months. The daily pay rate for this type of leave has yet to be determined. At present it can be assumed to be the employee's usual payment amount. The focus here was to protect employees especially those who are victims of coercive control and payslips are monitored so they can seek support without their abuser knowing during working time. The employee should inform their employer, as soon as is practical, of the type of leave they are taking. Employers should be discrete and keep leave requests of this nature confidential.

Company Handbook Policy

Domestic violence leave

Employees who have experienced in the past 6 months or is currently experiencing domestic violence is entitled to 5 days paid leave to seek medical attention, assistance from professional services or other forms of support. The leave will be a maximum of 5 days paid leave per 12 months. The daily pay rate for this type of leave is the employees normal rate of pay. The focus here was to protect employees especially those who are victims

of coercive control and payslips are monitored so they can seek support without their abuser knowing during working time. Employees should inform their Manager or someone in management that they trust, as soon as is practical of their need to take leave. The Company will be discrete and keep leave requests of this nature confidential. Abuse of domestic violence leave will be dealt with under the disciplinary procedures.

Remote working arrangements

This provision for remote working is a revised approach from the former 2022 Right to Request Remote Working Bill.

Under the revised criteria, the following will apply:

- A request for remote working arrangements must be made in writing and include details of the proposed arrangements. The reasons for the request and details and suitability of the proposed remote working environment.
- An employee must have 6 months of continuous employment before submitting a request for remote working.
- The request must be submitted at least 8 weeks in advance of the proposed start date of remote working.
- The employer must respond to a request within 4 weeks – however, this period can be extended up to 8 weeks in certain circumstances.
- When deciding whether to grant the request for remote working, the employer must consider both the needs of the employee and the company's needs.
- If the employer refuses the request, they must provide grounds for refusal.
- The employer can end a remote working arrangement if it adversely affects the operation of the business.

The WRC Code of Practice is to be published in August to provide further guidance on requests for remote working.

Suggested Company Handbook change

Requests for Remote Working Policy

When making a request to work remotely, the following will apply:

- A request for remote working arrangements must be made in writing to your Manager and include details of the proposed arrangements. The reasons for the request and details and suitability of the proposed remote working environment.
- An employee must have 6 months of continuous employment before submitting a request for remote working.
- The request must be submitted at least 8 weeks in advance of the proposed start date of remote working.
- The Company will respond to a request within 4 weeks – however, this period can be extended up to 8 weeks in certain circumstances.
- When deciding whether to grant the request for remote working, the Company will consider both the needs of the employee and the company's needs.
- If the Company refuses the request, we will provide grounds for refusal.
- The Company can end a remote working arrangement if it adversely affects the operation of the business. We will provide as much notice as possible of this change.

Breastfeeding breaks and maternity leave update

The Act extends the existing legislation that provides for employees to take breaks to breastfeed their child

or express milk. The entitlement of one hour paid leave per day for up to 26 weeks following the birth of their child is extended to 104 weeks – effectively up to 2 years. Additional amendments provide for transgender men who have given birth to access maternity leave.

Suggested Handbook Policy Change

Maternity Leave Policy

In accordance with the Maternity Protection Act 1994 and subsequent amendments, an expectant mother/transgender employee is entitled to 26 consecutive weeks maternity leave. The employee must take at least two weeks leave before the expected date of the birth.

In addition they may take an additional 16 consecutive weeks' unpaid leave immediately after their maternity leave. An employee's absence from work on additional maternity leave will count for all employment rights associated with the employment (except remuneration and superannuation benefits) such as seniority and annual leave. There is a provision for termination of additional maternity leave (subject to the agreement of the Manager) in the event of the hospitalisation of the child. Leave may only be postponed after 14 weeks maternity leave has been taken. An employee must notify their Manager in writing of their intention to take maternity leave no later than 4 weeks before their maternity leave commences. The employee is also required at the time of notification to provide a medical certificate confirming the pregnancy and expected date of confinement. Employees are required to advise their Manager in writing/email of their return to work 4 weeks prior to returning.

Antenatal & Post Natal Care (Breastfeeding)

An expectant parent is entitled to attend one set of antenatal classes without loss of pay (except the last three classes in a set). There is also a provision for a once off right to father/partners to paid time off to attend the two antenatal classes immediately prior to the birth of the child. However, where an Employee is unable to attend a class through no fault of their own, they may be permitted to attend that class on a subsequent birth. At least 2 weeks' notice of the intention to avail of this leave must be provided before the class and appropriate documentation submitted.

There is a provision for breastfeeding parents who have given birth within the previous 6 months with an entitlement, without loss of pay, to either an adjustment of working hours or where breastfeeding facilities are provided, breastfeeding breaks.

This entitlement is one hour off from work each working day as a breastfeeding break in the form of;

- One break of 60 minutes
- Two breaks of 30 minutes each
- Three breaks of 20 minutes each or

In such other manner as to number and duration of breaks as may be agreed with their Manager.

This is a very important topic. Ensure you know where you stand with all your employment relationships to avoid unnecessary risks to your business.

Kala Management Solutions Limited offers a wide range of HR services. Visit www.kala.ie for a full outline of our services. For a free consultation contact us on info@kala.ie, 01 619 02 82.