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**From:** Anne Marie Hoey, National Director of Human Resources

**Date:** 21<sup>st</sup> July 2023

**Subject:** HR Circular 017/2023: Work Life Balance and Miscellaneous Provisions Act 2023 – (i) Unpaid leave for medical care purposes and (ii) Amendment of Maternity Protection Act 1994

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Dear Colleagues

The following sections of the *Work Life Balance and Miscellaneous Provisions Act 2023* came into operation on 3 July 2023:

- (i) Unpaid leave for medical care purposes
- (ii) Amendment of Maternity Protection Act 1994

### **Unpaid leave for medical care purposes**

The Act contains a new entitlement<sup>1</sup> for employees to up to 5 days' leave without pay for the purposes of providing personal care or support to one of the following specified persons who are *in need of significant care or support for a serious medical reason*:

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<sup>1</sup> This new leave entitlement is entirely separate to "force majeure leave" under the Parental Leave Act 1998.

- (i) A person of whom the employee is the relevant parent
- (ii) The spouse or civil partner of the employee
- (iii) The cohabitant of the employee
- (iv) A parent or grandparent of the employee
- (v) A brother or sister of the employee
- (vi) A person, other than one specified above, who resides in the same household as the employee.

There is no service requirement needed to avail of this leave.

Leave for medical care purposes consists of one or more days on which, but for the leave, the employee would be working. An employee may be granted up to a maximum of **5 days** in any period of 12 consecutive months. The leave cannot be taken in a period of less than one day.

A day on which an employee is absent from work on leave for medical care purposes for part only of the period during which they are required to work on that day will be counted as one day of leave.

When an employee takes or intends to take leave for medical care purposes, they are required, as soon as reasonably practicable, to complete a confirmation form which contains the following details:

- The date of commencement of the leave and its duration
- A statement of the facts entitling the employee to the leave
- Employee's signature

The HSE HR Form is available at this link [here](#).

On receipt of the confirmation form, an employer will retain the form and provide the employee with a written acknowledgement of receipt.

An employer can request an employee who has submitted a confirmation document to provide such information as the employer may reasonably require in relation to-

- (i) 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,
- (ii) the nature of the personal care or support required to be given by the employee to the person concerned, and
- (iii) relevant evidence relating to the need of the person for the significant care or support concerned.

'Relevant evidence', in relation to the person for whom the care or support is or is proposed to be provided, means-

- (a) A medical certificate
- (i) stating that the person named in the certificate is (or where the leave has already been taken) was in need of significant care or support for a serious medical reason, and
  - (ii) signed by a registered medical practitioner<sup>2</sup>

**or**

- (b) if the employee does not have a medical certificate, such evidence as the employer 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.

An employee who avails of leave for medical care purposes continues to accrue an entitlement to annual leave and public holidays during this period.

### **SAP Absence Codes for 'Medical Care Leave'**

For SAP sites, SAP CoE have commenced the configuration of the new absence codes, titled Medical Care Leave, as follows:

- Absence Type - 0408 - text "Medical Care Leave (U)"
- Absence Time ID - A065 - text "Medical Care Leave (U)"

This absence can be entered by Time Returning Officers via Time Manages Workplace (PTMW) or by HR via PA30. SAP CoE have confirmed that they will issue a broadcast message to be published on the SAP HR/Payroll system advising all SAP users about this new Absence Type and Time ID when it is available. This will also be issued to all HR Managers by Business Support and to both Time and PA input staff by the Training Team.

For non-SAP users, the new Absence Type will need to be deducted from Available Time on your returns.

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

The Act makes the following amendments to the Maternity Protection Act 1994:

#### **(i) Breastfeeding Breaks**

The statutory entitlement to breastfeeding breaks has been extended from 6 months to 2 years after the birth of the child. The legislation now provides that an 'employee who is breastfeeding' means at any time an employee whose date of confinement was not more than 104 weeks earlier, who is breastfeeding and who has informed her employer of her condition.

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<sup>2</sup> This refers to a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007.

The extension from 6 months to 2 years has already been implemented in the public health service under the ***HSE Breastfeeding Policy for Staff Working in the Public Health Service*** [here](#). This Policy applies to all employees in the HSE and Section 38 organisations who are breastfeeding and/ providing breast milk for up to 2 years from the date of birth of the child.

**(ii) Maternity Leave**

Transgender men who have given birth can access statutory maternity leave<sup>3</sup>.

Please ensure that this Circular is brought to the attention of managers and relevant staff within your area of responsibility.

**Queries**

Queries from individual employees or managers should be referred to local HR/Employee Relations Departments. Please note that the National HR Helpdesk is also available to take queries from employees Tel: 1800 444 925 Email: [Ask.HR@hse.ie](mailto:Ask.HR@hse.ie)

Queries from HR/Employee Relations Departments on this Circular may be referred to National Employee Relations, HR Directorate, 63-64 Adelaide Road, Dublin 2 Tel: 01 6626966 Email: [info.t@hse.ie](mailto:info.t@hse.ie)

Yours sincerely



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**Anne Marie Hoey**  
**National Director of Human Resources**

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<sup>3</sup> Under *Part II Maternity Leave*, section 7(2) has been deleted so that references to an employee in this Part are no longer references to a female employee only. Section 16(1), which provides for an entitlement of an employed father or other parent, as the case may be, to leave on death of the mother, now refers to "woman or other person".