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Head of HR, PCRS
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From: Anne Marie Hoey, Chief People Officer

Date: 23rd December 2024

Subject: HR Circular 028/2024 - Right to postpone Maternity Leave in cases of serious illness

Dear Colleagues

I wish to advise that the Maternity Protection Act 1994¹ contains a new entitlement for an employee who requires ongoing treatment for a serious health condition, including physical and mental health conditions, to postpone all or part of their maternity leave for a period of between 5 and 52 weeks. This entitlement came into effect on **20 November 2024**². It is conditional on an employee providing medical certification and complying with certain notification requirements. Postponing maternity leave will not affect an employee's entitlement to other forms of statutory leave, such as unpaid maternity leave, parental leave and parent's leave.

¹ [Maternity Protection, Employment Equality And Preservation Of Certain Records Act 2024](#)

² [S.I. No. 630/2024](#)

This Circular provides a summary of the statutory changes and is not intended as a legal interpretation of the legislation.

Scope

The entitlement to postpone maternity leave applies to an employee who is pregnant or on maternity leave and has a serious health condition.

A '*serious health condition*' is defined under the Act as a health condition that

- (a) entails a serious risk to the life or health, including the mental health, of an employee, and
- (b) in order to address the risk, requires necessary medical intervention that is ongoing for a period of time to be carried out in respect of the employee.

The Act specifies that '*necessary medical intervention*', in relation to mental health, means inpatient hospital treatment.

Notification Requirements

An employee who wishes to avail of this entitlement to postpone their maternity leave must give written notification to their employer. HSE employees can provide notification in the updated [Maternity Leave/Additional Maternity Leave Application Form – HR 108 \(i\)](#).

The employee may postpone all or part of their maternity leave for a maximum of 52 weeks. This notification must specify the date on which the postponement is to commence and end (which must be at least 5 weeks from the date of commencement of the postponed maternity leave and not later than 52 weeks from the date the leave is set to begin) and be accompanied by a certificate from a relevant medical practitioner which specifies those dates. The notification must be made at least 2 weeks before the postponement is due to commence.

A '*relevant medical practitioner*' means someone who—

- (a) is registered in the Specialist Division of the register of medical practitioners pursuant to section 47 of the Act of 2007 and is a specialist in a medical speciality recognised by the Medical Council under section 89 of that Act, **and**
- (b) is treating, or is responsible for the treatment of, the employee in relation to the serious health condition concerned.

An employee will be entitled to avail of the postponed period of maternity leave in **one continuous period** on the day immediately after the end date set out in their medical certificate.

The entitlement to take resumed maternity leave is subject to the employee giving written notification to their employer of their intention to commence the leave as soon as reasonably practicable but not later than the day on which the leave begins.

Second Postponement

Where the employee has already postponed all or part of their maternity leave, they may, **once only**, notify their employer in writing of their intention to further postpone the commencement of their maternity leave (referred to as the 'second postponement'). The notification must be made at least 2 weeks before the second postponement is due to commence.

The second notification must specify the date on which the second postponement is to commence and end. It must be accompanied by a medical certificate signed by a relevant medical practitioner and specifying these dates. The second postponement must begin no later than the end date of the first postponement. This means that there can be no return to maternity leave between the first and second postponements. This second postponement cannot end later than 52 weeks from the date on which the first postponement is set to begin.

The employee will be entitled to take the postponed period of maternity leave in one continuous period which will begin the day immediately after the end date specified in the second notification

Restrictions

An employee cannot postpone their maternity leave under both the above provisions and the provisions in the Maternity Protection Act 1994 that permit postponement in the event of hospitalisation of a child in respect of the same birth.

Maternity Benefit

The Act amends the Social Welfare Consolidation Act 2005 to provide for the postponement of the payment of maternity benefit to employees who avail of this entitlement.

Public Service Sick Leave Scheme

Employees whose postponement of maternity leave is approved will be subject to the terms and conditions of the [public service sick pay scheme](#) and their absence during that period should be recorded as sick leave. The employee will also be subject to the employer's Managing Attendance Policy during that period.

HSE employees must apply for sick leave on HR & Payroll Self-Service if this is available in their area. HSE Time Returning Officers (TROs) are required to enter sick leave onto the local payroll system in a timely manner to avoid overpayments or underpayments. If the employee is unable to apply for sick leave on HSE Self-Service due to the nature of their serious illness, the line manager can instruct the TRO to enter sick leave manually.

Please ensure that this Circular is brought to the attention of all relevant managers and staff in your area of responsibility as appropriate.

Queries

Queries from individual employees or managers regarding these arrangements should be referred to local HR Departments/Employee Relations Departments. Please note that the National HR Help Desk is also available to take queries on 1800 444 925 or email: ask.hr@hse.ie

Queries from HR Departments on the contents of 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

Yours sincerely



Anne Marie Hoey
Chief People Officer