
SICK LEAVE AND PARENTAL LEAVE (COVID-19) BILL 2020

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ACTS REFERRED TO

Child Care Act 1991 (No. 17)

Education Act 1998 (No. 51)

Organisation of Working Time Act 1997 (No. 20)

Parental Leave Act 1998 (No. 30)

Unfair Dismissals Acts 1977 to 2015

Workplace Relations Act 2015 (No. 16)

SICK LEAVE AND PARENTAL LEAVE (COVID-19) BILL 2020

Bill

entitled

An Act to provide for an entitlement for employees to paid leave during periods of illness or injury, to amend the entitlement to leave on grounds of *force majeure* for parents whose children are unable to attend school or a pre-school service by reason of Covid-19 measures, and to provide for connected matters.

Be it enacted by the Oireachtas as follows:

Interpretation

1. In this Act –

“Act of 1997” means the Organisation of Working Time Act 1997;

“employee” and “employer” have the meanings assigned to them by the Act of 1997.

Entitlement to sick leave

2. (1) Subject to *subsection (2)*, an employee is entitled to paid leave from his or her employment (referred to in this Act as “sick leave”) in respect of any day or days, after the expiry of the first 4 weeks of that employment, on which the employee is incapable of work as a result of illness or injury.

(2) The entitlement of an employee to sick leaves ceases after –

(a) a continuous period of 6 weeks of sick leave, or

(b) days of days of sick leave amounting to 30 days in total in any period of 12 months.

(4) The pay in respect of an employee’s sick leave shall be at the employee’s normal weekly rate of pay (or at a rate which is proportionate to the normal weekly rate of pay), as determined in accordance with regulations made for the purposes of section 20 of the Act of 1997.

Leave on grounds of *force majeure*: Covid-19

3. The Parental Leave Act 1998 is amended by the insertion of the following after section 13:

“13A. (1) This section applies to an employee where, as a result of Covid-19 measures –

- (a) a recognised school (within the meaning of the Education Act 1998) or a pre-school service (within the meaning of section 58A of the Child Care Act 1991) is not open to receive a child of whom the employee is the parent or adoptive parent and who is enrolled at that school or service and would otherwise be attending it, or
 - (b) a child of whom the employee is the parent or adoptive parent and who is enrolled at that school or service is otherwise unable to attend it.
- (2) Where this section applies, an employee shall be entitled to *force majeure* leave under section 13 where and for so long as –
- (a) the child concerned is unable to attend the recognised school or pre-school service concerned, and
 - (b) the presence of the employee is required at his or her home in order to care for that child.
- (3) In *subsection (1)*, ‘Covid-19 measures’ means measures required to be taken in order to comply with, or as a consequence of, Government policy to prevent, limit, minimise or slow the spread of infection of Covid-19.’.

Voidance or modification of certain provisions

4. (1) Save as provided by this section, a provision in an agreement –

- (a) in so far as it purports to exclude or limit the application of this Act, is void,
 - (b) which is or becomes less favourable in relation to an employee than the entitlement conferred by this Act is deemed to be so modified as to be not less favourable.
- (2) Notwithstanding *subsection (1)*, if a collective agreement or a registered employment agreement provides that this Act shall not apply in relation to the employees to whom the agreement for the time being has effect, or to a specified class or classes of those employees, this Act does not apply in relation to those employees, or to the specified class or classes of employees.
- (3) Nothing in this section prohibits the inclusion in an agreement of a provision more favourable to an employee than the entitlement conferred on the employee by this Act.
- (4) In this section –
- (a) “agreement” means any agreement, whether a contract of employment or not and whether made before or after the coming into operation of this Act,

- (b) “collective agreement” means an agreement by or on behalf of an employer on the one hand and by or on behalf of a body or bodies representative of the employees to whom the agreement relates on the other hand.

Complaints and disputes

5. (1) A complaint or dispute relating to an employee’s entitlement to sick leave may be presented or referred under the Workplace Relations Act 2015 in like manner as a complaint or dispute in relation to an employee’s entitlement to paid annual leave.
- (2) Section 27 (1) of the Act of 1997 is amended by the insertion after paragraph (aa) of the following:

“(aaa) the *Sick Leave Act 2020*,”.

Saver in relation to Unfair Dismissals Acts

6. Nothing in this Act amends the law relating to the grounds that would justify the dismissal of an employee for the purposes of the Unfair Dismissals Acts 1977 to 2015.

Short title

7. This Act may be cited as the Sick Leave and Parental Leave (Covid-19) Act 2020.