

L.N. 156 of 2017**EMPLOYMENT AND INDUSTRIAL RELATIONS ACT
(CAP. 452)****Leave for Medically Assisted Procreation National
Standard Order, 2017**

IN EXERCISE of the powers conferred by article 4 of the Employment and Industrial Relations Act, the Minister for Social Dialogue, Consumer affairs and Civil Liberties has made the following order:

Title. **1. (1)** The title of this order is the Leave for Medically Assisted Procreation National Standard Order, 2017.

(2) The purpose of this order is to lay down minimum requirements designed to grant a period of paid leave to employees who undergo the process of medically assisted procreation, whether in Malta or outside Malta.

(3) This order shall be applicable without prejudice to the introduction and implementation of more favourable provisions in collective agreements or other agreements entered into between the employer and the employee.

Definitions. **2. (1)** In this order, unless the context otherwise requires;

Cap. 452 "the Act" means the Employment and Industrial Relations Act;

"medically assisted procreation" means that process whereby an embryo would develop following the bringing together of gametes, which process would have been aided or assisted by means which go beyond the workings of the natural process, and which includes all types of intervention, be they intracorporeal or extracorporeal that help the bringing together of gametes, and their implanting or the implanting of the embryo that could have developed from this intervention within the reproductive system of the receiving person;

"prospective parents" means the two persons who are united in marriage, civil union, cohabitation, or who have attained the age of majority and are in a stable relationship with each other.

(2) Subject to the provisions of sub-article (1), terms and expressions used in this national standard order shall, unless the context otherwise requires, have the same meaning assigned to them by the Act.

3. (1) The prospective parents who undergo the process of medically assisted procreation, whether in or outside Malta, shall be entitled to one hundred hours of leave for medically assisted procreation with full pay between them, which leave shall be paid by the employer.

Leave for medically assisted procreation.

(2) Leave for medically assisted procreation shall be utilised at any time during the process of medically assisted procreation:

Provided that the prospective parent acting as the receiving person shall be entitled to sixty hours of leave; whereas the other prospective parent shall be entitled to forty hours of leave:

Provided further that there is nothing precluding the prospective parents from utilising the aforementioned hours of leave in a non-continuous manner:

Provided finally that the entitlement to one hundred hours of leave for medically assisted procreation with full pay shall be granted for every process of medically assisted procreation, up to a maximum of three processes.

(3) Leave for medically assisted procreation granted by this order shall be utilised as follows:

(a) if only one of the prospective parents is in employment during the process of medically assisted procreation:

(i) sixty hours of leave shall be enjoyed by that prospective parent acting as the receiving person;

(ii) forty hours of leave shall be enjoyed by that prospective parent who is not acting as the receiving person;

(b) if both prospective parents are in employment, whether with different employers or with the same employer, during the process of medically assisted procreation, leave may be enjoyed concurrently by both prospective parents.

(4) It shall be the responsibility of the employee who is a prospective parent in terms of this order, who requests leave for medically assisted procreation, to provide proof to the employer that he is the receiving or the non-receiving person, and proof about the employment status of the other prospective parent.

4. (1) Any employee who is a prospective parent and who

Notification.

intends to avail himself of leave for medically assisted procreation shall notify the employer in writing of the date or dates when he intends to avail himself of such entitlement.

(2) The notification referred to in this article shall include a written certification by the medical practitioner in charge of the procedure of medically assisted procreation.

(3) The notification referred to in this article shall be given to the employer at least two weeks before the utilisation of the leave for medically assisted procreation begins, in so far as is reasonably practicable.

Evidence. 5. In those cases where the prospective parent wishes to avail himself of the leave for medically assisted procreation in a non-continuous manner in terms of the first proviso to article 3(1), he shall present his employer with relevant certification every time he wishes to use part of that leave, and such certification shall be forwarded to the employer at least two working days before each part of the leave commences.

Independent right. 6. The leave for medically assisted procreation is to be granted independently and irrespectively of any other kinds of leave granted by the Act or by any legislation issued thereunder.

Dismissal. 7. An employee who is a prospective parent and who intends to or avails himself of leave in terms of this order shall not be dismissed by the employer by reason of the intention or availing himself of such leave.

Offences. 8. Any person contravening the provisions of this order shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than five hundred euro (€500).

