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L.N. 263 of 2020

**EMPLOYMENT AND INDUSTRIAL RELATIONS ACT
(CAP. 452)**

**Leave for Medically Assisted Procreation National Standard
(Amendment) Order, 2020**

IN EXERCISE of the powers conferred by article 4 of the Employment and Industrial Relations Act, the Minister within the Office of the Prime Minister, has made the following order:-

Citation. **1.** The title of this order is Leave for Medically Assisted Procreation National Standard (Amendment) Order, 2020 and this order shall be read and construed as one with the Leave for Medically Assisted Procreation National Standard Order, hereinafter referred to as "the principal order".

S.L. 452.114.

Amends article 2 of the principal order.

2. Sub-article (1) of article 2 of the principal order, shall be amended as follows:

(a) the definition "medically assisted procreation" thereof, shall be substituted by the following:

" "medically assisted procreation" means all treatments or procedures that include the *in vitro* handling of human oocytes, spermatozoa or embryos for establishing a pregnancy. This includes, but is not limited to, intra-uterine insemination, *in vitro* fertilization, intracytoplasmic sperm injection, embryo transfer, gamete, germinal tissue and embryo cryo-preservation and oocyte and embryo donation;" and

(b) the definition "prospective parent" thereof, shall be substituted by the following:

Cap. 524. " "prospective parent" means any person, regardless of gender or sexual orientation, who has attained the age of majority and is a receiver or user of the medically assisted procreation techniques regulated under the Embryo Protection Act."

Adds new articles to the principal order.

3. Immediately after article 3 of the principal order, there shall

be added the following new articles:

"Leave in case of one (1) prospective parent.

3A. (1) A single prospective parent, who is in employment and who undergoes the process of medically assisted procreation, provided that the process of the transfer of the embryo is undertaken on the single prospective parent's own body, whether in or outside Malta, shall be entitled to sixty (60) hours of leave for medically assisted procreation with full pay, which leave shall be paid by the employer.

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

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

Provided also that, the entitlement to sixty (60) 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 (3) processes.

(3) It shall be the responsibility of the employee who is a prospective parent and who requests leave for medically assisted procreation in terms of this article, to provide proof to the employer that the employee is the receiving person.

Leave in case of two (2) prospective parents, one (1) being the receiving person and the other being a human oocyte donor.

3B. (1) Where two (2) prospective parents undergo the process of medically assisted procreation, whether in or outside Malta, and one (1) of the prospective parents is a human oocyte donor and the other prospective parent is the receiving person, both (2) prospective parents, who are in employment, shall be entitled to sixty (60) hours of leave for medically assisted procreation with full pay, which leave shall be paid by the employer.

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

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

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Provided also that, the entitlement to one-hundred and twenty (120) hours of leave for medically assisted procreation with full pay shall be granted one time for the human oocyte process.

(3) It shall be the responsibility of the employee who is a prospective parent and who requests leave for medically assisted procreation in terms of this article, to provide proof to the employer that the employee is the prospective parent undergoing treatment.

A human oocyte donor.

3C. (1) A human oocyte donor, who is in employment, and who is not a prospective parent in terms of this Order, shall still be entitled to sixty (60) hours of leave with full pay, which leave shall be paid by the employer.

(2) Such leave shall be utilized at any time during the process of human oocyte donation:

Provided that, there is nothing precluding the human oocyte donor from utilising the aforementioned hours of leave in a non-continuous manner:

Provided also that, without prejudice to the rights of the receiving person in accordance with this Order, the entitlement to sixty (60) hours of leave as provided by this article, shall be granted one time for the human oocyte process.

(3) It shall be the responsibility of the employee who requests leave for human oocyte donation in terms of this article, to provide proof to the employer that the employee is undergoing fertility treatment."