SUBSIDIARY LEGISLATION 452.125

THE WORK-LIFE BALANCE FOR PARENTS AND CARERS REGULATIONS

2nd August, 2022

LEGAL NOTICE 201 of 2022, as amended by Legal Notice 102 of 2026.

Title.

1. The title of these regulations is the Work-Life Balance for Parents and Carers Regulations.

Scope and applicability.

2. (1) The scope of these regulations is to transpose the relevant provisions of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

(2) These regulations transpose minimum requirements designed to achieve equality between men and women with regard to labour market opportunities and treatment at work, by facilitating the reconciliation of work and family life for workers who are parents, or carers. To that end, these regulations provide for individual rights related to the following:

(a) paternity leave, parental leave and carers' leave;

(b) flexible working arrangements for workers who are parents, or carers.

(3) These regulations apply to all workers, men and women, who have an employment contract or employment relationship as defined by law, collective agreements or practice in force, taking into account the case-law of the relevant courts of justice of Malta as well as the Court of Justice of the European Union.

Definitions.

3. (1) In these regulations, unless the context otherwise requires:

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

"carer" means any worker providing personal care or support to a relative, or to a person who lives in the same household as the worker, and who is in need of care or support for a serious medical reason;

"carers' leave" means leave from work for workers in order to provide personal care or support to a relative, or to a person who lives in the same household as the worker, and who is in need of care or support for a serious medical reason;

"flexible working arrangements" means the possibility for

workers to adjust their working patterns, including through the use of remote working arrangements, flexible working schedules, or reduced working hours;

Cap. 602.

"foster carer" means one or more persons approved by the Fostering Board, as established by article 38 of the Minor Protection (Alternative Care) Act, to foster a child;

"foster carers' leave" means leave from work for workers in order to provide care or support to a child under foster care;

"parental leave" means leave from work for parents on the grounds of the birth or adoption of a child to take care of that child;

"paternity leave" means leave from work for fathers or, where and insofar as recognised by national law, for equivalent second parents, on the occasion of the birth or the adoption of a child for the purposes of providing care;

Cap. 452.

"*pro rata*" shall have the same meaning attributed to it by article 2 of the Act:

Provided that:

(a) when the employee is in part-time employment on a variable time schedule, the number of hours of work per week shall be the average number of hours of work per week spread over successive thirteen (13) week periods commencing on the first of January of each calendar year; and

(b) when the employee has not been in part-time employment for a period of thirteen (13) weeks, the average number of hours of work per week shall be calculated over the number of weeks in employment;

S.L. 452.88.

"relative" means a worker's son, daughter, mother, father, spouse or, partner in civil partnership, without prejudice to regulation 4(3) of the Urgent Family Leave Regulations;

Kap. 452.

"worker" shall have the same meaning attributed to it by the Act.

S.L. 452.87.

(2) Without prejudice to the Organisation of Working Time Regulations, reference to working days in these regulations shall be understood as referring to the full-time working pattern.

Paternity leave.

4. (1) Fathers or, equivalent second parents, have the right to paternity leave of ten (10) working days, to be taken on the occasion of the birth or the adoption of the worker's child, immediately after the birth or the adoption of the child, without loss of wages.

(2) The right to paternity leave shall not be subject to a period

of work qualification or to a length of service qualification.

(3) The right to paternity leave shall be granted irrespective of the worker's marital or family status.

Parental Leave.

5. (1) Every worker is entitled to parental leave per child, whether full-time, part-time, and whether employed on an indefinite or fixed-term contract:

Provided that in all cases, the worker has been in the employment with the same employer for a continuous period of at least twelve (12) months:

Provided further that for the purpose of calculating the twelve (12) month qualifying period, in case of workers with a fixed contract term:

(a) when there are successive fixed term contracts with the same employer, the sum of these contracts shall be taken into account, and

(b) when there is a fixed term contract which is renewed within a six (6) month period from its termination, the said period between the two contracts shall also be taken into account:

Provided further that unless the employer and the employee agree otherwise, the employer shall not, during the period of parental leave, have the right to suspend the parental leave and to request the employee to return to work before the agreed date of resumption of duties, and the employee shall have no right to return to work prior to the agreed date of resumption of duties.

(2) The minimum periods of entitlement mentioned in the preceding sub-regulation shall be applicable unless a shorter period of entitlement has been established in the contract of service of the worker or in a collective agreement applicable to the worker.

(3) These regulations 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 worker.

(4) Workers have the right to request that they take parental leave in flexible ways. The employer shall consider and respond to such requests, taking into account the needs of both the employer and the worker. The employer shall provide reasons for any refusal to accede to such a request in writing within two (2) weeks from the request:

Provided that, without prejudice to any collective

agreement applicable to the worker, the employer together with the worker may decide whether to grant the parental leave on a full-time or a part-time basis, or in a piecemeal way.

(5) A worker applying for parental leave from the employer shall be bound to give a minimum of two (2) weeks notice in writing, specifying the beginning and the end of the parental leave, prior to taking such leave.

Cap 452.

(6) Without prejudice to the Act, the Minister may issue regulations to provide for conditions of access to and detailed arrangements for the application of parental leave adapted to the needs of adoptive parents, parents with a disability and parents with children with a disability, or a long-term illness:

Provided that in the case of parents with a disability or parents with children with a disability, without prejudice to the applicability of the Act, any arrangement concerning parental leave which goes counter to the provisions of the Equal Opportunities (Persons with Disability) Act shall be considered null and void.

Cap. 452.

Cap 413.

(7) Upon the granting of parental leave, during the period of parental leave, the employee shall have the right to apply for promotion opportunities arising within the place of work, and in order to facilitate the return to work following parental leave, both the employer and employee concerned are obliged to maintain contact during the period of leave and may make arrangements for any appropriate reintegration measures, which are to be decided between the parties themselves.

Leave for recognised parents of children born outside Malta. *Added by: L.N. 102 of 2026.*

5A. (1) Every whole-time or part-time worker, employed on an indefinite or fixed-term contract, who is recognised as a parent in the act of birth of a child born in a foreign country, which act is drawn up or registered by the competent authority in that country and is subsequently registered in Malta in accordance with the provisions of article 244 of the Civil Code, shall be entitled to an uninterrupted period of eighteen (18) weeks of leave, that shall commence to run either on the date of the birth of the child or up to two (2) weeks prior to the expected date of birth of the child, as the worker may decide:

Cap. 16.

Provided that where a worker is on any other leave provided for under the Act or under any order or regulations issued thereunder, the leave established by this regulation shall be postponed until the expiry of such other leave:

Provided further that a worker who avails himself of the leave established by this regulation shall not be entitled to paternity leave.

(2) The leave established by these regulations shall apply to those workers who are recognised as parents of children born outside

Malta, where neither person indicated as a parent on the act of birth would have given birth to the child:

Provided that this leave shall not apply in cases of adoption.

(3) Any worker who intends to avail himself of leave in terms of these regulations shall notify the employer in writing of the expected date of the birth of the child. The notification shall:

(a) include an official document, translated in the Maltese or the English language which translation shall be apostilled, issued by a clinic, healthcare institution or competent authority, which document shall expressly indicate that the worker is involved in the pregnancy as an eventual parent of the child; and

(b) be given to the employer at least four (4) weeks before the expected date of the birth of the child, insofar as is reasonably practicable.

(4) A worker who avails himself of the leave established by this regulation shall, by not later than two (2) calendar months from his return to work, provide the employer with an authenticated copy of the act of birth of the child registered in Malta in accordance with the provisions of article 244 of the Civil Code, which act recognises the worker as a parent. In the absence thereof, the worker shall be liable, without prejudice to any other liability under the Act, to pay the employer a sum equivalent to the basic wages he received during such leave.

Cap. 16.

(5) Without prejudice to sub-regulation (6), a worker who avails himself of leave established by this regulation shall be entitled to full wages for the first fourteen (14) weeks of such leave but if the worker chooses to avail himself of any additional leave exceeding fourteen (14) weeks, the employer shall not be obliged to pay any wages for such additional period beyond the said fourteen (14) weeks, without prejudice to any relevant benefit to which the worker may be entitled in respect of any period of leave which exceeds fourteen (14) weeks in accordance with the Social Security Act to which the worker may be entitled if he chooses to avail himself of leave exceeding the paid fourteen (14) weeks.

Cap. 318.

(6) The leave in terms of this regulation shall in the case of:

(a) a single parent, be enjoyed by such parent; or

(b) more than one (1) parent:

(i) if only one (1) parent is in employment on

the date of commencement of the leave, such leave shall be enjoyed by that parent; or

(ii) where both parents are in employment, whether with the same or different employers, on the date of commencement of the leave, each parent shall be entitled to such part of the leave as they may agree between them by means of an agreement in writing:

Provided that in the absence of such an agreement, each parent shall be entitled to nine (9) weeks of leave.

(7) A worker who is requesting leave in accordance with this regulation, where there is more than one (1) parent, shall provide proof to the employer that:

(a) the other parent of the child is not in employment; or

(b) there is an agreement in writing between the parents specifying which part of the leave shall be enjoyed by each parent:

Provided that in the absence of such an agreement, such worker shall be entitled to nine (9) weeks of leave.

(8) When a worker is on leave established by this regulation, the worker shall be deemed to remain in the employment of the employer and during such absence, he shall be entitled to all rights and benefits accruing to other workers of the same class or category of employment at the same place of work, including the right to apply for promotion opportunities at such place of work.

(9) During leave established by this regulation, a worker shall not be entitled to any bonus or allowance related to performance or production.

(10) Where a worker intends to avail himself of the leave established by this regulation during his probationary period, such probationary period shall be suspended from the day of commencement of the leave and shall resume when the worker returns to work after the leave.

(11) The worker shall, upon the termination of leave established by this regulation, be entitled to resume work in the post he occupied at the commencement of the leave or, where that post is no longer available, in an analogous post.

(12) Where a worker avails himself of the leave established by this regulation and provides the employer with an authenticated copy of

the act of birth of the child registered in Malta, as referred to in sub-regulation (4), but fails to resume work as provided in sub-regulation (11) or, after having so resumed work, abandons employment without good and sufficient cause within two (2) calendar months from the date of such resumption, the worker shall be liable, without prejudice to any other liability under the Act, to pay the employer a sum equivalent to the basic wages he received during the leave. Where the worker works for only part of the said two (2) calendar month period, such sum shall be reduced proportionately, and the period during which the worker worked shall be taken into account.

(13) Where a worker avails himself of leave established by this regulation but does not provide the employer with an authenticated copy of the act of birth of the child registered in Malta, as referred to in sub-regulation (4), and fails to resume work as provided in sub-regulation (11), or after having so resumed work, abandons his employment without good and sufficient cause within two (2) calendar months from the date of such resumption, the worker shall be liable, without prejudice to any other liability under the Act, to pay the employer a sum equivalent to the basic wages he received during the leave.

(14) A worker on a fixed-term contract shall, for the duration of that contract, have the same rights conferred by this regulation but shall not be liable to pay the employer a sum equivalent to the wages he received during the leave established by this regulation if his contract of employment is not extended at the employer's discretion for a period of time which is sufficient for him to fulfil the obligations pursuant to sub-regulations (12) and (13).

(15) Notwithstanding any provision to the contrary in any other law, regulation, order, collective agreement or contract of service, an employee shall not be required by the employer to work overtime for a period of twelve (12) months from the date of the birth of his or her child:

Provided that the right conferred by this regulation shall be personal to the employee and shall not be transferable.

(16) Without prejudice to and saving the cases which fall under the provisions of article 36(4) and (14) of the Act, from the date on which the worker notifies the employer in accordance with sub-regulation (3) until the end of the leave established by this regulation, the employer shall not dismiss a worker, even during the probationary period, by reason of the worker's intention to avail himself of the leave, or of actual availing himself of such leave:

Provided that in cases where there is good and sufficient cause to dismiss the worker, the employer shall:

(a) provide duly substantiated grounds for the dismissal of the worker in writing in a notice of termination; and

(b) send a copy of such notice to the Director General responsible for Employment and Industrial Relations.

(17) An employee who is dismissed shall, for the purposes of these regulations, be deemed to have been unfairly dismissed if the reason, or where more than one, the principal reason, for the dismissal is that the employee:

(a) refused, or proposed to refuse to comply with a requirement imposed, or proposed to be imposed, by the employer in contravention of these regulations; or

(b) refused, or proposed to refuse, to forgo any right conferred on the employee by these regulations.

Paid parental leave to be granted for birth, adoption, fostering or legal custody of a child.

6. (1) It shall be the individual right of each parent to be granted paid parental leave on the grounds of birth, adoption, child fostering in the case of foster parents, or legal custody of a child, to enable them to take care of that child for a period of four (4) months until the child has attained the age of eight (8) years:

Provided that parental leave shall be paid for a period of two (2) months, at the same rate established for the sickness benefit entitlement under the Social Security Act, and parental leave shall be paid as follows:

Cap 318.

(a) fifty per centum (50%) of entitlement will be paid, where the child or children for whose care parental leave was granted has or have not attained four (4) years of age;

(b) twenty five per centum (25%) of entitlement will be paid, where the child or children for whose care parental leave was granted has or have attained the age of four (4) years but has or have not yet attained the age of six (6) years; and

(c) twenty five per centum (25%) of entitlement will be paid, where the child or children for whose care parental leave was granted has or have attained the age of six (6) years but has or have not yet attained the age of eight (8) years:

Provided further that in the case of parental leave granted to foster parents, the rate of payment shall be the same as that established for parents not being foster parents as stipulated in the first proviso, on condition that payment of allowance will be given as per parent applying for parental leave and not for each child fostered:

Provided further that two (2) months of parental leave cannot be transferred:

Provided further that parental leave shall be availed of in established periods of at least two (2) weeks each, without prejudice to any agreement reached by the employer and employee or collective agreement.

(2) In the event that the parental leave was not availed of or there is still an existing balance of parental leave, a worker shall remain entitled to such leave even if there is a change in the employer or in the employment of the worker, as long as, the worker qualifies therefor in accordance with sub-regulation (1).

(3) Every employer shall be bound to keep a record of the parental leave for every worker, and shall, on the demand of the worker which may be made even after termination of employment, deliver to the worker a written statement of the leave to the worker, within two (2) weeks of a written request.

Notice and request.

7. (1) A worker applying for parental leave from the employer shall be bound to give a minimum of two (2) weeks notice in writing, specifying the beginning and the end of the parental leave, prior to taking such leave.

(2) Paternal and parental leave, as regulated by regulations 4(1) and 5(1), shall commence from the date when the worker provides the employer with:

(a) the proof of placement in the case of foster carers;

(b) In the case of adoptive parents:

(i) evidence that the legal proceedings necessary for the adoption to be completed in accordance with the law have been initiated, and

(ii) a written certificate from the competent authority, designated for this purpose by the Minister responsible for social policy, certifying that a positive home study report has been completed; or

(iii) certified evidence that the couple have legal custody of the child.

(c) In the case of parents taking leave because of the legal custody of a child, parental leave shall commence from the date when the worker provides certified evidence that the couple have the legal custody of the child; and

(d) In cases other than those mentioned in paragraphs

(a), (b) and (c), parental leave shall commence when the worker provides the employer with a birth certificate.

Postponement.

8. (1) An employer who receives notice for parental leave as prescribed in regulation 7(1), may temporarily postpone the granting of parental leave for justifiable reasons related to the operation of the place of work.

(2) For the purposes of this regulation, the term "justifiable reasons" includes:

(a) where the work carried out at the place of business is of a seasonal nature;

(b) where a replacement cannot be found within the notice period given by the worker;

(c) where the specific employment of the worker who requests parental leave is of strategic importance to the undertaking or place of business;

(d) where the place of business is a small enterprise employing not more than ten (10) people, provided that the employer consults with the worker in order to establish alternative dates when such leave may be availed of, in such a way to avoid indefinite postponement of the requested parental leave;

(e) where a significant proportion of the workforce applies for parental leave at the same time:

Provided that an employer who decides to postpone the granting of parental leave shall inform the worker in writing of the reasons for the postponement within two (2) weeks of receipt of the worker's notice, for cases falling under this sub-regulation:

Provided further that the postponement by the employer of the granting of parental leave is without prejudice to the worker’s right to take the parental leave entitlement before the child reaches eight (8) years of age at the latest and if such postponement may result in the loss of the parental leave entitlement or part thereof, it shall be the duty of the employer to immediately grant parental leave for a period equivalent to the leave still unavailed of, or for such other lesser period as may be requested by the worker:

Provided further that when considering requests for parental leave, employers shall, prior to any postponement, offer, to the extent possible, flexible ways of taking parental leave.

Carers’ leave.

9. Each worker has the right to carers' leave of five (5) working days per year, which shall be unpaid:

Provided that the worker shall present medical proof that the relative, or person who lives in the same household as the worker and in relation to whom carers' leave is requested, is suffering from an illness and is in need of care and support.

Flexible working arrangements.

10. (1) Workers with children up to the age of eight (8) years, and carers, have the right to request flexible working arrangements for caring purposes:

Provided that flexible working arrangements may be limited in duration:

Provided further that when flexible working arrangements are limited in duration, the worker shall have the right to request to return to the original working pattern before the end of the agreed period where justified on the basis of a change in circumstances. The employer shall consider and respond to a request for an early return to the original working pattern, taking into account the needs of both the employer and the worker.

(2) In these regulations flexible working arrangements may include but are not limited to, remote working, work on reduced hours, and flexitime.

(3) Employers shall consider and respond to requests for flexible working arrangements within two (2) weeks, providing reasons for any refusal of such requests or for any postponement of such arrangements.

Employment rights.

11. (1) Rights that have been acquired or that are in the process of being acquired by workers on the date when leave granted under these regulations commences, shall be maintained until the end of such leave or time off from work. At the end of such leave or time off from work, those rights, including any changes arising from the law, collective agreements or practice, shall apply.

(2) At the end of paternal, parental, and carers' leave, workers are entitled to return to their jobs or to equivalent posts on terms and conditions which are no less favourable to them, and to benefit from any improvement in working conditions to which they would have been entitled had they not taken the leave.

Discrimination.

12. Discrimination against workers on the ground that they have availed themselves of leave, being paternity, parental, carers' leave, time off from work on grounds of *force majeure* or any flexible arrangement, shall be prohibited.

Protection against adverse treatment or consequences. Cap. 452.

13. Without prejudice to Article 28 of the Act, no worker, or any worker being the employees' representative, lodging a complaint with the employer or initiating legal proceedings against the employer for the purpose of enforcing compliance with the requirements laid

down in these regulations, shall suffer from any adverse treatment or consequences.

Protection from dismissal and burden of proof.

14. (1) Any dismissal, or preparations for the dismissal of workers on the grounds that they have applied for, or have taken, paternal, parental, carers' leave, or time off from work on grounds of *force majeure*, or have exercised the right to request flexible working arrangements, shall be unlawful:

Provided that in the case of parental leave notice of termination of employment, as provided for in the Act may be given during the period of parental leave:

Cap. 452.

Provided further that, a notice of termination given by either the employer or the employee during parental leave, shall result in the automatic suspension of the parental leave from the date such notice is given.

(2) Workers who consider that they have been dismissed on the grounds that they have applied for, or have taken leave provided for in sub-regulation (1), or availed themselves of a flexible working arrangement, may request the employer to provide duly substantiated reasons for their dismissal. Such reasons shall be provided by the employer in writing, within fifteen (15) days from a request therefor.

(3) When a worker establishes, before a competent authority, facts capable of giving rise to a presumption that he has been dismissed on the grounds of having applied for, or availed himself of any leave mentioned in sub-regulation (1), or of having requested or availed himself of a flexible working arrangement, it shall be the responsibility of the employer to prove that the dismissal was based on other grounds.

Dispute resolution.

15. Should a dispute arise between an employer and an employee regarding the entitlements covered by these regulations or any related matter, then either the employer or the employee may refer the matter to the Director General of Employment and Industrial Relations who shall mediate between the parties.

Repeal and saving. S.L. 452.78.

16. (1) The Parental Leave Entitlement Regulations are hereby repealed.

(2) The revocation of the regulations referred to in sub-regulation (1) shall be without prejudice to the validity of anything done or omitted to be done thereunder.

(3) These regulations supersede any less favourable relevant provisions in any regulations, orders or other subsidiary legislation made under or kept in force under the Act and in case of any inconsistency between such legislation and these regulations, the latter shall prevail.

Cap. 452.

Offences.

17. Any person who contravenes or fails to comply with any provision of these regulations shall be guilty of an offence against the Act and shall, on conviction, be liable to a fine (*multa*) of not more than two thousand euro (€2000).