

May 2023

Submission on Domestic Violence Leave 2023



Women's  Aid

Submission on Domestic Violence Leave 2023

Women's Aid is very pleased to have the opportunity to provide our views on the Regulations for the Domestic Violence leave provided for in the Work Life Balance and Miscellaneous Provisions Act 2023.

We very much welcome the introduction of paid Domestic Violence leave in Ireland, and we agree with the Minister's point, made in his letter of 15th May 2023, regarding the "need to support employees in taking up this leave" being a fundamental consideration in developing the regulations and, we would add, ultimately making the legislation successful.

It is in this spirit of best supporting the employee accessing Domestic Violence leave that we make the following recommendations on the regulations regarding:

- (a) Rate of pay,
- (b) Allowance in respect to board and lodging and
- (c) Calculations for shift work, piecework and unsocial hours, as requested in the invite for submissions.

a) specify the percentage rate of an employee's pay, up to a maximum daily amount, at which domestic violence leave pay will be paid,

Women's Aid believes that in order to best support the employee the rate should be set at 100% of the employee's pay, to address the financial, safety and privacy needs of the employee.

Many victims of domestic abuse experience financial abuse as part of the coercive control they are subjected to. Therefore, they often have limited access to family assets and savings and may not even have control of their own money.

Many individuals accessing Domestic Violence leave will do so at a time when they are questioning or leaving the relationship, hence the need to have time off for legal proceedings or for relocation. This often is a

time when there is additional financial pressure. Therefore, any reduction in income would be highly problematic and counterproductive.

Moreover, where the abuser is monitoring and/or appropriating the income of the employee, as is often the case in abusive relationships, a change in their normal salary may alert the abuser that they have not attended work as usual, possibly jeopardising their safety. Where the abuser is used to appropriating their salary, the victim may also be in danger if they are not able to provide the usual amount with no explanation.

Finally, it is important to maintain privacy and confidentiality around the employee's experience of domestic abuse, so as not to create a barrier to the uptake of the Domestic Violence leave. Unfortunately, there is still a lot of stigma attached to domestic abuse and fear of the abuse becoming common knowledge in the workplace. This may prevent a survivor from accessing Domestic Violence leave. If the normal salary is paid, this would minimise Domestic Violence leave being identified on pay slips and pay rolls, while employers could still keep track of it separately. Paying full pay is also the simplest option in terms of administration of the Domestic Violence leave.

It must be noted that current legislation allows for a maximum of 5 days Domestic Violence leave every 12 months, against an international best standard of 10 days, and that international research shows that only a tiny fraction of the workforce is ever going to take it¹.

In short, paying Domestic Violence leave at 100% of an employee's pay would provide the best support to the employee experiencing domestic abuse. It is the simplest possible way for the employer and with a very modest financial burden for the employer, capped at 5 days' pay for the very low number of

¹ See for example Stanford, J, Economic Aspects of Paid Domestic Violence Leave Provisions, Centre for Future Work at the Australia Institute, 2016, which estimates that only about 1.5 percent of female employees, and around 0.3 percent of male employees, are likely to utilise paid domestic leave provisions in any given year.

employees (if any) needing it in a 12 months period in any individual organisation.

(b) subject to the maximum daily amount specified in accordance with paragraph (a), specify an allowance in respect of board and lodgings, board only or lodgings only in a case in which such board or lodgings constitute part of the employee's remuneration calculated at the prescribed rate,

Women's Aid recommends that board and lodging allowances be paid at their usual rate for the employee taking Domestic Violence leave for the exact same reasons mentioned under point (a).

In fact, it is particularly important that an employee is not put at risk of losing housing stability through a decrease in lodging allowance at what would already be a potentially dangerous and an emotionally and financially stressful time.

(c) subject to the maximum daily amount specified in accordance with paragraph (a), specify basic pay and any pay in excess of basic pay in respect of shift work, piece work, unsocial hours worked or hours worked on a Sunday, allowances, emoluments, premium pay (or its equivalent), or any other payment as the Minister considers appropriate, that are to be taken into account in the calculation of domestic violence leave pay.

The purpose of the Domestic Violence leave is primarily to facilitate victim survivors to engage in activities directly related to their experience of abuse, which they cannot otherwise attend to outside of working hours, without losing pay. In most cases, this would occur because these activities are at a specific time which cannot be changed, for example, Court proceedings, or because they are not open after hours, or because it is safer for the survivor to attend while the perpetrator thinks them at work. Therefore, it would be unusual for somebody to have to take Domestic Violence leave at weekends or during unsocial hours, with some important exceptions including scenarios of moving to a refuge/other safe accommodation or possibly viewing a property or an intervention to care for a dependent.

Women's Aid believe that in the above circumstances, if an employee is already rostered for a particular shift and needs to take Domestic Violence leave, the most supportive option would be to pay the shift as if it had been worked, at their prescribed rate of pay for this particular shift.

This is the approach taken in Australia, where "Casual employees will be paid at their full pay rate for the hours they were rostered to work in the period they took leave".²

This would ensure the abusive partner is not alerted to the fact the employee did not attend work. It also has the advantage of simplicity of administration.

In conclusion, Women's Aid believes that the 2 principles for setting regulations should be:

- **maximise support of the employee.** This means considering their safety, financial and privacy needs as outlined above,
- **simplicity of administration.** Keeping the process as simple as possible is advantageous to the employer. It also helps protect the confidentiality of the employee, in that the more standard and normalised the process, the fewer admin people need to be involved. On the contrary, unusual and complicated rates or processes may necessitate more administrative work and more people becoming aware of the Domestic Violence leave and its circumstances.

These principles are best translated into practice by providing the full rate of pay and allowances, or in the case of variable pay by following existing processes for calculating it.

Finally, we would like to draw your attention to the importance of regulating how Domestic Violence leave gets recorded on pay slips in order to protect the privacy of the employee concerned. In this respect, we recommend considering a similar adoption in Ireland of the regulations in Australia, which require employers not to mention Domestic Violence leave on pay slips, but to record them as ordinary hours or another type of leave³. Alternative mechanisms can be found

² <https://www.fairwork.gov.au/newsroom/news/new-paid-family-and-domestic-violence-leave#taking-leave>

³ <https://www.fairwork.gov.au/pay-and-wages/paying-wages/pay-slips>

within HR and record keeping systems to track and record this form of leave without it being displayed in this fashion.

Women's Aid thanks the Minister once again for his consideration of our views in this matter, and we remain available to discuss the above in further detail if requested.