

General Scheme of the Pregnancy Loss Leave Bill 2026

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Head 1 - Short title, citation and commencement

Provide for a short title:

- (i) This Act may be cited as the Pregnancy Loss Leave Bill.
- (ii) This Act shall come into operation on such day or days as the Minister for Enterprise, Tourism, and Employment may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
- (iii) The Maternity Protection Acts 1994 and 1998 and Part 2 may be cited together as the Maternity Protection Acts 1994 to 1998.

Explanatory Note

This Head gives the short title of the Bill and provides for the Bill to come into operation on such day, or days as may be fixed by the Minister after it is signed into law by the President.

Short title and commencement date will be further considered in consultation with the Office of Parliamentary Counsel.

Head 2 – Interpretation

2. In this Bill—

‘Minister’ means the Minister for Enterprise, Tourism, and Employment.

“employee” means a person who has entered into or works (or, where the employment has ceased, entered into or worked) under a contract of employment and references, in relation to an employer, to an employee, shall be construed as references to an employee employed by that employer;

“employer” means, in relation to an employee, the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment subject to the qualification that the person who under a contract of employment referred to in paragraph (b) of the definition of “contract of employment” is liable to pay the wages of the individual concerned in respect of the work or service concerned shall be deemed to be the individual’s employer and includes, where appropriate, the successor of the employer or an associated employer of the employer;

‘registered medical practitioner’ has the same meaning as it has in the [Medical Practitioners Act 2007](#).

“pregnancy loss” shall be deemed to have occurred where either of the following conditions are met—

(a) the pregnancy does not result in a live birth before the completion of 23 weeks of gestation and is certified by a medical practitioner; or

(b) the woman has experienced the loss of a pregnancy because of a medical procedure or act carried out by a medical practitioner in accordance with the Health (Regulation of Termination of Pregnancy) Act 2018, and is certified as having had a pregnancy loss by a medical practitioner.

“Register” means the register of medical practitioners established under section 43 of the [Medical Practitioners Act 2007](#).

Explanatory Note

Medical practitioner is interpreted as having the same meaning as set out in the Sick Leave Act 2022. The wording which describes a medical practitioner in that Act is recast in this Head.

There is a pre-existing interpretation of ‘pregnant employee’ in the Maternity Protection Act as follows - “pregnant employee” means an employee who is pregnant and who has informed her employer of her condition.

The pregnancy loss interpretation set out in 2. (a) is drawn partially from the Canadian Labour Code Definition [Canada Labour Code](#) (206.51 (2) (a)).

The interpretation of pregnancy loss is intended as a functional definition to bridge the lacuna that exists for women who experience a pregnancy loss prior to 23 weeks' gestation and post 23 weeks' gestation.

The Maternity Protection Acts provide for an entitlement to 26 weeks maternity leave and benefit and a further 16 weeks unpaid maternity leave in the case of a stillbirth. Stillbirth is defined in the Civil Registration (Electronic Registration) Act 2024 as 'a child who, at birth, weighs not less than 400 grammes or has a gestational age of not less than 23 weeks and shows no sign of life...'. The Paternity Leave and Benefit Act 2016 also provides for an entitlement to paternity leave and benefit in the case of a stillbirth.

The functional interpretation contained within this Head facilitates the creation of a statutory entitlement for women who experience pregnancy loss prior to 23 weeks' gestation where no statutory leave entitlement heretofore exists.

The second element of the interpretation of pregnancy loss contained in 2. (b) of this Head is intended to give legislative effect to recommendations made in a Government-commissioned study, the PLACES report.

The Report was published on 26 January 2024 and makes a series of recommendations regarding support for employees who have experienced a pregnancy loss, including that a statutory right to paid leave should be introduced for pre-viability pregnancy loss, regardless of the gestational stage or the reason for the loss. The Report recommends that the leave should be subject to medical certification.

The intention of the wording in 2. (b) of the pregnancy loss interpretation is to achieve legislative alignment with the key recommendations in the Report: the introduction of statutory leave for pre-viability pregnancy loss, regardless of gestational age or the reason for the loss.

The certification element of both 2. (a) and (b) in this Head is to give effect to this recommendation in the report but further engagement with the Department of Health and the Health Service Executive will be required during the drafting process on the specifics of such certification.

The definitions of employer and employee will require further consultation with the Department of Children, Disability and Equality during the drafting process to ensure consistency with the Maternity Protection Act 1994 to 1998 as amended and the intentions set out in this Bill.

Head 3 - Regulations and Orders

Regulations and orders

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed for the purposes of the regulations.

(2) Without prejudice to any provision of this Act, a regulation or order under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient.

(3) Every regulation and order (other than an order under section 1 (2)) made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or order is passed by either such House within the next 21 days on which that House sits after the regulation or order is laid before it, the regulation or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Explanatory Note

This Head is a standard enabling provision (as used in the Sick Leave Act) and provides the Minister with a general power to make regulations in respect of matters required by the Act to be prescribed. It also enables the Minister to include incidental, supplementary and consequential provisions in regulations or orders, as may be necessary for the effective operation of the Act.

Part II

Pregnancy Loss Leave

Head 4 - Entitlement to medically certified pregnancy loss leave by amending the Maternity Protection Acts

4. Section 8 of the Maternity Protection Acts 1994 to 1998 is amended –

(a) by the insertion of ‘Section 8B’ after Section 8A of the Maternity Protection Acts 1994-1998 as follows:

“8B(i) a pregnant employee shall be entitled to leave, in the event of a medically certified pregnancy loss, in accordance with the provisions of the Pregnancy Loss Leave Act, from their employment on any day on which the employee would ordinarily work. The pregnancy loss must be certified in writing by a registered medical practitioner.

(ii) Nothing in this section shall operate to exclude the leave entitlement set out in Section 8B(i) where such a pregnancy loss occurs as a result of a termination carried out in accordance with the provisions of the Health (Regulation of Termination of Pregnancy) Act 2018.

(iii) the leave set out in subsection (i) shall operate without prejudice to any other qualifying leave entitlements a pregnant employee may have under this Act or the Sick Leave Act 2022 (no. 24 of 2022) as amended.

(iv) The period of the leave entitlement shall not be less than 5 working days per year, which may be taken consecutively or non-consecutively, or such number of days as may be prescribed under the Pregnancy Loss Leave Act 2026.

(v) References in this section to a working day shall be construed as references to a day that the employee concerned would usually work.

(vi) The leave entitlement set out in Section 8B(1) shall be taken no later than a period of 56 weeks from the date, or approximate date, of the pregnancy loss, as certified by a medical practitioner.

(vii) Notwithstanding Section (2) (1) of the Maternity Protection Acts 1994-1998, a pregnant employee shall not be disentitled to the leave set out at Section 8B (i) (as inserted by Section 3 of this Act) solely for the reason that the employer had not been informed of the pregnancy prior to the loss.

(viii) Nothing in this section shall operate to prejudice the rights and obligations of employers and employees, including the notification requirements, contained in the Maternity Protection Acts 1994-1998 and the Social Welfare Consolidation Act 2005 as amended.

(ix) For the avoidance of doubt, pregnancy loss leave as set out in Section 8B (1), as inserted by Section 4 of this Act, shall be separate and distinct from maternity leave as defined in Section 2 of the Maternity Protection Acts 1994-1998 and as assigned under Section 8 of the Maternity Protection Acts 1994-1998.

Explanatory Note

This amendment inserts a new Section 8B to provide a statutory entitlement to pregnancy loss leave for pregnant employees who have experienced a pregnancy loss occurring before 23 weeks' gestation. The entitlement to leave is a day one right. The leave is to be taken in accordance with the Pregnancy Loss Leave Act 2026, with "pregnancy loss" defined by reference to that Act.

The entitlement operates independently of, and does not interact with, other leave provisions, including those under the Maternity Protection Acts and the Sick Leave Act 2022.

Section 8B(iii) clarifies that pregnancy loss leave does not interact or interfere with other forms of leave, including statutory sick leave. Utilising pregnancy loss leave does not reduce or interfere with an employee's entitlement to statutory sick leave.

Section 8B(v) is designed to ensure that part-time or irregular hours workers will receive statutory pregnancy loss leave for days they would ordinarily work. The wording around this section will need to be considered further in consultation with the Office of Parliamentary Counsel.

It is also provided that the leave be taken within 56 weeks of the date of the pregnancy loss, as certified by a medical practitioner. This is designed to be a long enough time period to allow the employee to take the leave when it is needed i.e. around the anniversary of a loss, however this may be amended during drafting depending on consultation with stakeholders.

Part III

Entitlement to Payment for Pregnancy Loss Leave

Head 5 - Rate of payment and eligibility for payment for pregnancy loss leave

5. Rate of payment in respect of Leave for Pregnancy Loss.

5. (1) An employer shall pay an employee with an entitlement to leave under Section 8B(i), (as inserted by Section 4), of the Maternity Protection Acts 1994 to 1998 as amended, a prescribed daily rate of payment in respect of each leave day taken under Section 8B(i).

(2) Subject to Section 4, eligibility for entitlement to payment for leave set out at 5(1) shall not commence until the employee concerned has completed 13 weeks' continuous service with the employer from whose employment leave under Section 8B(i) is taken.

(3) The Minister may make regulations, for the purpose of prescribing the daily rate of payment for leave taken under Section 8B(i) of the Maternity Protection Acts 1994 to 1998 as amended, (as inserted by Section 4) which may—

(a) specify the percentage rate of an employee's pay, up to a maximum daily amount, at which leave taken under Section 8B will be paid,

(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, or

(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 statutory pregnancy loss leave payment.

Explanatory Note

The intention is that, via Statutory Instrument, an employee will be entitled to 70% of their gross normal earnings in respect of their statutory pregnancy loss leave entitlement up to a maximum of €110 per day. The upper earnings threshold is designed to prevent excessive costs being imposed on businesses.

Section 5(2) ensures eligible employees must also complete 13 weeks' continuous employment with their employer before becoming entitled to payment while on pregnancy loss leave.

Section 5(3) provides powers for the Minister to set the rate by way of regulation. Subsections (a) to (c) are modelled on the similar provisions in the Sick Leave Act 2022 to provide clarity on what elements of remuneration are to be included, ensuring consistency and certainty for both employers and employees. By referencing items such as allowances,

board and lodgings, and premium pay, the subsections reflect the varied ways in which employees are remunerated in practice.

Head 6 – Variation of days of Pregnancy Loss Leave

6. (1) The Minister, may, in consultation with the Minister for Children, Disability and Equality, by order, amend the number of pregnancy loss leave days an employee is entitled to under Section 4.

In making an Order under section 6(1) the Minister shall have regard to the following matters:

- (a) the state of the economy generally, the business environment and national competitiveness;
- (b) the state of society generally, the public interest and employee well-being;
- (c) the potential impact, including the potential for any disproportionate or other adverse impact, that the making of an order will have on the economy generally, specific sectors of the economy, employers or employees;
- (d) annual and quarterly data on earnings and labour costs as published by the Central Statistics Office;
- (e) expert opinion, research, national or international reports relating to the matters specified at paragraphs (a) to (d) that the Minister considers relevant;
- (f) the views of employer representative bodies and trade unions;
- (g) such other matters as the Minister considers relevant.

(2) The Minister may, by order, amend the percentage rate of payment or the upper earnings maximum in respect of statutory pregnancy loss leave provided for under Section 5 after having had regard to the matters specified in paragraphs (a) to (g) of section 6(1).

Explanatory Note

This Head is intended to provide the Minister with the power to amend the number of pregnancy loss leave days an employee will be entitled to under this Act and to amend the rate of payment to employees entitled to payment while on pregnancy loss leave.

Head 7 - Non-application of obligations under Act

7. (1) The obligations under this Act shall not apply to an employer who provides his or her employees with a pregnancy loss leave scheme where the terms of the scheme confer, over the course of a reference period set out in the scheme, benefits that are, as a whole, more favourable to a pregnant employee than statutory pregnancy loss leave.

(2) An employer's discharge of obligations under the Sick Leave Act 2022 or under any more favourable sick pay scheme shall not be construed as discharge of obligations under this Act.

(3) In determining, for the purposes of subsection (1), whether a pregnancy loss leave scheme confers benefits that are, as a whole, more favourable than statutory pregnancy loss leave, the following matters shall be taken into consideration:

- (a) the period of service of an employee that is required before pregnancy loss leave is payable;
- (b) the number of days that an employee is absent before pregnancy loss leave is payable;
- (c) the period for which pregnancy loss leave is payable;
- (d) the amount of pregnancy loss leave that is payable;
- (e) the reference period of the pregnancy loss leave scheme.

Explanatory Note

This section provides that employers are not required to apply the statutory pregnancy loss leave scheme where they already operate a pregnancy loss leave scheme that is, taken as a whole, more favourable to employees.

Its purpose is to recognise and preserve existing occupational arrangements that provide superior protection, while avoiding unnecessary duplication of obligations. This approach allows flexibility for different workplace arrangements, while ensuring that employees are not disadvantaged relative to the statutory minimum. The provision also gives legal certainty to employers who have invested in enhanced leave schemes through contracts, collective agreements, or other arrangements. Overall, the subsection balances employee protection with proportionality by setting statutory pregnancy loss leave as a floor level protection, rather than a ceiling.

This Head is made without prejudice to employee and employer rights under Section 9 of the Sick Leave Act 2022 so as to avoid conflation between more favourable employer sick leave schemes and employer pregnancy loss leave schemes under this proposed legislation. Entitlement to paid pregnancy loss leave, paid sick leave and any other statutory paid leave, either under the Social Welfare Consolidation Act 2005 or otherwise, are separate and distinct statutory entitlements.

Part IV Employment Rights

Head 8 - Protection of employees from penalisation

8. (1) An employer shall not penalise an employee for proposing to exercise, or having exercised, their entitlement to statutory pregnancy loss leave.

(2) Penalisation of an employee includes -

- (a) dismissal of the employee,
- (b) unfair treatment of the employee, including selection for redundancy, and
- (c) an unfavourable change in the conditions of employment of the employee.

Explanatory Note

This section is intended to ensure that an employee cannot be penalised for availing of pregnancy loss leave as provided for under this Act.

The inclusion of a prohibition on penalisation is a standard feature of Irish employment law, reflecting a consistent legislative approach to safeguarding statutory rights.

Similar provisions are found across a range of enactments, including the Protected Disclosures Act 2014, the Parental Leave Acts, the Carer's Leave Act 2001, and the Employment Equality Acts, all of which prohibit adverse treatment of an employee for asserting a legal entitlement.

These provisions operate on the principle that, without protection from retaliation, statutory rights would be significantly undermined in practice. The consistent use of anti-penalisation clauses across Irish legislation highlights their central role in ensuring that employment rights are meaningful, enforceable, and capable of being exercised without fear of reprisal.

Head 9 - Amendment to Section 6 of the Unfair Dismissals Act 1977

9. Section 6(2) of the Unfair Dismissals Act 1977 is amended by the insertion of the following subsection:

“(k) Without prejudice to the generality of subsection (1), the dismissal of an employee shall be deemed, for the purposes of this Act, to be an unfair dismissal if it results wholly or mainly from the exercising by the employee of their entitlement to pregnancy loss leave within the meaning of the Pregnancy Loss Leave Act 2026.”

Explanatory Note

This provision inserts a new deeming rule into Section 6 of the 1977 Act, making clear that a dismissal is automatically unfair where it results wholly or mainly from an employee availing of rights under the Pregnancy Loss Leave Act 2026. It reinforces the protections introduced by the Pregnancy Loss Leave Act by linking them directly to unfair dismissal law. The use of “without prejudice to the generality of subsection (1)” ensures the new ground sits alongside existing unfair dismissal protections rather than limiting them. In practice, it lowers the burden on employees in such cases by treating the reason for dismissal as inherently unfair. Overall, it strengthens protection for employees exercising pregnancy loss leave rights within the employment law framework.

Inserting this provision ensures that there is consistency in the application of these protections already contained in Section 6(2) of the Unfair Dismissals Act.

The purpose of this provision is to strengthen the legal protection afforded to employees who avail of pregnancy loss leave by linking that entitlement directly to the well-established remedies and enforcement mechanisms under the Unfair Dismissals Acts. By expressly providing that such a dismissal is automatically unfair, the amendment removes any ambiguity as to the status of dismissals connected with the exercise of this right and ensures consistency with existing protections for other forms of statutory leave, such as maternity leave, adoptive leave and parental leave.

Further engagement with the Department of Children, Disability and Equality on potential amendments to Section 21 of the 1994 Maternity Protection Act may indicate that this Head is unnecessary given the protections within that Act. However, the underlying policy objective is to ensure that the Scheme provides employees with the same high level of protection as applies to protective leave under the 1994 Act. In particular, the deemed unfair dismissal protection affords a very significant level of protection, given that it places the burden on the employer to demonstrate that a dismissal was not connected with the employee's exercise of the relevant entitlement.

These employment protections are afforded to employees via amendments to Section 6 (2). For example, this protection is extended under subsection (k) to an employee's pregnancy, attendance at ante-natal classes, giving birth or breastfeeding, or any matters connected therewith. The intention is to place the exercise of an employee's entitlement under this Act on an equal footing.

Head 10 - Amendment to the Maternity Protection Acts 1994-1998

10. The Maternity Protection Acts 1994 to 1998 are amended –

(a) In Section 21(1), by the insertion of the following subsection after subsection (d):

“(e) Leave granted under Section 8B”

(b) In Section 22(1), by the insertion of the following subsection after subsection (c):

“Leave granted under Section 8B”

Explanatory Note

To bring leave for pregnancy loss within the suite of protections provided for protective leave under the Maternity Protection Acts 1994-1998.

This Head provides for a consequential amendment to section 21 of the Maternity Protection Acts 1994 to 1998 in order to ensure that statutory pregnancy loss leave is appropriately recognised within the existing framework governing reckonable service for employment rights purposes. Section 21 performs an important function within the maternity protection code, identifying specified periods of leave which are to be treated as if the employee were in continuous employment, notwithstanding their absence from work.

The purpose of section 21 is to ensure that employees are not disadvantaged, for the purposes of employment protection legislation, by reason of availing of certain forms of protected leave. In particular, it ensures that designated periods of absence are treated as reckonable service for the accrual of statutory employment rights. These include, for example, entitlements to annual leave, public holidays, and continuity of service for the purposes of redundancy payments and access to protections under the Unfair Dismissals Acts.

The section reflects a broader principle in Irish employment law whereby family-related and care-related leave is integrated into the concept of continuous employment. This principle is necessary to ensure that employees are not penalised indirectly through a break in service when exercising statutory entitlements linked to pregnancy, parenthood, or care responsibilities. Section 21, as originally enacted, has been supplemented over time to reflect the introduction of new statutory leave types.

The amendment proposed by this Head inserts a reference to leave granted under section 8B into the list of reckonable periods set out in section 21. The effect of this insertion is that a period of statutory pregnancy loss leave will be treated in the same manner as other recognised forms of protected leave under the Maternity Protection Acts. In practical terms, an employee availing of such leave will be deemed to be in continuous employment throughout its duration.

As a consequence of this amendment, employees who avail of statutory pregnancy loss leave will continue to accrue service-related entitlements during that period. This includes the continued accrual of annual leave, the maintenance of public holiday entitlements, and the preservation of continuity of service for the purposes of redundancy payments, protection against unfair dismissal, and other statutory rights that depend on length of service.

This approach is consistent with the established legislative practice of integrating new leave entitlements into the wider employment protection framework through targeted amendments to existing Acts. Similar consequential amendments have been made in respect of other forms of statutory leave, including parental leave, adoptive leave, paternity leave, and carer's leave, in order to ensure coherence and consistency across the statutory code.

The inclusion of pregnancy loss leave within section 21 is necessary to ensure that the new entitlement operates effectively in practice and does not give rise to unintended gaps or uncertainty in relation to employees' accrued rights.

The amendment to Section 22 of the Maternity Protection Act is intended to extend the protection conferred by that Section to pregnancy loss leave.

Section 22 of the Maternity Protection Act 1994 provides that, during specified periods of absence, including maternity leave, health and safety leave, natal care absence and related leave, the employee is deemed to remain in the employment of the employer.

The section also clarifies that protective leave cannot be treated as another type of leave (such as sick or annual leave) and preserves continuity of employment throughout the absence.

Section 28 provides that an employee's entitlement to return to work (or to be offered suitable alternative work) is conditional on giving advance notice to the employer of their intention to return. The employee must notify the employer in writing, not later than four weeks before the expected date of return, of both their intention to return and the proposed date.

Section 29 provides for the postponement of an employee's return to work where there is an interruption or cessation of work at the place of employment on the intended return date. Where it is unreasonable to expect the employee to return to work on that date due to such disruption, the employee may instead return when work resumes or as soon as reasonably practicable thereafter.

It is not the intention to have Section 28 and 29 applied to pregnancy loss leave.

Part V Disputes

Head 11 - Amendment of the Workplace Relations Act 2015

(1) Schedule 5, Part 3 of the Act of 2015 is amended by the insertion of –

“6. Pregnancy Loss Leave Act”, and

(2) Section 41 (7) of the Act of 2015 is amended by the insertion of –

“(J) in the case of a dispute relating to the entitlement of an employee under the Pregnancy Loss Leave Act, it has been referred to the Director General after the expiration of the period of 6 months beginning on the day immediately following the date of the occurrence of the dispute, and

(3) Schedule (1) part (1) of the Act of 2015 is amended by the insertion of the following –

“24. Pregnancy Loss Leave Act 2026”, and

(4) Schedule (6) Part (1) of the Act of 2015 is amended by the insertion of the following –

“41. Section 11 of the Pregnancy Loss Leave Act, and

(5) Schedule 6 Part (2) of the Act of 2015 is amended by the insertion of the following –

“41. Section 11 of the Pregnancy Loss Leave Act”

Explanatory Note

This Head is intended to amend the Workplace Relations Act 2015 to bring the Pregnancy Loss Leave Act fully within scope of its provisions.

This is without prejudice to the existing remit of the WRC in the Maternity Protection Acts and redress will be provided separately for the entitlement to leave via the Maternity Protection Acts and for the entitlement to pay (if the qualifying service period is met) through the amendments to the 2015 Act via this Pregnancy Loss Leave Act.

PART VI Review

Head 12 - Review

12. (1) The Minister shall, not earlier than three years and not later than four years after the commencement of the Act, after consultation with the Minister for Children, Disability and Equality, the Workplace Relations Commission, persons whom he or she considers to be representative of employers generally and persons whom he or she considers to be representative of employees generally, conduct a review of the operation of this Act.

(2) The Minister shall prepare a report in writing of the findings of the review conducted under subsection (1) and shall cause copies of the report to be laid before each House of the Oireachtas.”.

Explanatory Note

A standard review provision modelled on Section 13 (H) of the Work Life Balance and Miscellaneous Provisions Act.