

Employment (Amendment) Bill 2023 – Keeling Schedule showing amendments made by Legislative Council

Amendments made to Clause 7 (amendments 1 & 2 on the Keys Order Paper for 23 April 2024)

Clause 7 of the Employment (Amendment) Bill 2023 inserts new sections 44A to 44F into the Employment Act 2006.

Amendments 1 & 2 amend new section 44A, which introduces the right for time off work to accompany a pregnant woman to an ante natal appointment.

The following version of new section 44A incorporates the amendments to the section as made by Legislative Council. Amendments 1 & 2 are highlighted in red text:

44A Right to time off to accompany to ante-natal appointment

- (1) An employee who has a qualifying relationship with a pregnant woman or her expected child is to be permitted by his or her employer to take time off during the employee's working hours in order that he or she may accompany the woman when she attends by appointment at any place for the purpose of receiving ante-natal care.
- (2) In relation to any particular pregnancy, an employee is not entitled to take time off for the purpose specified in subsection (1) on more than two occasions.
- (3) On each of those occasions, the maximum time off during working hours to which the employee is entitled is six and a half hours.
- (4) An employee is not entitled to take time off for the purpose specified in subsection (1) unless the appointment is made on the advice of a registered medical practitioner or registered midwife.
- (5) Where the employer requests the employee to give the employer a declaration signed by the employee, the employee is not entitled to take time off for the purpose specified in subsection (1) unless the employee gives that declaration (which may be given in electronic form).
- (6) The employee must state in the declaration —
 - (a) that the employee has a qualifying relationship with a pregnant woman or her expected child;
 - (b) that the employee's purpose in taking time off is the purpose specified in subsection (1);

- (c) that the appointment in question is made on the advice of a registered medical practitioner or registered midwife and
 - (d) the date and time of the appointment.
- (7) A person has a qualifying relationship with a pregnant woman or her expected child if —
- (a) the person is the husband, wife or civil partner of the pregnant woman;
 - (b) the person, being of a different sex or the same sex, lives with the woman in an enduring family relationship but is not a relative of the woman;
 - (c) the person is the father of the expected child; ~~or~~
 - (d) the person is a relative of the pregnant ~~woman~~ woman; or
 - (e) the person is the pregnant woman’s birth partner.
- ~~(8) — For the purposes of subsection (7), a relative of the pregnant woman is her child, parent, grandparent, sister, brother, aunt or uncle.~~
- (8) For the purposes of subsection (7) —
- (a) a relative of the pregnant woman is her child, parent, grandparent, sister, brother, aunt or uncle;
 - (b) a pregnant woman’s “birth partner” is a relative of hers not mentioned in paragraph (a) or a friend, either of whom has agreed to accompany her during labour.
- (9) The references to relationships in subsection (8) —
- (a) are to relationships of the full blood or half blood or, in the case of an adopted person, such of those relationships as would exist but for the adoption; and
 - (b) include the relationship of a child with the child’s adoptive, or former adoptive, parents, but do not include any other adoptive relationships.
- (10) For the purposes of this section, working hours of an employee are to be taken to be any time when, in accordance with the employee’s contract of employment, the employee is required to be at work.

Amendment made to Clause 8 (amendment 3 on the Keys Order Paper for 23 April 2024)

Clause 8 of the Bill substitutes a new section 50 for the existing section 50 of the Employment Act 2006. The following version of section 50 incorporates the text of amendment 3 in red:

50 Disclosure qualifying for protection

[P1996/18/43B]

(1) In this Part a ~~“qualifying disclosure” means any disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show one or more of the following—~~ “a “qualifying disclosure” is any disclosure of information which the worker making the disclosure reasonably believes ought to be disclosed in the public interest and has the tendency to show one or more of the following –

- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) that the health or safety of any individual has been, is being or is likely to be endangered,
- (e) that the environment has been, is being or is likely to be damaged, or
- (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, or is likely to be deliberately concealed.

(2) For the purposes of subsection (1), it is immaterial whether the relevant failure occurred, occurs or would occur in the Island or elsewhere, and whether the law applying to it is that of the Isle of Man or of any other country or territory.

(3) A disclosure of information is not a qualifying disclosure if the person making the disclosure commits an offence in the Island by making it.

(4) A disclosure of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings is not a qualifying disclosure if it is made by a person to whom the information had been disclosed in the course of obtaining legal advice.

(5) In this Part “the relevant failure”, in relation to a qualifying disclosure, means the matter falling within paragraphs (a) to (f) of subsection (1).

Amendment made to Clause 16 (amendment 4 on the Keys Order Paper for 23 April 2024)

Clause 16 introduces new sections to the Employment Act 2006, 89A to 89E, to provide for parental bereavement leave. Amendment 4, agreed by Legislative Council, substitutes a new subsection (5) in new section 89A. The text of new section 89A incorporating the Legislative Council amendment in red can be seen below:

89A Parental bereavement leave

(1) The Department must make regulations entitling an employee who is a bereaved parent to be absent from work on leave under this section.

(2) For the purposes of subsection (1), an employee is a “bereaved parent” if the employee satisfies conditions specified in the regulations as to relationship with a child who has died.

(3) The conditions specified under subsection (2) may be framed, in whole or in part, by reference to the employee’s care of the child before the child’s death.

(4) The regulations may include provision for determining —

(a) the extent of an employee’s entitlement to leave under this section in respect of a child;

(b) when leave under this section may be taken.

~~(5) Provision under subsection (4)(b) may secure that leave under this section must be taken before the end of the period of at least 56 days beginning with the date of the child’s death.~~

(5) Provision under subsection 4(b) may secure that if an employee wishes to exercise the entitlement to leave, that leave must be taken before the end of the period of at least 56 days beginning with the date of the child’s death.

(6) The regulations may secure that where a person is eligible under subsection (1) as the result of the death of more than one child, the person is entitled to leave in respect of each child.

(7) The regulations may make provision about how leave under this section is to be taken.

(8) In this section —

“child” means a person under the age of 18 (see also section 89E for the application of this Chapter in relation to miscarriages and stillbirths);

“week” means any period of seven days.