**No. 1907**

**OFFICE OF THE PRIME MINISTER**
**(EQUALITY, REFORMS AND SOCIAL DIALOGUE)**

**Explanatory Notes**[1]

**1. Introduction**

| | |
|---|---|
| **Title of Regulations** | Miscarriage Leave Regulations, 2025 |
| **Activity to be regulated** | Miscarriage leave |
| **Responsible entity** | Department for Industrial and Employment Relations |

**2. Summary and background**

These regulations aim to provide a compassionate and inclusive framework for workers affected by miscarriage, regardless of gender, sexual orientation or family status. The legislation grants seven (7) working days of paid leave to both the individual who suffered the miscarriage and the other prospective parent, applicable to all employment types; full-time, part-time, indefinite or fixed-term, without requiring any minimum service period.

The leave shall be paid based on the basic wage of the employee and the applications shall be submitted by the employer to the Social Security Division within three (3) months of the miscarriage. However if the employer fails to submit the application within this stipulated time his right for reimbursement will be forfeited. Workers are required to present a medical certificate confirming the miscarriage that occurred before the 22nd week of pregnancy and the other prospective parent shall be identified through a signed declaration. Employers are strictly bound to maintain confidentiality of all related information, in accordance with the Data Protection Act (Cap. 586) and GDPR.

Importantly, the regulations prohibit discrimination, dismissal or adverse treatment of workers who avail themselves of miscarriage leave. Employment rights are preserved during the leave period and workers are entitled to return to their roles with any improvements in working conditions. Disputes may be referred to the Director General of the Department of Industrial and Employment Relations for mediation, and the provisions are also applicable to government service employees. Breaches of these regulations are considered offences under the Act and subject to punishments established in the Act.

***2.2 Importance of regulations***

The introduction of these regulations marks a significant advancement in workplace rights and social protection. These regulations recognise the emotional and physical impact of miscarriage and affirm the importance of providing compassionate support to affected workers. By granting seven (7) working days of paid leave to both the individual who suffered the miscarriage and the other prospective parent, regardless of gender, sexual orientation or family status, the regulations promote inclusivity and equality in employment practices.

The importance of these regulations lies in their ability to safeguard workers' dignity during a vulnerable time, while also ensuring that employment rights are preserved. They eliminate barriers such as length of service requirements and protect against discrimination, dismissal, or adverse treatment. Furthermore, the emphasis on confidentiality, data protection, and non-disclosure of pregnancy prior to miscarriage reflects a progressive approach to privacy and mental well-being in the workplace.

[1]TTese Explanatory Notes are in accordance with and for the purpose of article 3(2)(c) of the Small Business Act (Chapter 512 of the Laws of Malta).

***2.3 Consultation***

Consultations were held with the Employment Relations Board, a tripartite board which comprises representatives of trade unions, employers' associations and the government, as stipulated in the Act.

**3. Overview of the structure of the instrument**

These regulations are made up of thirteen (13) regulations and consist of the following:

1. Citation, scope, applicability and commencement.
2. Interpretation.
3. Entitlement to miscarriage leave.
4. Medical certificate and declaration.
5. Processing of personal data by the employer.
6. Register.
7. Employment rights.
8. Discrimination.
9. Protection against adverse treatment or consequences.
10. Protection from dismissal and burden of proof.
11. Dispute resolution.
12. Applicability to Government.
13. Offences and punishments.

**4. Commentary**

**Regulation 3:** Every worker is entitled to seven (7) working days of paid leave. This leave shall be taken immediately following the miscarriage. The entitlement applies individually to both the person who experienced the miscarriage and the other prospective parent. Payment for this leave is based on the basic wage of the employee and the applications shall be submitted to the Social Security Division, within three (3) months from the date of the miscarriage. The application shall be submitted by the employer; however, if the employer fails to submit the application within the stipulated timeframe, his right for reimbursement shall be forfeited. The leave applies to all employment types and is not subject to service duration or qualification periods. It is independent of other leave types, and workers may choose between miscarriage leave and pre-approved vacation leave if they overlap. However, if the worker chooses to avail from pre-approved vacation leave, the entitlement for miscarriage leave shall be forfeited since the latter must be availed of immediately upon occurring.

**Regulation 4:** Workers shall submit a medical certificate from a registered obstetrician or gynaecologist within two (2) working days of returning to work. The certificate shall confirm the miscarriage occurred before the 22nd week and identify the worker. For the other prospective parent to qualify, a signed declaration by the worker and countersigned by the prospective parent is required. No further documentation is needed and prior disclosure of pregnancy is not mandatory.

**Regulation 5:** Employers shall treat all information related to miscarriage leave, including medical certificates, with strict confidentiality. Data shall be processed solely for leave administration and in accordance with the Data Protection Act (Cap. 586) and GDPR (EU Regulation 2016/679). Access is limited to personnel directly involved in the process, who shall be bound by confidentiality obligations.

**Regulation 6:** A confidential register shall be maintained by the Social Security Division. It shall record workers who availed themselves of miscarriage leave and employers who submitted reimbursement applications. The Director General

of the Department of Industrial and Employment Relations and any official acting on his behalf, shall have access to this register.

**Regulation 7:** Workers retain all employment rights during miscarriage leave. Any rights acquired or in progress at the start of the leave are preserved. Upon return, workers are entitled to resume their roles and benefit from any improvements in working conditions that would have applied had they not taken the miscarriage leave.

**Regulation 8:** Employers are prohibited from discriminating against workers who take miscarriage leave. This includes any form of unequal treatment based on the use of this entitlement.

**Regulation 9:** Workers, including employee representatives, are protected from retaliation for lodging complaints or initiating legal proceedings to enforce miscarriage leave rights. This protection is in addition to safeguards under article 28 of Act.

**Regulation 10:** Dismissal or preparation for dismissal based on miscarriage leave is unlawful. Workers may request written reasons for dismissal, which shall be provided within 15 calendar days from the request. If a worker presents facts suggesting that the dismissal was due to miscarriage leave, the employer bears the burden of proof to show otherwise.

**Regulation 11:** Any disputes regarding entitlement or related matters may be referred to the Director General of the Department for Industrial and Employment Relations, who shall act as a mediator between the parties.

**Regulation 12:** The miscarriage leave entitlement also applies to employees providing service to the Government.

**Regulation 13:** Any breach of these regulations constitutes an offence under the Act and is punishable under article 45 of the Act.

**5. Concluding sections**

The regulations shall come into force on first (1st) January 2026.

**Contact information**

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**N.B. These Explanatory Notes are not intended to be an exhaustive description of the instrument nor a substitute thereof or a legislative supplement to it. These Explanatory Notes do not purport to be an authoritative ruling on the interpretation of the legislation.**

2nd December, 2025

**No. 1908**

**OFFICE OF THE PRIME MINISTER**
**(EQUALITY, REFORMS AND SOCIAL DIALOGUE)**

**Explanatory Notes**[1]

**1. Introduction**

| | |
|---|---|
| **Title of Regulations** | Minimum Special Leave Entitlement (Amendment) Regulations, 2025 |
| **Activity to be regulated** | Special Leave |
| **Responsible entity** | Department for Industrial and Employment Relations |

**2. Summary and background**

The Minimum Special Leave Entitlement (Amendment) Regulations, 2025 update the existing framework of the Minimum Special Leave Entitlement Regulations (S.L. 452.101) (the "principal regulations") under the Employment and Industrial Relations Act (Cap. 452) (the "Act"). Their main purpose is to broaden the scope of special leave entitlements and to introduce new rights for employees in Malta, with particular attention to compassionate circumstances.

One of the most significant changes is the introduction of "special parental bereavement leave". By virtue of this change, in the event of the death of a child under the age of eighteen, the employee would be entitled to a number of working days of special parental bereavement leave which when added to the standard bereavement leave already available under an applicable Wages Council Wage Regulation Order or in the principal regulations, amount to a total of seven working days. Employers are obliged to provide this leave without any loss of wages, though they may apply for reimbursement for the special parental bereavement leave from the Department of Social Security within three months of granting the leave.

The regulations also extend existing minimum leave rights, such as those for marriage, injury, jury service, and quarantine, to both whole-time and part-time employees, with part-time employees receiving such entitlements on a pro-rata basis. Furthermore, the amendments formally incorporate "special parental bereavement leave" into the list of recognised forms of leave alongside birth leave, marriage leave, and others.

In practice, these changes strengthen employee protections and bring Maltese law more closely in line with evolving European and international labour standards. They provide greater support for parents in tragic circumstances, reinforce fairness by ensuring part-time workers are not excluded from special leave entitlements, and balance employer obligations with the possibility of reimbursement through state mechanisms.

***2.2 Importance of regulations***

These regulations are significant because they introduce a more compassionate and inclusive approach to employee rights. By formally recognising parental bereavement leave, they provide vital support to parents during one of the most difficult life events, while also ensuring that part-time workers are not excluded from key entitlements. At the same time, they balance social responsibility with economic practicality by allowing employers to recover related costs from the state. In this way, the amendments modernise Malta's labour law, embedding fairness, dignity, and well-being into the employment relationship.

***2.3 Public Consultation***

Consultations were held with the Employment Relations Board, a tripartite Board comprising representatives of trade unions, employers' associations and the government, as stipulated under the Act.

[1]TTese Explanatory Notes are in accordance with and for the purpose of article 3(2)(c) of the Small Business Act (Chapter 512 of the Laws of Malta).

**3. Overview of the structure of the instrument**

These regulations are made up of four (4) regulations and consist of the following:

1. Citation
2. Amends regulation 1 of the principal regulations
3. Amends regulation 2 of the principal regulations
4. Amends regulation 4 of the principal regulations

**4. Commentary**

**Regulation 2:** Amends regulation 1 of the principal regulations

This amendment widens the scope of application. Instead of special leave rights being limited to whole-time employees, the regulations now apply to all employees, whether whole-time or part-time, with part-timers entitled on a pro rata basis. It also introduces a new category of leave; 'special parental bereavement leave', alongside sick leave, birth leave, bereavement leave, marriage leave, injury leave, jury service leave, and quarantine leave.

**Regulation 3:** Amends regulation 2 of the principal regulations

This regulation updates and adds definitions. The term "Department" shall have the same meaning as assigned to it in the Social Security Act (Cap. 318). A new definition is introduced for "special parental bereavement leave", defined as paid leave granted on the death of a child under eighteen years, without prejudice to standard bereavement leave.

**Regulation 4:** Amends regulation 4 of the principal regulations

This regulation sets out the practical entitlement for a number of working days of special parental bereavement leave which when added to the standard bereavement leave already available under an applicable Wages Council Wage Regulation Order or in the principal regulations, amount to a total of seven working days. Employers can apply to the Department of Social Security for reimbursement of wages paid for this special bereavement leave within three months from when this leave would have been availed of by the employee. If the employer does not claim with the Department within this period, the right to receive such reimbursement will be forfeited.

This regulation explicitly includes special parental bereavement leave in the list of categories of recognised leave. It also ensures references throughout the principal regulations are updated to cover this new form of leave.

**4. Concluding sections**

These regulations shall come into force within two (2) months from their publication in the Gazette.

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2nd December, 2025