No. 631

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

Explanatory Notes[1]

1. Introduction

Title of Regulations	Work-Life Balance for Parents and Carers (Amendment) Regulations, 2026
Activities to be regulated	Provision of paid leave for recognised parents of children born overseas.
Responsible entity	Department for Industrial and Employment Relations (DIER)

2. Summary and background

These regulations, issued in 2026 are designed to grant a specific period of paid leave to workers who are legally recognised as parents of children born overseas, specifically in cases where neither of the individuals identified as parents on the child's birth certificate would have physically given birth to the child. These regulations explicitly state that they do not apply to cases of adoption, that are covered by separate legal frameworks.

These new legislative amendments address a lacuna in existing labour laws by formally acknowledging and providing support for a growing segment of families. The main scope is to provide vital support to these families, while acknowledging and integrating modern family structures and diverse paths to parenthood into Malta's labour legislation. They ensure that recognised parents who pursue such methods receive a dedicated leave entitlement to bond with their newborn and manage the practicalities of welcoming a child into their lives, thereby aligning Maltese law with contemporary societal realities and ethical considerations.

2.2 Importance of regulations

These amendments are crucial for enhancing work-life balance and social equity, providing a robust legal framework that supports parents of children born overseas. They establish fundamental entitlements for leave, contributing significantly to employee welfare and preventing potential discrimination based on family formation methods.

By formally recognising and supporting these parents, these amendments foster a more inclusive workplace environment, where all family structures are valued. This, in turn, helps to uphold parental dignity and security within the employment context, promoting the well-being of families and indirectly contributing to a more stable and equitable labour market.

2.3 Public Consultation

Consultations were held with the Employment Relations Board (ERB). Its primary function is to advise the government on industrial relations, employment policies, and labour legislation.

3. Overview of the structure of the instrument

These regulations are made up of two (2) regulations and consist of the following:

[1]These 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).

Regulation 1 - Citation, and commencement
Regulation 2 - Adds new regulation to the principal regulations

4. Commentary

Regulation 2 establishes the right for every worker recognised as a parent on a foreign birth certificate (subsequently registered in Malta) of a child born through surrogacy to an uninterrupted period of eighteen (18) weeks of leave, commencing on the date of the child's birth.

Postponement: If a worker is already on other statutory leave, this surrogacy leave is postponed until the existing leave expires.

Paid Leave: The first fourteen (14) weeks of this leave are with full wages. The employer is not obliged to pay any additional leave beyond these fourteen (14) weeks, though the worker may be entitled to social security benefits, in terms of the Social Security Act.

Leave Allocation:

For a single parent, the leave is entirely enjoyed by that parent.

If there is more than one parent and only one is employed , that employed parent enjoys the full leave.

If both parents are employed (whether with the same or different employers), they are each entitled to a share of the leave as they agree upon in writing.

Employers may request proof (e.g. that the other parent is not employed, or the written agreement on leave sharing) from the worker requesting leave. Where there is more than one parent, the worker requesting leave under this regulation shall provide the employer with proof that either the other parent is not employed or that there is a written agreement specifying how the leave is to be shared between the parents.

Process for the employees to inform the employer with the intention to avail of this leave:

Workers must notify their employer in writing of the child's expected birth date.

The notification must include an official document (translated into Maltese or English, and apostilled) issued from a clinic, healthcare institution or competent authority, explicitly confirming the worker's involvement in the surrogacy procedure as an expecting parent.

Notification should be given at least four (4) weeks before the expected birth date, were reasonably practicable.

The rights of a worker availing of this leave:

The worker is deemed to be in continuous employment, retaining all rights and benefits applicable to other employees, including the right to apply for promotion.

No right to any bonus or allowance related to performance or production during the leave.

Upon termination of the leave, the worker is entitled to return to work in their original post, or an analogous post if the original is unavailable.

Worker is protected from dismissal due to their intention to avail or having availed of this leave.

If the leave is taken during a probationary period, the probationary period is suspended from the start of the leave and resumes upon the worker's return.

If a worker avails of this leave and does not resume work or abandons service without sufficient cause within two (2) calendar months of resumption, they shall be liable to pay the employer a sum equivalent to the basic wages received during the leave, proportionally adjusted for any period worked.

Workers on fixed-term contracts have the same rights under these regulations. However, they are not liable to repay the wages received during the leave if their contract of employment is not extended at the employer's discretion for a sufficient period to fulfil the obligations related to resuming duties.

Discrimination against workers on the grounds of having notified their employer or availed themselves of the leave established by these regulations is strictly prohibited.

These regulations stipulate that an employee's dismissal shall be considered unfair when the true reason for the dismissal is connected to the employee's exercise of rights in accordance with these regulations.

The dismissal is deemed unfair where the employee:

refuses, or indicates an intention to refuse, to comply with a requirement imposed by the employer that is in breach of these regulations; or

refuses, or indicates an intention to refuse, to give up any right granted to the employee under these regulations

5. Concluding sections

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

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.

21st April, 2026