

Domestic Abuse (Safe Leave) Bill

[AS INTRODUCED]

LEGISLATIVE COMPETENCE

At Introduction the Member in charge of the Bill, Miss Rachel Woods, had made the following statement under Standing Order 30:

“In my view the Domestic Abuse (Safe Leave) Bill would be within the legislative competence of the Northern Ireland Assembly.”

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CONTENTS

1. Safe leave for victims of domestic abuse
2. Annual report
3. Guidance
4. Commencement
5. Short title

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BILL

TO

Make provision for an entitlement to paid safe leave for victims of domestic abuse; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Safe leave for victims of domestic abuse

1.—(1) After Article 112E of the Employment Rights (Northern Ireland) Order 1996 insert—

“CHAPTER 4

5

DOMESTIC ABUSE SAFE LEAVE

Domestic abuse safe leave

112EA.—(1) The Department must make regulations entitling an employee who is a victim of domestic abuse to be absent from work on safe leave under this Article.

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(2) An employee is a victim of domestic abuse if they are being subjected, or have been subjected, to behaviour of a kind described in section 1 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021.

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(3) Paragraph (2) may be satisfied by reference to a single incident or a course of behaviour (and accordingly in applying section 1 of the 2021 Act for that purpose, the words “a course of” and “the course of” are to be disregarded).

(4) “Safe leave” is paid leave designed to be used by the employee to deal with issues related to domestic abuse.

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(5) Issues related to domestic abuse for the purposes of paragraph (4) include, but are not limited to—

Domestic Abuse (Safe Leave)

- (a) obtaining legal advice and pursuing legal proceedings and remedies;
- (b) finding alternative accommodation;
- (c) taking advantage of healthcare (including mental health care);
- 5 (d) obtaining welfare support; and
- (e) protecting family members.

(6) The regulations must, in particular, include provision ensuring that each employee is entitled to take at least 10 days of safe leave in each leave year.

10 (7) The regulations may make provision about how leave under this Article is to be taken; and, in particular, the regulations may—

- (a) attach conditions, or enable an employer to attach reasonable conditions, in respect of entitlement to safe leave (including as to when it may be taken);
- 15 (b) require an employee to give such notice (if any) as is reasonably practicable before taking a day as safe leave.

(8) The regulations may not impose conditions about length of service for eligibility for safe leave.

Rights during and after safe leave

20 112EB.—(1) Regulations under Article 112EA must provide—

- (a) that an employee who is absent on safe leave under that Article is entitled, for such purposes and to such extent as may be specified, to the benefit of the terms and conditions of employment which would have applied but for the absence;
- 25 (b) that an employee who is absent on safe leave under that Article is bound, for such purposes and to such extent as may be specified, by obligations arising under those terms and conditions (except in so far as they are inconsistent with paragraph (1) of that Article); and
- 30 (c) that an employee who is absent on safe leave under that Article is entitled to return from leave to a job of a specified kind (but this is subject to Article 112EC(1)).

(2) In paragraph (1)(a), “terms and conditions of employment”—

- 35 (a) includes matters connected with an employee’s employment whether or not they arise under the contract of employment, and
- (b) do include terms and conditions about remuneration.

(3) The reference in paragraph (1)(c) to absence on safe leave under Article 112EA includes, where appropriate, a reference to a continuous period of absence attributable partly to leave under that Article and partly to any one or more of the following—

- 40 (a) maternity leave;
- (b) paternity leave;
- (c) adoption leave;

Domestic Abuse (Safe Leave)

- (d) shared parental leave; and
- (e) parental leave.

(4) Regulations under Article 112EA may make provision, in relation to the right to return mentioned in paragraph (1)(c), about—

- (a) seniority, pension rights and similar rights; and
- (b) terms and conditions of employment on return.

Special cases

112EC.—(1) Regulations under Article 112EA may make provision about—

- (a) redundancy, or
- (b) dismissal (other than by reason of redundancy),

during a period of leave under that Article.

(2) Provision by virtue of paragraph (1) may include—

- (a) provision requiring an employer to offer alternative employment;
- (b) provision for the consequences of failure to comply with the regulations (which may include provision for a dismissal to be treated as unfair for the purposes of Part 11).

Workers

112ED. Regulations under Article 112EA must extend the right to safe leave to workers (as well as employees); and for that purpose the regulations—

- (a) may modify provisions in their application to workers; and
- (b) may make provision similar to a provision of or under Article 67K.

Chapter 4: supplemental

112EE. Regulations under Article 112EA may—

- (a) make provision about notices to be given and other procedures to be followed by employees and employers;
- (b) make provision requiring employers or employees to keep records;
- (c) make provision for the consequences of failure to give notices, to keep records or to comply with other procedural requirements;
- (d) make provision for the consequences of failure to act in accordance with a notice given by virtue of paragraph (a);
- (e) make provision about the calculation of leave years;
- (f) make special provision for cases where an employee has a right that corresponds to a right under Article 112EA and that arises under the person's contract of employment or otherwise;
- (g) make provision modifying the effect of Chapter 4 of Part 1 (calculation of a week's pay) in relation to an employee who is or has been absent from work on leave under Article 112EA;
- (h) make provision applying, modifying or excluding a statutory provision, in such circumstances as may be specified and subject to

Domestic Abuse (Safe Leave)

any conditions which may be specified, in relation to a person entitled to take leave under Article 112EA;

(i) make consequential provision (including amendments of enactments).”.

5 (2) In Article 251(1A) of that Order (regulations that are subject to approval by the Assembly), after “112BAA,” insert “112EA,”.

Annual report

2.—(1) The Department for the Economy must in each financial year publish a report on the operation of regulations under this Act.

10 (2) The report must include, in particular, information about—

(a) compliance with the regulations by employers;

(b) evidence of the effectiveness of the regulations and their impact on victims of domestic abuse.

Guidance

15 3.—(1) The Department for the Economy must give guidance about the implementation or application of a provision of regulations under this Act.

(2) The Department must review the guidance from time to time and issue revised guidance where the Department thinks it appropriate.

Commencement

20 4.—(1) Section 1 comes into operation on such day or days as the Department for the Economy may by order appoint.

(2) The other provisions of this Act come into operation on Royal Assent.

(3) An order under this section may make such transitory or transitional provision, or savings, as the Department considers necessary or expedient.

Short title

25 5. This Act may be cited as the Domestic Abuse (Safe Leave) Act (Northern Ireland) 2021.

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A Bill to make provision for an entitlement to paid safe leave for victims of domestic abuse; and for connected purposes.

Introduced by: Miss Rachel Woods

On: 19 October 2021

Bill Type: Non-Executive Bill

ACCOMPANYING DOCUMENTS

**An Explanatory and Financial Memorandum is printed separately as
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