

Lecture 2

Employment Law & the Various Entitlements

Part 1

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Agenda

- Main sources of employment law and other applicable laws
- Employment Relationship
- Protection of Wages
- Leave Entitlements
- Itemised Payslip



A stack of three books with red and brown covers, an open notebook, and a pen on a dark surface. The text "Main sources of employment law and other applicable laws" is overlaid in white.

Main sources of employment law and other applicable laws

Main sources of employment law

- The Constitution of Malta
- The Employment and Industrial Relations Act (EIRA) and subsidiary legislation
- Sectoral Conditions of Work Regulation Orders (formerly WROs)
- EU and ILO sources
- Collective agreements
- Contracts of employment
- Company policies



Employment Relationship



The EIRA defines “Employment” as:

...any relationship whereby one person does work or performs services for another;
"Employee" Any person who has entered into or works under a contract of service, or a person who has undertaken personally to execute any work or service for, and under the immediate direction and control of another person... but excluding work or service performed in a personal capacity or as a contractor.



Employment relationship

- An employment relationship gives rise to rights and obligations emanating from the law on both parties.
- The general rights that an employer / employee should be aware of are:
- Protection of wages
- Protection from discrimination and victimisation
- Maximum working hours and overtime
- Various entitlements



A black and white photograph showing a dense collection of open umbrellas. The umbrellas are of various shades of gray, creating a textured, layered effect. They are all open, with their ribs visible. The background is a bright, overcast sky with soft, wispy clouds. The overall mood is one of protection and shelter.

Protection of Wages

Protection of Wages

- Provisions in the Employment and Industrial Relations Act (Chap 452 of the Laws of Malta) (“EIRA”) ensure that an employee is safeguarded from any possible abuse in relation to remuneration;
- “wages” means remuneration or earnings, payable by an employer to an employee and includes any statutory bonuses applicable, other than any bonus or allowance related to performance or production;
- May be paid in money or by cheque or by payment in a bank account;
- Wages are to be paid directly to the employee.



Protection of Wages

- Deductions from wages already earned are generally disallowed and cannot be made as a guarantee to secure or retain employment.
- Deductions are allowed where expressly permitted by law, ordered by a competent court, or permitted in a collective agreement.
- They may also be made at the employee's request for a superannuation or thrift scheme, or another purpose in which the employer has no direct or indirect beneficial financial interest.
- Wages constitute a privileged claim, payable in preference, up to the national minimum wage payable over six months.



Protection of Wages

- The national minimum wage for 2026 is €229.44 per week for workers aged 18 and over. Check the applicable sectoral order for any higher minimum.
- The 2026 COLA increase is €4.66 per week for full-time employees. Part-time employees receive the proportion due for their hours.
- The 2026 minimum wage also includes a €3.00 weekly increase under the national agreement. Do not add that €3.00 again to the published €229.44 rate.
- Wages are payable at regular intervals not exceeding four weeks in arrears, subject to a collective-agreement derogation. On termination, outstanding wages and compensation are due with the next payroll run.



Leave Entitlements



Entitlements | Annual Leave

- For a standard 40-hour week worked Monday to Friday, the 2026 entitlement is 216 hours (27 eight-hour days): 192 basic hours plus 24 hours for holidays falling at weekends.
- Other rosters: assess the additional entitlement against the employee's weekly days of rest.
- Annual leave is additional to national and public holidays.
- Up to 50% may be carried over by agreement. Separate carry-over protection applies where maternity, sickness or injury prevents leave being taken.
- Annual leave accrues during maternity, sick and injury leave. Entitlement is proportionate for part-time work and incomplete years.



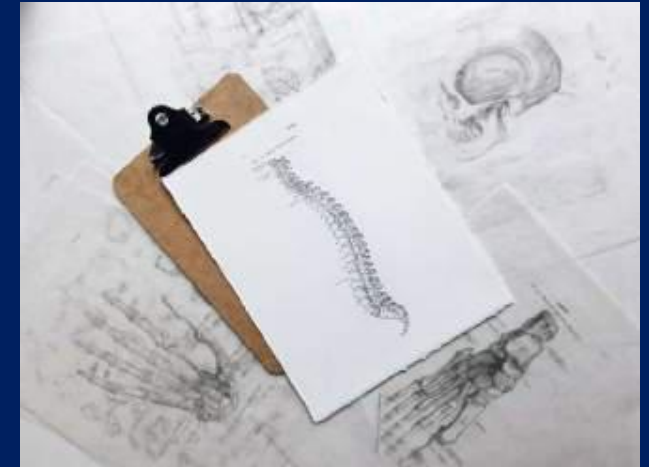
Entitlements | Sick Leave

- A medical certificate must certify incapacity for work.
- Where no sectoral order applies: two working weeks of sick leave per year, calculated in hours.
- 2026 professional offices example: 20 days at full pay and a further 20 at half pay, calculated in hours, with the statutory sickness-benefit deductions.
- Under that order, sick leave applies from the first day of employment and is proportionate to the period employed in the calendar year. Part-time entitlement is pro rata.



Entitlements | Injury Leave

- Leave entitlement if an employee suffers personal injury caused by accident arising out of and in the course of his employment, or by any of the diseases specified in the Social Security Act (being a disease due to the nature of his work) not due to any contributory negligence on his part or to any contravention of safety rules laid down by management.
- Up to 1 year on full pay less the full amount of any injury benefit to which the employee may be entitled under the Social Security Act.
- In cases of contributory negligence the absence from the place of work shall be considered as sick leave not injury leave.



Entitlements | Quarantine Leave

Leave to be granted to the employee without loss of wages in such cases where the employee is legally obliged to abide by a quarantine order confining the employee to a certain area or to certain premises as determined by the Superintendent of Public Health under the Public Health Act or by any public authority under any other law. Any period of quarantine as may be determined by the Superintendent of Public Health or by any other public authority.



Entitlements | Maternity Leave

- Pregnant employees are entitled to maternity leave amounting to an uninterrupted period of 14 weeks with full pay, which may be extended to 18 weeks. However, for any period of leave exceeding 14 weeks, the employer will not be bound to pay any wages for such period (Social Security payments);
- Once an employee's maternity leave has been availed of, such employee has the right to resume work in the same post she was in prior to the commencement of maternity leave or a related post, if the former is no longer available.
- These Regulations also deal with the way in which maternity leave is to be availed of. I. 6 weeks immediately after the date of confinement; II. 4 weeks before the expected date of confinement unless otherwise agreed, in which case the remainder would be availed of after confinement; III. Remaining balance as the employee wishes.



Entitlements | Special Maternity Leave

- Employees who are pregnant, breastfeeding or who have recently given birth, who could be exposed to a risk or be conducting work that could jeopardise their health and safety and/or the pregnancy/child will be entitled to special maternity leave for as long as such risk exists. What should the employer do in the case that a pregnant employee may be exposed to risk at work?
- Temporary adjustment of work environment (as much as possible)/ hours of work;
- Or assign the employee to more suitable work.



Entitlements | Adoption Leave

- This is a period of leave which employees who have adopted a child may avail of, but does not apply in the case of adoptions where the person adopted is the natural offspring of either of the parents.
- An uninterrupted period of 18 weeks
- Similarly, to maternity leave, the first 14 weeks are paid in full, and the employer shall not be obliged to pay for any period of adoption leave utilised past the first 14 weeks.



Entitlements | Adoption Leave

- Such leave shall commence on the date when the child passes into the care and custody of the adoptive parent or parents by means of a judgment of a court of law in the country of origin.
- A single parent may avail of the full period of adoption leave
- In the case of more than 1 parent: this may be enjoyed by the parent who is in employment on the date of adoption of the child. If both parents are in employment whether with different employers or with the same employer, on the date of adoption of the child, each parent shall be entitled to such part of the adoption leave as they may agree in writing.



Entitlements –Medically Assisted Procreation

- Leave for Medically Assisted Procreation (SL 452.114) Who is eligible for this: two persons who are united in marriage, civil union, cohabitation or who have attained the age of majority and are in a stable relationship with each other. Eligibility: Total of 100 hours of leave, with full pay, between the prospective parents... per process (up to 3 processes); How are the 100hrs divided between both parents? 60 hours for the receiving parent and 40 hours for the other prospective parent; This also applies if only one prospective parent is in employment during the process (same break down). If both parents are in employment (same or different employer) leave may be enjoyed concurrently by both prospective parents.
- The employee is to notify the employer in writing of intended dates of leave.



Entitlements | Other forms of leave

Urgent force majeure family reasons include accidents, sudden illness requiring the employee's presence, and presence during deaths or births of immediate family members.

No advance notice is required except where it is possible to give 24 hours' notice.

Leave	General entitlement
Marriage	3 working days
Bereavement	3 working days
Jury service	As long as necessary, on full pay
Urgent family	15 hours with full pay

Marriage and bereavement figures apply subject to the current applicable sectoral order or more favourable terms.

Work-Life Balance for Parents and Carers Regulations



Work-Life Balance for Parents and Carers Regulations (S.L. 452.125)

- Transposing EU Directive 2019/1158 on Work-Life Balance for Parents and Carers and repealing Council Directive 2010/18/EU. Transposed in Malta in July 2022. Aim: designed to achieve equality between men and women with regard to labour market opportunities and treatment at work, by facilitating the reconciliation of work and family life for workers who are parents, or carers. What are the main updates?
- paternity leave
- updates to parental leave
- carers leave
- flexible working arrangements



Paternity Leave

- Leave from work for fathers or, equivalent second parents, on the occasion of the birth or the adoption of a child for the purposes of providing care.
- 10 working days paid leave, immediately after the birth or adoption of the child
- Irrespective of:
- Length of service
- Marital/family status



Parental Leave

- Entitlement available to all employees – birth, custody, adoption, fostering of child until they reach 8 years of age;
- 12 months continuous service, whether indefinite or definite (including successive fixed term contracts);
- Agreed dates of leave must be respected by both parties.



Parental Leave | Transferability

Under the new law, 2 months of Parental Leave may be transferred from one parent to another.



Parental Leave

Parental leave is paid at sickness-benefit rates in the following proportions of the paid entitlement:

Age of child	Share of paid entitlement
Under 4 years	50%
4 years to under 6 years	25%
6 years to under 8 years	25%

This divides the paid entitlement across the age bands. It is not a percentage of salary.

Postponement of Parental Leave Request

- Possible grounds for postponement include seasonal work, lack of a replacement, strategic employment, small businesses with 10 persons, and several employees applying at once.
- Written justification is due within two weeks of a refused request.
- Other flexible arrangements must be considered before postponement.



Start of Parental Leave

- Leave starts once the employee provides the birth certificate (for parental leave), proof of foster placement, or proof of the start of a successful adoption.
- If either party gives notice of termination during parental leave, parental leave is automatically suspended.



Carers' Leave

Carer: any worker providing personal care or support to a relative, or to a person who lives in the same household as the worker, and who is in need of care or support for a serious medical reason.

Relative: a worker's son, daughter, mother, father, spouse or, partner in civil partnership.



Carers' Leave

- 5 working days;
- Unpaid;
- Evidence of individual's illness and requirement of care and support shall be requested.



Flexibility

- Parents of children under 8 years old and carers have the right to request flexible working patterns for caring purposes, which includes:
- Remote working
- Flexible schedules
- Reduced hours



Flexibility

The law says that flexible arrangements may be limited in duration. In such cases, the employer must consider a request by employee to return to previous arrangements, and must give an adequate justification if the request is refused.



A black and white photograph of a person's hands working at a desk. The person is wearing a checkered shirt. Their left hand is positioned over a calculator, and their right hand is near a computer keyboard. A white mug is visible on the right side of the desk. The text "Itemised Payslip" is overlaid in the center of the image.

Itemised Payslip

Itemised Payslip Regulations (S.L.452.116)

- The employer must give each employee an itemised payslip containing:
- Employer details and employee's name and designation
- Pay period, total wages and their breakdown
- Normal hours worked, including scheduled Sundays and public holidays
- Overtime and special-rate hours, separately identified
- Annual leave used and remaining balance
- Basic wages, bonuses, allowances and commissions
- Deductions, including social security contributions and tax



Questions

