



Guide to Force Majeure Leave – Urgent Family Leave

Force Majeure Leave applies where for urgent family reasons owing to an injury to or an illness to a person who is specified in the Parental Leave Act 1998 the immediate presence of the employee at the place where the person is at is indispensable.

The important word here is “indispensable”.

The leave applies where there is an injury to or an illness of a person who is;

- a. A person to whom the employee is a parent or adoptive parent;
- b. The spouse of the employee;
- c. Or a person with whom the employee is living as husband or wife;
- d. A person to whom the employee is in loco parentis;
- e. A brother or sister of the employee;
- f. A parent or grandparent of the employee; or
- g. A person other than any specified above who resides with the employee in a relationship of domestic dependency

What leave may the Employee take?

Force Majeure Leave shall consist of one or more days but for the leave the employee would be working in the employment concerned.

The maximum number of days may not exceed 3 days in any period of 12 consecutive months or 5 days in a period of 36 consecutive months.

What must an Employee do to claim force majeure leave?

When an employee takes force majeure leave he or she shall as soon as is reasonably practicable thereafter by notice in the prescribed form give to his her employer confirming that he or she has taken such leave, and the notice shall specify the date on which it was taken and contain a statement of the facts entitling the employee to Force Majeure Leave.

What is the Form or Notice that should be given?

The form is set out in the Schedule for the Parental Leave (Notice of Force Majeure leave) regulations 1998 SI 454 of 1998 or a Form of like effect.



What is the Test To claim Force Majeure Leave?

There is no strict legal test. There are some Guidelines.

1. It must be urgent. This means that if the employee had sufficient advance notice he or she should make alternative arrangements such as taking a day's holiday.
2. It must be immediate and indispensable. Effectively this means that the employee must show that they had no choice but to stay off work in order to get medical assistance for one of the persons for whom they may take the leave.

What should Employers do?

It is useful for employers to have a clear and precise Force Majeure Leave Policy in writing. In addition employers should make sure that this Policy is brought to the attention of employees.

For employers deciding whether Force Majeure Leave was appropriate they must look at it from the point of view from the employee on the particular day that they took the force majeure leave.

What should employees do?

Employees must be able to show that the leave was urgent and that their attendance with the person was indispensable. The term indispensable is more than necessary or proper or right.

The firm of Richard Grogan & Associates would be pleased to advise you on Force majeure Leave or on any employment law issues which you may have. For more information or to make an appointment phone 01 6177856 or email info@grogansolicitors.ie.

This Guide is intended as a Guide only. Before acting or refraining from anything contained in the Guide appropriate legal advice should always be obtained.