



Number 52 of 2022

**Local Government (Maternity Protection and Other Measures for Members of
Local Authorities) Act 2022**



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FOR MEMBERS OF LOCAL AUTHORITIES) ACT 2022**

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[No. 52.]

*Local Government (Maternity Protection and Other
Measures for Members of Local Authorities) Act 2022.*

[2022.]

ACTS REFERRED TO

Local Government Act 2001 (No. 37)

Local Government Acts 1925 to 2019

Maternity Protection Act 1994 (No. 34)

Maternity Protection Acts 1994 and 2004



Number 52 of 2022

**LOCAL GOVERNMENT (MATERNITY PROTECTION AND OTHER MEASURES
FOR MEMBERS OF LOCAL AUTHORITIES) ACT 2022**

An Act to amend the Maternity Protection Act 1994 to make available the leave entitlements afforded by that Act to members of local authorities; to amend the Local Government Act 2001 to, first, provide that a casual vacancy in the membership of a local authority does not arise when a member of the local authority is absent from the local authority due to taking leave in accordance with the Maternity Protection Act 1994 and, second, to permit, in certain circumstances, a person to temporarily take the place of a member of a local authority who is absent from the local authority for an extended period; and to provide for related matters. [21st December, 2022]

Be it enacted by the Oireachtas as follows:

Amendment of Maternity Protection Act 1994

1. The Maternity Protection Act 1994 is amended—

(a) in section 2—

(i) in subsection (1), by the insertion of the following definitions:

“ ‘Act of 2001’ means the Local Government Act 2001;

‘local authority’ has the meaning assigned to it by the Act of 2001;”,

and

(ii) in subsection (2)—

(I) in paragraph (b), by the substitution of “service;” for “service; and”,

(II) in paragraph (c), by the substitution of “the employer; and” for “the employer.”, and

(III) by the insertion of the following paragraph after paragraph (c):

“(d) a member of a local authority shall be deemed to be an employee of the local authority employed under a contract of service for a fixed term.”,

(b) in section 9—

(i) in subsection (1), by the substitution of “Subject to subsection (3), entitlement” for “Entitlement”, and

(ii) by the insertion of the following subsection after subsection (2):

“(3) A notification under this section required to be effected by a member of a local authority to the local authority shall be effected by giving the notification to the meetings administrator, referred to in section 46 of the Act of 2001, of the local authority.”,

(c) by the insertion of the following section after section 21:

“Disapplication of sections 23, 24, 25, 26, 27 and 28 to member of local authority

21A. Sections 23, 24, 25, 26, 27 and 28 do not apply to a member of a local authority in the member’s capacity as such.”,

and

(d) by the insertion of the following section after section 30:

“Disapplication of Part V to member of local authority

30A. This Part does not apply to a member of a local authority in the member’s capacity as such.”.

Amendment of Local Government Act 2001

2. The Local Government Act 2001 is amended—

(a) in section 18—

(i) in subsection (4)(a), by the substitution of “Subject to subsection (4A), a person” for “A person”, and

(ii) by the insertion of the following subsection after subsection (4):

“(4A) An absence referred to in subsection (4)(a) does not include an absence occasioned by a member of a local authority taking leave in accordance with the Maternity Protection Act 1994.”,

and

(b) by the insertion of the following section after section 19:

“Temporary absences

19A. (1) Subject to subsection (9), a temporary absence in the membership of a local authority occurs where—

(a) either the absence (including a proposed absence) of a member of a local authority—

(i) is not a casual vacancy and is—

(I) due to illness, or

- (II) in good faith for another reason,
and which, in either case, is accepted by the local authority and approved by resolution under this paragraph, or
- (ii) is occasioned by the member taking leave in accordance with the Maternity Protection Act 1994,
and
- (b) such member notifies the meetings administrator that he or she wishes to have a temporary substitute.
- (2) It is the duty of the meetings administrator to notify the members of the local authority in writing on becoming aware that a temporary absence has occurred and that a temporary substitute is to be co-opted.
- (3) (a) (i) Subject to subparagraph (ii), a temporary absence shall be filled by the co-option by the local authority of a person to fill the absence subject to such person being nominated by the same registered political party who nominated for election or co-option the member who caused the temporary absence.
- (ii) The local authority shall have regard to the preferred choice (if any) of the member causing the temporary absence as to the person who should be the temporary substitute.
- (b) (i) Subject to subparagraph (ii), where the member causing the temporary absence was a non-party candidate at his or her election to the local authority, the absence shall be filled by the co-option by the local authority of a person to fill the absence in accordance with such requirements and procedures as may be set out in its standing orders.
- (ii) The local authority shall have regard to the preferred choice (if any) of the member causing the temporary absence as to the person who should be the temporary substitute.
- (c) A local authority shall in making standing orders consider the inclusion of provisions for the purposes of paragraph (b).
- (4) (a) A co-option shall be made, after due notice, at the next meeting of the local authority after the expiration of 14 days from the occurrence of the temporary absence or as soon after the expiration of the 14 days as circumstances permit.
- (b) In this subsection, ‘due notice’ means not less than 3 clear days’ notice given in writing to every member of the local authority.
- (5) A person is not to be proposed at a meeting of the local authority for co-option without his or her prior written consent.

- (6) Subject to subsection (7), a person co-opted to fill a temporary absence shall be a member of the local authority until—
- (a) the member causing the temporary absence returns to office, or
 - (b) the term of office of the member causing the temporary absence expires,
- whichever first occurs, unless the temporary substitute, for whatever reason, sooner ceases to be a member.
- (7) Where the member causing the temporary absence ceases to be a member of the local authority by virtue of the operation of section 19, thereby causing a casual vacancy to occur, his or her temporary substitute (if any) shall cease to be a member of the local authority in his or her capacity as such substitute immediately upon the occurrence of such casual vacancy.
- (8) Where—
- (a) the temporary substitute (including any successor temporary substitute arising from the operation of this subsection) of the member causing the temporary absence which gave rise to the temporary substitute ceases to be a member of the local authority by virtue of the operation of section 19, thereby causing a casual vacancy to occur, and
 - (b) such member causing the temporary absence continues to be a member of the local authority,
- the casual vacancy referred to in paragraph (a) shall not be filled in accordance with section 19 but in accordance with this section as if the casual vacancy were a temporary absence of the member referred to in paragraph (b), and the other provisions of this section shall, with all necessary modifications, be construed accordingly.
- (9) A member of a local authority who is a temporary substitute may not, in his or her capacity as such substitute, have a temporary substitute notwithstanding that he or she falls within paragraph (a) of subsection (1).
- (10) In this section, ‘temporary substitute’, in relation to a member of a local authority causing a temporary absence, means the person (if any) co-opted under subsection (3)(a) or (b) to fill the absence.”.

Short title and collective citations

3. (1) This Act may be cited as the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022.
- (2) *Section 1* and the Maternity Protection Acts 1994 and 2004 may be cited together as the Maternity Protections Acts 1994 to 2022.

[2022.]

*Local Government (Maternity Protection and Other
Measures for Members of Local Authorities) Act 2022*

[No. 52.] S.3

- (3) *Section 2* and the Local Government Acts 1925 to 2019 may be cited together as the Local Government Acts 1925 to 2022.