



MALTA EMPLOYERS' ASSOCIATION

Malta Employers' Association

Position on Extended Maternity Leave

This paper sets out the position of the Malta Employers' Association on the proposed extension of maternity leave as announced in the budget speech for 2012. The existing maternity leave is proposed to be extended by 2 weeks in 2012 and an additional 2 weeks in 2013 which will be paid by government at a rate of €160 per week. The MEA has always pronounced itself in favour of measures that help balance work and life considerations and that encourage a higher rate of female participation in the labour market. Yet any such measures should not come at a cost to employers and should not place more burdens on the already stretched resources of local businesses endangering further the already precarious level of competitiveness. On the other-hand the Association recognises that times are changing and new social and economic realities demand that as employers we recognise the need of a paradigm shift.

1. Principles

The Malta Employers Association has based its position on the following principles:

- 1.1 social benefits are paid by governments, not employers
- 1.2 maternity leave is a cost to business that should be carried by government
- 1.3 any measure that incurs a direct or indirect cost to businesses should be balanced by a counter measure by Government to offset such costs.

2. Considerations

In addition to the principles listed above the MEA's position about extended maternity leave is further based on the following considerations:

- 2.1 In most countries maternity leave is not paid at full pay.
- 2.2 In most countries, maternity leave is not paid by the employer, contrary to what happens in Malta.
- 2.3. The payment of maternity leave by employers in Malta is linked to the beneficiary having to work for at least six months after the maternity leave.

2.4 Although it is frequently taken for granted that maternity leave in Malta is 14 weeks, the employer actually pays for an additional 7 days leave which accumulates during the maternity leave. The real cost to the business (albeit benefit to the employee) is 15 and a half weeks

2.5 Many European countries offer more than 14 weeks maternity leave.

2.6 There is strong lobbying at EU level to increase maternity leave beyond 14 weeks.

2.7 The extension of maternity leave is just one measure out of a range of options and that Government should focus on creating an enabling environment which facilitates the meeting of the objectives set below.

2.8 Employers are already paying for family friendly measures introduced in the public sector through their tax. It should be noted that no cost-benefit analysis or management audit of such measures and their implementation has been carried out.

2.9 Implementation of such measures can be viewed as unfair on those businesses that are largely female oriented thus creating an unlevel playing field and increasing the possibility of discrimination against women.

3. Objectives

The MEA contends that any family friendly measure including the extension of maternity leave should be aimed at meeting the following objectives:

3.1 To help the working mother during the first months after birth

3.2 To avoid increasing the relative costs of employing young female relative to male or older female employees

3.3 To have a larger proportion of younger females aged between 25 and 40 years of age enter or remain in the job market

3.4 To encourage an overall higher female participation rate in the labour force

3.5 To incentivise women to return to work following childbirth

In view of this the MEA recognises the need to monitor the implementation of such a measure with a view to quantify the impact and address any issues that may arise in the future.

4. Conflicting arguments for Maternity Leave Extension

The arguments put forward at EU level to increase maternity leave are conflicting. The guiding principle of maternity leave – even as explained in ILO conventions on the subject - is based on health considerations, whereas the extension of such leave is often quoted as being necessary because the mother needs to spend time with her child after childbirth, which, in itself is more of a work life balance matter than a health issue. Our position is clear, maternity leave is required for

reasons related to health considerations while any work-life balance initiatives should follow the principles and objectives outlined above.

5. Obligation to Work after maternity Leave

The discussions being held at EU level also point towards removing any obligation to work for a period of time after the maternity leave entitlement is exhausted. In Malta, the justification for employers to pay the maternity leave is loosely based on the premise that the employer will benefit from the experience and productivity of the employee on her return to work. Although we are not in complete agreement with such a justification, if the employee will no longer be obliged to work after giving birth, then the obligation of employers to pay maternity leave should also be removed, as this payment becomes purely a social benefit, and in no manner connected to the employment relationship.

6. Relative costs between male and female employees

The proposal to extend maternity leave needs to be framed in relation to the objectives stated above. While it will definitely work to promote the first objective - i.e. helping working mothers during the period immediately after giving birth – the measure may work against the other three objectives, even if the additional weeks are not paid by the employer. The cost of replacement is not limited to the wages paid during the maternity leave, but also to the forfeited production which is not always compensated by the replacement for the period of absence, even if such a replacement is found. Therefore if the extension will be judged to be expensive by many companies it will not work in the interest of increased female participation. Given a choice, some employers will prefer to employ women with older children or males.

7. Temporary Work Agencies

Other considerations are the lack of temporary working agencies in Malta, which makes replacement difficult in many cases.

8. Other measures

Employers are also concerned about other measures that can come in force in the near future in addition to the extension of maternity leave which can also incur costs, such as mandatory paternal leave at full pay. We strongly urge decision makers not to introduce any other measures without prior consultation and to ensure that the third principle above is respected when considering the introduction of any other measure.

9. Recommendations

Based on the above arguments, the MEA is proposing that:

9.1 In the interest of helping working mothers achieve a better work life balance, the maternity leave should be extended to eighteen weeks as announced in the budget

9.2 In order to make the measure conform with objectives two, three and four above, it is proposed that besides the payment for the additional weeks of maternity leave, government

also undertakes to pay weeks 12 and 13, in the first year, and weeks 10, 11, 12 and 13 in the second year when the total maternity leave will be of 18 weeks.

9.3 Any additional weeks of maternity leave are voluntary and the employee may opt to return to work if she wishes, and if the employer accepts. In such cases, the employer has to be notified before the beginning of the maternity leave.

9.4 Government should commit itself to retain the obligation of the employee to return to work with her employer after the period of maternity leave. It is recommended to extend this period to a year. If this is removed by imposition from the EU, then the burden of all maternity leave payments will no longer be the responsibility of employers and will be immediately passed on to government.

9.5 Government should commit itself to pay for any other measure that may be introduced in future.

9.6 Employers should be presented with a plan to completely phase out the burden of paid maternity leave on companies over a number of years.

9.7 The right to accumulation of sick leave, vacation leave and injury leave during maternity leave should be removed.

9.8 To identify a number of performance indicators that allow us to track the effectiveness or otherwise of this measure to meet the objectives set out above.

9.9 Government to carry out a cost-benefit analysis and a management audit of family friendly measures being implemented in the public sector.

10. Conclusion

The Association appeals to all political forces and civil society not to transform the issue of maternity leave, and that of family friendly measures in general into a political ball game. At the end of the day, these benefits are costly and these costs have to be justified in terms of defined social and economic outcomes, rather than being debated as a vote catching exercise. The worst scenario will be one where a benefit that looks attractive on paper will result in having the opposite effect on the intended target population. Such a thing will be detrimental to all society.

After careful study and deliberation, MEA has based these recommendations on the conviction that if they are implemented, the extension of maternity leave will be cost neutral to employers and will be of benefit to female employees both in their role as mothers and also in their career prospects. The Association also envisages that such measures, if properly implemented, will in the long run be beneficial to both employers and the country.

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