



# CHECKLIST FOR ENTERPRISES

## CARE LEAVE

This checklist compiles the legal obligations, but also additional actions you can take (see “tips”) to make your organisation more family-friendly. Obviously, you start by reviewing what is necessary and possible at your company. This checklist is not exhaustive but a first tool to get started.

- ✓ Find out about the **legal obligations** regarding care leave.

Care leave means leave to care for someone, usually a family member. Care leave falls under the [thematic leave](#), which also includes parental leave, and consists of three types:

- **Palliative leave:** If your employee provides palliative care to an incurable, terminally ill patient, she/he can take ‘palliative leave’. The patient she/he is caring for does not need to be a family member or relative.
- **Leave for medical assistance** to a seriously ill family member or relative: If your employee wants to take care of a seriously ill family member or relative, she/he can take ‘leave for medical assistance’.
- **Leave for informal care:** This leave is intended for employees who are recognised as the [carers](#) of a person in need of care, this person does not have to be a family member or relative. The informal carer is the person who provides ongoing or regular help and assistance to the person in need.

There are slightly different conditions and interpretations for each type of leave. More information can be found on the website of the Federal Public Service Employment, Labour and Social Dialogue for [palliative leave](#), [leave for medical assistance](#) and [leave for informal care](#).

In addition, a new form of leave called “carer’s leave” was introduced in 2022. This leave means that private sector employees and contractual public service employees are entitled to be absent from work for a maximum of five days - consecutive or otherwise - per calendar year, in order to provide personal care or support to a household or family member (spouse or parent) in need of significant care or support for a serious medical reason. This leave is deducted from the credit of leave for compelling reasons.

 **Talk to the employee and plan the care leave.**

Discuss in what way she/he wants to take the care leave and plan a possible replacement. First discuss what type of care leave your employee wants to take. There are then various possible arrangements for taking each type of leave.

- **Palliative leave:**
  - > **Full-time palliative leave:** Your employee (employed full time or part time) can fully suspend work for a period of maximum 1 month per patient. This period can be extended twice by 1 month.
  - > **Part-time palliative leave:** Your employee (employed full-time or on a 3/4 basis) can reduce their full-time work by half during a period of maximum 1 month per patient. This period can be extended twice by 1 month.
  - > **1/5 palliative leave:** Your employee (employed full time) can reduce their work by 1/5 during a period of maximum 1 month per patient. This period can be extended twice by 1 month.
  
- **Leave for medical assistance** to a seriously ill family member:
  - > **Full-time leave for medical assistance:** Your employee (employed full-time or part-time) can suspend her/his work completely for a maximum period of 12 months per patient (and a maximum of 24 months for a single employee in the case of serious illness of her/his child, aged 16 years or younger). These interruptions must be taken in periods of minimum 1 month and maximum 3 months (general rule) or in periods of 1, 2 or 3 weeks (with your employer’s agreement).

*Please note:* If your company has fewer than 10 employees, only this full-time leave for medical assistance can be taken (and not the other arrangements below).



- > **Part-time leave for medical assistance:** Your employee (employed full-time or on a 3/4 basis) can reduce their full-time work by half during a maximum period of 24 months per patient (and a maximum of 48 months for a single employee in the case of serious illness of her/his child, aged 16 years or younger). These periods of reduced work must also be taken with periods of minimum 1 month and maximum 3 months.
- > **1/5 leave for medical assistance:** Your employee (employed full-time) can reduce their work by 1/5 during a maximum period of 24 months per patient (and a maximum of 48 months for a single employee in the case of serious illness of her/his child, aged 16 years or younger). These periods of reduced work must also be taken with periods of minimum 1 month and maximum 3 months.
- **Leave for informal care:** Every employee can take a maximum of 6 full-time or 12 part-time months of leave for informal care over her/his entire career. This leave is limited to 1 full-time or 2 part-time months per person receiving care.
  - > **Full-time leave for informal care:** Your employee (employed full time or part time) can fully suspend work for a period of 1 month per person receiving care.
  - > **Part-time leave for informal care:** Your employee (employed full-time or on a 3/4 basis) can reduce their full-time work by half during a period of 2 months per person receiving care.
  - > **1/5 leave for informal care:** Your employee (employed full time) can reduce their work by 1/5 during a period of 2 months per person receiving care.

Are you in doubt about the period of care leave to which the employee is still entitled? She/he can easily check this via the '[Break@work](#)' tool of the National Employment Office.



**TIP** Check in the company whether there is a willingness to 'donate conventional leave', and whether a relevant Collective Labour Agreement has been concluded within your (sub)sector.

A 'donation of conventional leave' allows an employee to waive the conventional leave days she/he has remaining and which she/he can freely take, for the benefit of another employee in the company, who takes care of a child under 21 years of age who has been affected by illness or disability, or who is the victim of a serious accident and for whom a continuous presence and the provision of care are essential. This last employee must have already used up all her/his leave days before being able to use this.

More information on this can be found on the website of the [Federal Public Service Employment, Labour and Social Dialogue](#).

✓ Add **important dates** to the agenda, relating to settling **administrative matters**.

- **Palliative leave:**

- > **The week before the palliative leave of the employee starts**, she/he must provide you with a [certificate from the attending physician](#).
- > If the employee wishes **to extend** her/his palliative leave by 1 month each time (maximum 3 per patient), this form must again be submitted to you, the employer.
- > **At the earliest 1 month before the start of the palliative leave and at the latest within the 2 months following the start of the palliative leave**, the employee must submit an [online form](#) to the National Employment Office to obtain benefits during this palliative leave. The employee must fill in the 'employee' section and let you fill in the 'employer' section.

- **Leave for medical assistance:**

- > **At the latest 7 days before taking leave for medical assistance**, your employee must inform you about taking leave for medical assistance, preferably by registered letter or with the signature of receipt by you, the employer. This request must be accompanied by a [certificate from the attending physician](#).
- > A derogation is possible if the child of your employee is urgently admitted to hospital. In such cases, your employee must also provide you with a hospital certificate.
- > As an employer, you have **2 working days** to communicate your decision regarding the starting date of the leave for medical assistance. However, you can only postpone this leave for a maximum of 7 days.
- > **At the earliest 1 month before the start of the leave for medical assistance and at the latest within the 2 months following the start of the leave for medical assistance**, the employee must submit an [online form](#) to the National Employment Office to obtain benefits during this leave for medical assistance. The employee must fill in the 'employee' section and let you fill in the 'employer' section.



**TIP** Provide (a number of days of) **(paid) family leave**.

In the short term, this may already be a solution for the employee, for example for arranging childcare.



- **Leave for informal care:**
  - > **At the latest 7 days before taking leave for informal care**, your employee must inform you about taking leave for informal care, preferably by registered letter or with a signature of receipt by you, the employer.
  - > **At the earliest 6 months before the start of the leave for informal care and at the latest within the 2 months following the start of the leave for informal care**, the employee must submit an [online form](#) to the National Employment Office to obtain benefits during this leave for informal care. The employee must fill in the 'employee' section and let you, the employer, fill in the 'employer' section.

- ✓ **Make agreements with the employee regarding communication during the care leave.**

It is important to **limit** contact during care leave.

For the practical arrangements relating to their return, such as planning the first workday/week, you can contact your employee a few days before their resumption of work in order to **coordinate the return**.

- ✓ **Do not dismiss the employee** on account of taking care leave!


The right to dismiss an employee is restricted as soon as you, the employer, have been informed (in writing) that they wish to take care leave and until 3 months after the end of the care leave (cf. Recovery Act).

During this protected period, you can only dismiss your employee for reasons that are unrelated to their taking care leave. As the employer, you must provide proof of the reasons you invoke to justify the dismissal.

**TIP** Always discuss clearly with your employee why you are postponing leave for medical assistance. Just as you have reasons to postpone the leave, she/he also has reasons to apply for it. You can find solutions for both matters by discussing it with each other.

**TIP** Inform your employees in good time regarding their possibilities and **make (written) agreements about a longer time frame for submitting the request**.

Often, the period between informing you as an employer and taking the leave, especially in the case of thematic leave, is very short. Informing employees and making agreements on submitting the request shows that you are open to taking this leave, but also gives you more time to arrange for a possible replacement and to adjust the planning accordingly.

 **Do not discriminate against your employees for taking thematic care leave.**

Thematic leave falls under the protected criterion of “family responsibilities” in the Gender Act of 10 May 2007. This means that employees cannot be treated unfavourably due to their being “responsible for dependent children or those domiciled with them, or have family members who need social, familial or emotional assistance or care.”

Discrimination in the workplace can take **many forms**: differential treatment, harassment, inability to obtain a promotion, refusal to hire or dismissal of a person because they wish to care for a seriously ill family member or because they are absent due to palliative leave for a relative, etc. You can run prevention campaigns to raise awareness among your employees or teach them to recognise prejudice and discriminatory behaviour.

