



Report: Work rights for people with advanced breast cancer

McCabe Centre for Law & Cancer

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OVERVIEW

This report compares domestic work rights legislation in place at a national level across 25 countries from diverse regions and resource levels. It aims to assist ABC Global Alliance in evaluating 2015-2025 Global Charter Goal 10 to “*Help patients with Advanced Breast Cancer continue to work by implementing legislations that protects their right to work and ensures flexible and accommodating workplace environments*” as well as to inform future development of ABC Global Alliance’s new Global Charter and Goals for 2025-2035.

Key workplace protections and their legal underpinnings

Informed by research commissioned by ABC Global Alliance as to the work related issues faced by people with advanced breast cancer (‘ABC’), this report identifies key workplace protections in law for people with ABC and their caregivers.¹ These include:

- rights to request flexible work
- job-protected leave entitlements
- sickness benefits (pensions)
- non-discrimination laws including reasonable accommodation duties and
- legal protections and entitlements for caregivers.

The legal underpinnings of these key workplace protections are based in international human rights law. Human rights are standards that recognise and protect the dignity of all human beings. Human rights are inherent to all people and reflect the values of freedom, equality, fairness and dignity. Human rights include the right to life, health, non-discrimination, an adequate standard of living, work rights, social security and to live in healthy places.²

Of the 25 countries evaluated by the McCabe Centre, almost all have agreed to the obligations under the following primary human rights law treaties relevant to cancer and work rights:

- *International Covenant on Economic, Social and Cultural Rights* (23 of 25 countries; not Samoa and the USA)
- *Convention on the Rights of Persons with Disabilities* (24 of 25 countries; not USA)
- *Convention on the Elimination of All Forms of Discrimination against Women* (24 of 25 countries; not USA).

ABC Global Alliance and the broader cancer community can use human rights law to hold governments accountable to their promises under international treaties to advance the rights and improve the lives of people with ABC. Other relevant commitments that can be relied upon by advocates include United Nations declarations,³ International Labour Organisation recommendations, and regional agreements.

Key law reform opportunities

This report identifies the following key law reform opportunities.

- Improving access to **flexible work** by reforming laws to limit the extent of employer discretion to refuse flexible work requests (while at the same time balancing employer needs).
- Advocating for the extension of paid and unpaid **leave entitlements** for people with ABC and their caregivers to ensure job-security and a level of income protection.

¹ In this report, the terms ‘caregiver’ and ‘carer’ (used interchangeably) mean a person who provides *unpaid* physical, practical, emotional, spiritual, legal and/or financial support to someone who has an illness or disability.

² United Nations Office of the High Commissioner for Human Rights, [What are human rights?](#) (undated webpage).

³ Including United Nations Political Declarations on Universal Health Coverage.

- Clarifying that **discrimination protections** apply to people with ABC and their caregivers by reforming laws as appropriate in each country.
- Increasing **social work, legal and financial advice programs** to support people with ABC to navigate their work-related entitlements.
- Advocating for law reforms to give **caregivers** the same level of legal protections as the people they care for.
- Ensuring that all law reform efforts **comply with international human rights obligations**, including those established by the *Convention on the Rights of Persons with Disabilities*, and involve people with lived experience.
- Sharing **examples of innovative legal and policy approaches** promoting work rights for people with ABC to inform law reform efforts across the globe.

Conclusion

While several countries have strong legislative protections in place across key areas, no country has introduced sufficient workplace entitlements to comprehensively protect the work rights of people with ABC and their caregivers.

And although the focus of this report is on the content of relevant entitlements rather than their implementation, our research suggests that workplace laws in many countries are not operating as effectively as they could.

Laws across all 24 countries analysed require strengthening, and in doing so, countries should look to international human rights law and associated guidance documents such as those produced by the International Labor Organization to help interpret their international human rights law obligations. Countries should also involve people with lived experience in all law reform efforts.

Legal research methodology

The McCabe Centre adopted a 'doctrinal' legal research methodology focusing on primary sources of law and relevant case law from free, publicly available sources. Where available, secondary sources were also relied upon, as was the technical and practical experience of the law of local contributors including qualified lawyers and cancer organisations that responded to a survey developed by the McCabe Centre with questions informed by key work rights of interest to ABC Global Alliance.

Country selection

Laws in 25 countries were evaluated as to whether key workplace protections and entitlements exist under national laws for people with ABC and their caregivers. This included 14 'priority countries' as identified by ABC Global Alliance being Australia, China, Colombia, France, India, Japan, Mexico, Poland, Portugal, Spain, South Africa, United States of America, United Kingdom and Nigeria. An additional 11 countries were selected by the McCabe Centre, aiming to provide examples of countries in different regions, income levels and employment environments: Aotearoa New Zealand, Brazil, Canada, The Philippines, Indonesia, Iran, Kenya, Norway, Sweden, Samoa and Uganda.

A comparative analysis was conducted of the status of key legal workplace protections across 24 of the 25 countries. Laws in India were not analysed in detail due to large-scale employment law reforms underway. Only national laws were reviewed to enable cross-country comparison.

Country-specific 'snapshot' summaries of the legal entitlements in place across the countries were prepared by the McCabe Centre and reviewed by project collaborators for legal and factual accuracy.

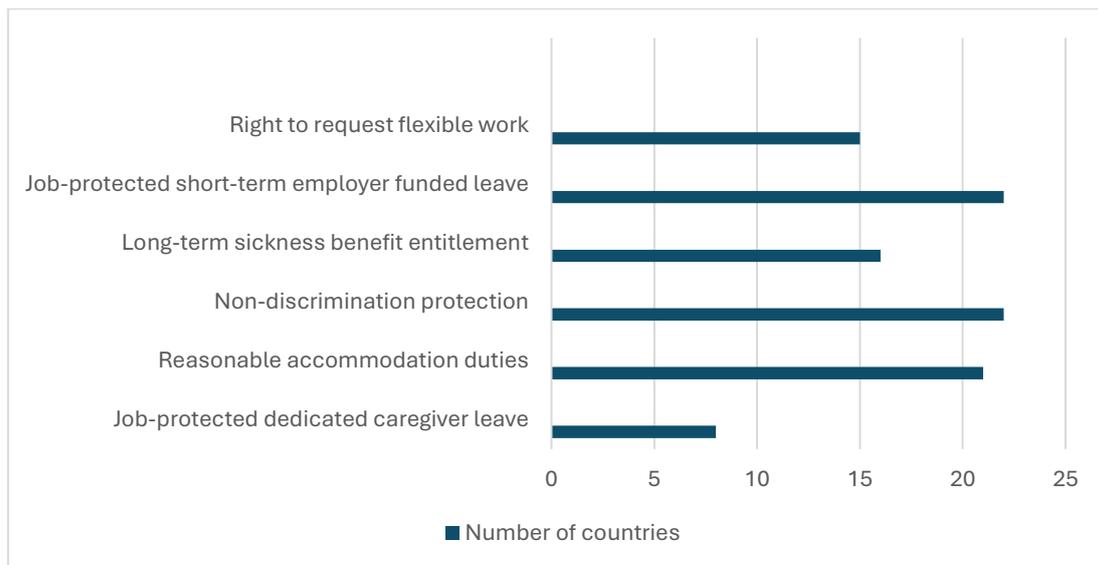


Figure 1 Countries with workplace protections in national laws

Of the 24 countries surveyed:

- Laws in **15 countries** address **flexible work**.
- **22 countries** have national laws that establish minimum entitlements to **short-term employer-funded sick leave** including for people with ABC.
- Laws in **16 countries** establish entitlements to **long-term sickness benefits** (earnings replacement).
- **22 countries** have national laws **protecting against discrimination** in employment on a range of grounds that may apply to people with ABC.
- Laws in **21 countries** include employer duties to make **reasonable accommodations** in the workplace.
- Laws in **8 countries** include dedicated **paid caregiver leave** entitlements.

Key findings – rights to request flexible work

- Access to flexible work arrangements allowing changes to working hours, times and locations can be important for people with ABC to maintain employment. Legal protection of flexible work arrangements ensures that decisions about flexible work are not left entirely at the discretion of employers yet must also ensure that businesses can continue operate.
- Laws in 15 of the 24 countries surveyed address flexible work. Of these:
 - Laws in 10 countries include rights to request flexible work. These laws do not include substantive rights to flexible work but rather a right to make a flexible work request for consideration by an employer. Flexible work laws generally operate to limit employer discretion to some degree by requiring that, such as in the United Kingdom, employers must agree to a flexible working request unless there is a genuine business reason not to.⁴
 - Laws in some countries include rights to request flexible work but only for certain employees. For example, in Samoa only employees in the public or government sector have the legal right to request flexible work.

⁴ Advisory, Conciliation and Arbitration Service (ACAS) UK, [Code of Practice on requests for flexible working](#) (6 April 2024).

- Five laws allow for flexible work under employer responsibilities to promote equal opportunities and/or make reasonable adjustments to accommodate employees with disabilities. Most of these laws are likely to apply to people with ABC, however in some countries this will depend on how 'disabilities' is defined in the applicable law.
- **Caregivers:** Caregivers in 12 countries have legal rights to request flexible work. Of these, laws in some countries contain strict limitations on employer discretion to refuse flexible work requests such as in France and Poland.

Region	Right to request flexible work and/or reasonable adjustments	Limited legal protection/no legal protection*	Countries covered
Africa	Kenya [^] South Africa [^] Uganda [^]	Nigeria (by mutual agreement or collective bargaining)	4
Americas	Canada Colombia USA [^]	Brazil (by collective bargaining) Mexico (telework decree)	5
Eastern Mediterranean		Iran (reduction in work hours for people with severe disabilities and caregivers)	1
Europe	France Norway Poland Portugal	Spain Sweden [^] UK	7
South East Asia		Indonesia	1
Western Pacific	Australia (employees with disability including cancer) New Zealand	China (subnational laws) Japan (government guidelines) The Philippines (government guidelines) Samoa (public service employees)	6
Total countries	15	9	24

Table 1 Countries analysed with flexible work protections that may apply to people with cancer including ABC

Note: Eligibility criteria may apply. For example, in Australia eligibility criteria includes 12 consecutive months of employment with the same employer. In Canada, all employees have the right to request flexible work after 6 consecutive months with the same employer.

[^] Laws in some countries do not specifically refer to flexible work, yet similar entitlements may exist under employer responsibilities to promote equal opportunities and/or make reasonable adjustments to accommodate employees with disabilities.

Key findings – employer-funded sick leave

- Job-protected leave entitlements can support people with ABC to retain their employment despite needing to take time off work.
- These laws generally mandate employers to provide leave in accordance with minimum entitlements yet also enable individual employers to offer greater discretionary benefits or allow these to be determined by collective agreement.
- Of the countries analysed, 22 of 24 have national laws in place that establish minimum entitlements to short-term employer-funded sick leave including for people with ABC.
- Employer-funded sick leave entitlements differ in law across the countries surveyed as to eligibility criteria, evidence requirements, qualifying periods, duration, pay rate and the permitted circumstances for taking paid sick leave. All these factors impact on the accessibility and adequacy of short-term paid sick leave across the various countries.

- In some (but not all) of the countries analysed, employees who remain unable to return to the workforce following the expiration of sick leave may then qualify for longer-term sickness benefits (pensions) funded by social security or social insurance. Minimum legal entitlements to these benefits differ greatly across the countries surveyed, in terms of eligibility criteria, duration and funding. Some countries do not offer a sickness benefits, only a permanent incapacity-type benefit with strict eligibility criteria that may exclude people with ABC.
- Laws in a range of countries also guarantee other financial and non-financial entitlements to those unable to work due to illness. Some laws provide more general entitlements to those who acquire work-related cancers.

Region	Minimum entitlement to employer-funded short term sick leave			Countries covered
	Duration		No/limited protection	
Africa	Kenya Nigeria South Africa Uganda	14 days 12 days 30 days (within 3 years) 2 months		4
Americas	Brazil Canada Colombia Mexico	15 days 10 days 2 days 3 days	USA*	5
Eastern Mediterranean	Iran	3 days		1
Europe	France Norway Poland Portugal Spain Sweden UK	may supplement allowance from day 8 onwards 16 days 33 days 3 days (max twice per year) from day 4 to day 15 14 days from day 2 to 14		7
South East Asia	Indonesia	12 months		1
Western Pacific	Australia China New Zealand The Philippines Samoa	10 days depends on employee's length of service 10 days 60 days (special leave for women) 5 to 20 days depending on employee seniority	Japan#	6
Total countries	22		2	24

Table 2 Countries analysed with short-term employer-funded paid sick leave entitlement that may apply to people with cancer including ABC

Note: These entitlements may be subject to eligibility requirements and qualifying periods. Rates of payment vary between and within countries, for example in Kenya the first week is at full pay and the subsequent week is at half pay. In Indonesia, the first four months is at full pay, then 75% for the following four months and 50% for the remaining four months.

* There is no USA federal law, but entitlements may exist under state and municipal laws.

Eligible employees in Japan may be entitled to a social insurance allowance Shōbyō Teate-kin) if unable to work due to non-work-related illness.)

Key findings – Dismissal protections

- Dismissal protections in law are essential to ensure job security for people with ABC needing to take time off work, and to ensure dismissal for unfair and discriminatory reasons is made unlawful.
- In most of the countries analysed, laws generally protect employees from dismissal:
 - in circumstances considered 'unfair' or 'without just cause' (generally defined by courts); and

- based on discriminatory grounds including while an employee is away from work on sick or caregiver leave yet enable dismissal if the employee is subsequently found unfit for work.
- In some countries, the employer has the burden of proving that dismissal was not unlawful while in others the employee has the burden of proof. Further procedural requirements are generally set by law.
- Remedies for discriminatory or unfair dismissal can include reinstatement, re-employment in similar other reasonably suitable work, and compensation.

Key findings – Non-discrimination

- Of the countries surveyed, 22 of 24 have federal laws protecting against discrimination in employment on a range of grounds that may apply to people with ABC (see table 3 below). Cancer is listed as a protected characteristic under some non-discrimination laws, as is health or illness under some laws, whereas cancer is considered a disability under others. Several also have relevant equality guarantees in their Constitutions.
 - Laws in 12 of the 22 clearly apply to people with ABC as they also protect against discrimination based on cancer, illness, chronic illness or health condition.
 - Whether laws protecting against discrimination based on disabilities are likely to include people with ABC within their scope depends on the definition of ‘disabilities’ in the relevant law.
 - Under some laws it is not a straightforward process to determine whether a person is considered to have a disability or disabilities for the purposes of discrimination protections.

Region	Protected grounds specifically include cancer	Protected grounds include health or illness	Protected grounds include disabilities*	Limited/no legal protection	Countries covered
Africa	Kenya		Nigeria South Africa Uganda		4
Americas	Brazil Colombia	Mexico (health condition)	Canada USA*		5
Eastern Mediterranean				Iran	1
Europe	UK	France (state of health) Poland (chronic illness) Portugal (chronic illness) Spain (health)	Norway Sweden*		7
South East Asia			Indonesia		1
Western Pacific	the Philippines	Australia# New Zealand#	Japan Samoa*	China (unclear definition)*	6
Total countries	5	7	10	2	24

Table 3 Countries analysed with workplace discrimination protections – based on grounds of cancer, health and/or disabilities

*Note: Whether each of these laws applies to protect people with ABC from discrimination depends on the definition of ‘disabilities’ in the applicable law.

Some countries define disability to include illnesses or the presence of organisms in the body causing illness.

- Non-discrimination laws vary across the countries surveyed as to the scope (employees and/or workers), types of discrimination made unlawful (direct, indirect, harassment and/or victimisation), the extent of employer duties (‘positive action’ and/or reactive), complaint and enforcement avenues and processes, and remedies.

- **Caregivers:** Of the countries surveyed, 11 of 24 have federal laws protecting against discrimination in employment on a range of grounds likely to include cancer caregivers.

Key findings - Reasonable accommodation duties

- Laws in 21 of 24 countries analysed include a specific duty on employers to provide 'reasonable accommodation' in the workplace.
- 'Reasonable accommodation' means making necessary and appropriate modifications or adjustments to ensure those otherwise unfit to work are not unfairly excluded unless this would create a disproportionate or undue burden on the employer.
- In some countries, further detail as to employer duties and worker rights are set out in regulations, codes of practice or directives.
- Reasonable accommodation laws may list the grounds of disproportionate or undue burden on which an employer may refuse a worker's request.
- Some laws clearly outline appeal avenues for situations where an employer refuses a worker's request or if the worker disagrees with the employer's proposed accommodation.

Key findings – leave entitlements for cancer caregivers

- Job-protected leave entitlements can support caregivers of people with ABC to retain their employment despite needing to take time off work to fulfil caregiving responsibilities.
- In summary:
 - Laws in 8 of 24 countries include dedicated paid caregiver leave entitlements.
 - A further two countries, Australia and New Zealand, have paid leave entitlements that can be used for purposes including (but not limited to) caregiving. This means that caregiver leave entitlements are eroded should a caregiver become unwell and need to take sick leave for themselves.

Laws in the remaining 14 countries either limit the application of entitlements to certain groups such as parents of children with cancer or have no paid caregiver leave entitlements.
- Across countries offering paid caregiver leave, entitlements differ in law as to eligibility criteria, qualifying periods, notice requirements, duration, pay rate, care recipient, funding source and as to the permitted circumstances for taking paid caregiver leave, all factors which impact on the accessibility of paid leave for caregivers.
- Funding sources vary and include employers, social insurance or social security or a combination. In some countries the criteria for leave and benefits (pension) are established under separate laws and have separate eligibility criteria (as in Canada, for example).
- Laws in France and Japan make clear that an employer cannot refuse a caregiving leave application (provided procedural requirements are met).
- Paid caregiver leave entitlements are well-funded in some countries. For example Japan's extended caregiver leave, funded through employment insurance, provides an entitlement to 93 days paid at two-thirds of the caregiver's average daily wage. However, due to insufficient caregiver leave entitlements it is common practice in many countries for caregivers to use other leave entitlements for caregiving purposes, such as leave of absence (where permitted) or sick leave.⁵
- Laws in some countries enable paid caregiver leave to be taken part-time or on an incremental basis (one day or half day) as agreed with the employer (such as in Canada and France).
- Few countries offer unpaid job-protected caregiver leave entitlements.

⁵ See: Heidi Gautun and Christopher Bratt, 'Caring for older parents in Norway – How does it affect labor market participation and absence from work?' (2024) 346 *Social Science & Medicine* <<https://doi.org/10.1016/j.socscimed.2024.116722>>.

- Laws in several countries offer other types of financial assistance to caregivers such as Canada's caregiver tax credit

Region	Dedicated caregiver leave entitlement	Leave entitlement could include caring purposes	Limited/no legal protection	Countries covered
Africa			Kenya Nigeria South Africa Uganda	4
Americas	Canada*		Brazil (federal public servants) Colombia (only to care for ill children under 18) Mexico (only to care for children with cancer) USA	5
Eastern Mediterranean			Iran	1
Europe	France* Norway Poland Portugal Spain Sweden		UK (unpaid care leave only)	7
South East Asia			Indonesia (civil servants for 'important reasons')	1
Western Pacific	Japan	Australia# New Zealand#	China The Philippines Samoa	6
Total countries	8	2	14	24

Table 4 Paid caregiver leave entitlements available to caregivers of people with cancer including ABC

*Please note that labour laws in Canada and France provide for *unpaid* caregiver leave and separate laws provide for benefits/allowances that may be available during caregiver leave.

In New Zealand, sick leave can be used for caring. In Australia, 'personal leave' can be used for sickness or caring.

Country	Leave type	Maximum duration	Funding source and pay rate	Circumstances
Canada+	Compassionate care leave	28 weeks within a 52-week period	<ul style="list-style-type: none"> • Employment insurance caregiving benefit • 55% of earnings up to a maximum cap (for up to 26 weeks) 	Family member (includes people not related yet considered to be like family) with a serious medical condition with a significant risk of death within 26 weeks
	Critical illness leave (adult recipient)	17 weeks	<ul style="list-style-type: none"> • Employment insurance caregiving benefit • 55% of earnings up to a maximum cap (for up to 15 weeks) 	Family member (includes people not related yet considered to be like family) is a critically ill adult requiring care or support
France+	Compassionate care leave	3 months (can be extended up to 12 months)	<ul style="list-style-type: none"> • State-funded daily caregiver allowance (ajpa) • Fixed daily capped rate for max 22 days per month (up to a total of 66 days). 	Close relationship with a care recipient that has a permanent, significant disability or loss of autonomy, including family, cohabitants and neighbours
	Family solidarity leave	3 months (renewable once)	<ul style="list-style-type: none"> • State-funded daily caregiver allowance (ajpa) • Fixed daily capped rate for max 22 days per month (up to a total of 66 days). 	Immediate family member or household member must be in the advanced or terminal phase of a serious and incurable condition
Norway	End of life care leave	60 days	<ul style="list-style-type: none"> • State-funded attendance allowance (pleiepenger) • Generally equivalent to employee's recent salary, capped 	Care recipient is in the final stages of life
Sweden	Compassionate care leave	100 days	<ul style="list-style-type: none"> • Caregiver's allowance (närståendepenning) provided by the Swedish Social Insurance Agency (Försäkringskassan) • 80% of the employee's usual salary 	Closely related person (not limited to family) nearing end of life
Japan	Extended care leave	93 days	<ul style="list-style-type: none"> • Caregiver's leave benefit under employment insurance • Two-thirds of person's average daily wage 	Family member due to injury, sickness or disability

Table 5 Paid caregiver leave – duration and scope of dedicated caregiver leave/benefit entitlements in selected countries

Note: Eligibility criteria and application requirements apply, including for example to provide advance written notice and/or a medical certificate. In addition to these entitlements, some countries including Mexico and Spain also offer more generous paid care leave entitlements where the care recipient is a child.

+Please note that labour laws in Canada and France provide for *unpaid* care leave, and separate laws provide for benefits/allowances that may be available during care leave as outlined above.

IMPLEMENTATION ISSUES

Although the focus of this report is on the content of relevant entitlements rather than their implementation, our research suggests that workplace laws in many countries are not operating as effectively as they could including for the following reasons:

- Unclear or inadequate application of laws to people with ABC and their caregivers. For example, cancer is often framed as a disability which can restrict access to benefits.
- Structural policy positions and local resourcing issues leading to limitations in coverage of protections across a range of areas including income replacement benefits.
- Overlapping laws, uncertain entitlements and the need for consistency with other laws and legal frameworks.
- The limited capacity of laws by themselves to achieve cultural and societal shifts.
- Operational barriers including the capacity of small companies to balance the needs of employees with operational requirements and insufficient employer understanding of cancer and workplace entitlements.
- Limited awareness and/or confidence of people with ABC and their caregivers in asserting rights and entitlements.
- Discretionary employer duties, including relating to flexible work provide insufficient motivation for employers to offer adequate benefits to employees including people with ABC and caregivers.
- High litigation costs, court delays, strict timeframes and insufficient access to independent employment advice.
- Insufficient systemic anti-discrimination provisions and weak enforcement.
- Limited global evidence of the investment case for improved leave entitlements for people with chronic illness including ABC.

GLOSSARY

Caregiver / carer

In this Report, the term 'caregiver' and 'carer' (used interchangeably) mean a person who provides *unpaid* physical, practical, emotional, spiritual, legal and/or financial support to someone who has an illness or disability.

Caregiver leave

A leave entitlement that allows employees to take time off work to fulfil caregiving responsibilities where the care recipient is usually a family or household member.

Disability discrimination

Disability discrimination occurs when a person is treated less favourably or not given the same opportunities as others in a similar situation, because of their disability. It can also occur when an unreasonable rule or policy is the same for everyone but has an unfair effect on people with a particular disability. In many countries, cancer is considered a disability under disability discrimination laws.

Direct discrimination

When a person, or a group of people, is treated less favourably than another person or group because of their background or certain personal characteristics that are protected under non-discrimination law. For example, having an illness such as cancer or having caring responsibilities.

Flexible working arrangements

Work practices that allow an employee to change their work conditions to suit their needs (e.g. changing hours or patterns of work to manage a cancer diagnosis and cancer treatment).

Indirect discrimination

When a workplace practice, rule or policy that is the same for everyone but has an unfair effect on people who share a particular attribute that is protected under anti-discrimination law such as those with an illness, disability or injury.

Informal caregiver

A person with paid employment who also provides unpaid physical, practical, emotional, spiritual, legal and/or financial support to someone who has an illness or disability

Informal worker

Someone working informally outside a traditional employment relationship and generally has limited legal and social protection.

Inherent requirement

A task, duty, responsibility or element that is an essential part of a job.

Intersectional discrimination

Occurs when a person is discriminated against simultaneously or consecutively on two or more grounds that interact.

Multiple discrimination

Occurs when a person is discriminated against simultaneously or consecutively on two or more grounds.

Onus of proof

Also referred to as 'burden of proof'. Refers to which party in a legal action must prove a fact or claim, usually by providing evidence.

Personal leave

A minimum leave entitlement in Australia consisting of 10 days annually for sickness or caregiving purposes.

Protected characteristic

A personal trait or attribute that is legally protected from discrimination.

Reasonable accommodation

A requirement under anti-discrimination laws for employers to make any adjustments, modifications or provisions in the workplace to allow a person with a disability (including cancer in many countries) to perform the inherent requirements of their job. A failure by employers to make reasonable adjustments may be unlawful discrimination.

Service incentive leave

A minimum legal leave requirement in the Philippines for eligible employees (excluding government employees who have entitlements under other laws) after one year of service to five days of employer-funded leave annually which can be used for any purpose including illness, attending medical and screening appointments.

Unfair dismissal

When an employee's dismissal is considered unfair, for example because it is considered, harsh, unjust or unreasonable in the circumstances.

Unlawful termination

When an employee's employment is unlawfully ended by their employer for a range or reasons, including because of illness

Unpaid leave

Approved leave without pay. Also referred to as 'time off' or 'leave of absence'

COUNTRY SNAPSHOTS

Country-specific 'snapshot' summaries of the legal entitlements in place across the countries were prepared by the McCabe Centre and reviewed by project collaborators for legal and factual accuracy.

The snapshots summarise the legal entitlements in place across 25 selected countries (see **figure 2** below). We note that laws regulating rights at work are often regularly changing and can be highly technical and complex laws. The McCabe Centre has made every effort to confirm the accuracy of the information contained within the snapshots.

Laws in India were not analysed in detail due to large-scale legal reforms underway including the modernisation and consolidation of multiple laws into four new central Labour Codes yet to be fully implemented in the areas of wages, industrial relations, social security and occupational safety, health and working conditions.



Figure 2 Map of countries analysed

Country snapshot: Australia

In Australia, entitlements and protections for most employees, including those living with ABC and their carers, are established under the federal labour law the *Fair Work Act 2009* (Cth). Some state and local government employees are instead covered by subnational labour laws. Discrimination protections exist under federal and subnational laws.

Workplace protections

- **Discrimination and bullying** – Employees with disabilities (including cancers) and their carers are protected from discrimination at all stages of the employment relationship, including recruitment, with limited exceptions. Complaints of discrimination can be made to human rights and anti-discrimination bodies, and available remedies include compensation and orders for injunctions, reinstatement and/or compensation. All workers are legally protected from workplace bullying.
- **Accommodations** - Employees with disabilities such as cancer are entitled in law to ‘reasonable adjustments’ in the workplace, unless they would cause the employer ‘unjustifiable hardship’.
- **Flexible work** - Full-time and part-time employees and certain casual employees with disabilities (includes all cancers) are entitled to request flexible work after having worked for 12 consecutive months with the same employer. An employer can only refuse such a request on ‘reasonable business grounds’, for example the request is too costly, impractical, or would cause a significant loss in efficiency or productivity.
- **Adverse Action** – No adverse action such as dismissal, discrimination or demotion can be taken against an employee by the employer for exercising their workplace rights such as taking leave entitlements and making discrimination complaints.
- **Occupational cancers** - There are specific sub-national legal protections for certain occupational cancers such as laws for firefighters that deem certain cancers (including breast cancer) to be compensable where firefighters were exposed to fire hazards during their employment.

Work and cancer

- **Paid sick leave** – In law, only full-time and part-time employees are entitled to 10 days per year of employer-funded combined sick and care leave called ‘personal leave’ (pro rata for part-time employees). Personal leave is paid at an employee’s usual salary when an employee is ‘not fit for work’ because of ‘personal illness or injury or an unexpected emergency’. Notice and evidence requirements apply. Personal leave is not available for pre-arranged screening or review appointments.
- **Unpaid sick leave** - There is no legal entitlement to unpaid sick leave.
- **Job protection** – Employees are protected in law from dismissal on discriminatory grounds such as because of illness such as cancer or because they are caring for someone with cancer. Employees are also protected from ‘harsh, unjust, unfair or unreasonable’ dismissal. An employee cannot be dismissed while on paid leave or if they are away for less than three consecutive months or less than three months in total over the last 12 months. These protections do not apply to employees away for longer than three months, even where evidence of illness is provided.
- **Pensions and benefits** – Government-funded social security pensions may be available to employees unable to work for prolonged periods due to disabilities such as cancer or caring responsibilities, however eligibility requirements are restrictive. Employees with disabilities may also qualify for support services under the National Disability Insurance Scheme.

Work and cancer caring

- **Paid care leave** - As mentioned above, an employee’s entitlement to 10 days per year of employer-funded ‘personal leave’ includes leave for caring purposes. A further two days of paid ‘compassionate leave’ per occasion is available to full time and part-time employees where an immediate family member or household member has a life-threatening illness or injury or dies.
- **Unpaid care leave** – All employees including casual employees are entitled to two days of unpaid care leave each time someone in their immediate family or household is sick, injured or has an unexpected emergency. Casual employees are also entitled to two days of unpaid compassionate leave per occasion.

- **Other protections** – Employees with caring responsibilities have similar entitlements to job protection, to request flexible work, and pensions as people with ‘disabilities’, including those with cancer.

Noteworthy – Australia is the only OECD country without a national human rights act, limiting the ability of people living with cancer to assert their rights under international human rights law domestically.

Commentary – Federal discrimination laws have been identified as in need of reform. Successive reviews and inquiries over many years have called for reforms to improve ease of use and a stronger focus on preventing systemic discrimination through introducing ‘positive duties’ that would require employers to proactively prevent discrimination.

Relevant federal laws include

Fair Work Act 2009 (Cth)

Disability Discrimination Act 1992 (Cth)

Sex Discrimination Act 1984 (Cth)

National Disability Insurance Scheme Act 2013 (Cth)

Social Security Act 1991 (Cth)

Country snapshot: Brazil

Laws governing employment in Brazil include the Federal Constitution and federal laws including the Labour Code. All employees are represented by unions, and collective bargaining agreement entitlements prevail over laws even if the entitlements are inferior except in relation to health and safety rights, third party rights and Federal Constitutional rights. Certain professions and public servants also have specific laws setting out their employment-related entitlements.

Working conditions

- **Discrimination** – Several federal laws prohibit discrimination in employment (and other areas) including based on family situation and disabilities (which could include cancer). The Federal Constitution also prohibits discrimination including regarding salaries and employment of people with disabilities.
- **Accommodations** – Employers are required to promote accessibility for people with disabilities in public and private buildings.
- **Flexible work** – No legal protection specific to flexible work could be found. Telework is subject to agreement between employer and employee.

Work and cancer

- **Paid sick leave** – Eligible employees are entitled to 15 days of employer-funded paid leave provided a medical certificate is supplied. From day 16 onwards, a sick leave benefit may be paid by the Instituto Nacional do Seguro Social (INSS), provided the applicant has made the required number of monthly insurance contributions, with the capped amount based on a calculation of recent contributions. Public servants are not subject to the insurance contributions requirement. Informal workers can opt-in to the insurance scheme meaning they may also qualify for the same benefits as insured employees. In general, the number of sick leave days is capped at 120 days with a further 60-day extension possible.
 - **Cancer screening:** Three days of paid sick leave is available every year to enable attendance at certified cancer-preventive examinations.
- **Unpaid sick leave** (leave of absence) – No legal protection could be found.
- **Job protection** –
 - **‘Professional rehabilitation’**- Laws provide for professional rehabilitation entitlements which allow opportunities for employees to retrain to perform work activities compatible with their limitations acquired after health treatment.
 - **Serious disease protection** - People affected by serious disease capable of giving rise to stigma or prejudice (which could include cancer) are protected from dismissal.
 - **While on leave** - Employees cannot be terminated while on sick leave.
- **Pensions and benefits** – Similar to sick leave, a INSS ‘disability retirement’ benefit may be payable from day 16 onwards provided requirements are met including that the employee has made the required number of monthly insurance contributions. Those unable to work due to cancer (if classified as a disability) from low-income families may be entitled to a Continuous Payment Benefit (minimum wage).

Work and cancer caring

- **Paid and unpaid care leave** – Federal public servants may be entitled to paid leave for up to 60 days per year (taken consecutively or not) due to illness of an immediate family member or household member, where direct assistance by the public servant is necessary and cannot be achieved simultaneously with work. There is a further entitlement to 30 days (taken consecutively or not) of unpaid leave annually.
- **Bereavement leave** – Two consecutive days of bereavement leave is available to general workers following the death of a family member or economic dependent. For federal public servants the entitlement is 8 days.

- **Job protection** – There is no legal protection for dismissal due to cancer, but in Brazil there is constitutional and legal protection against dismissal without just cause. Public servants after three years of employment can only be dismissed following a judicial decision.

Noteworthy

- **Mandatory medical examinations:** Medical examinations are mandatory upon employment (not as a pre-condition to employment). Periodic medical examinations are also necessary to maintain employment.
- **Disability employment quota:** Employers with more than 100 employees are required to meet minimum quotas of employees with disabilities, depending on the number of employees.
- **Gender pay gap reporting:** Employers with 100 or more employees must report bi-annually on differences in pay between men and women in management and leadership positions and may be subject to fines in the event of wage discrimination.
- **Court delays:** The Federal Constitution enables employees to seek enforcement of their labour rights and entitlements by filing a claim with a labour court. Claims reportedly remain outstanding for between two to five years.
- **Paid leave for cancer screening:** Three days of paid sick leave is available every year to enable attendance at certified cancer-preventive examinations.

Relevant federal laws include

Labour Code

Law 8.213/1991

Law 14.611/2023

Law 9.029/1995

Law 10.098/2000

Law 8.492/1992

Law 8.112/1990

Law 13.146/2015

Judicial Precedent 443 of 2012 of the Supreme Labour Court

Country snapshot: Canada

The Canada Labour Code provides employment standards for people employed in federally regulated workplaces and industries such as banking, telecommunication and transport, including full-time, part-time and casual employees. However, most employees in Canada work in provincially or territorially regulated industries, each with their own laws (not addressed here).

Workplace protections

- **Discrimination** – Employees are protected from discrimination in federally regulated workplaces and industries under the Canadian Human Rights Act including based on disability (which may include cancer), with exceptions due to ‘bona fide occupational requirements’.
- **Accommodations** – Employees in federally regulated workplaces and industries are legally entitled to have their working conditions adjusted to ensure they are not unfairly excluded due to disabilities (including cancer) or caregiving, unless this would cause the employer ‘undue hardship’.
- **Flexible work** – All employees in federally regulated workplaces and industries have the right to request flexible work after having worked for six consecutive months with the same employer.
- **Harassment** – Employees are legally protected from harassment under the Canadian Human Rights Act.

Work and cancer

- **Paid sick leave** –
 - **Medical leave** – Federal employees are entitled to 10 days of employer-funded medical leave per year which can be used for illness or injury and attend medical appointments. This must be paid at the employee’s regular rate of wages for normal hours of work. Notice and evidence requirements apply.
 - **Personal leave** – 5 days of personal leave is available every calendar year for ‘addressing any urgent matter’, including taking care of family members. The first three days are paid for employees who have three consecutive months of continuous employment with the same employer.
- **Unpaid sick leave** – Federal employees are entitled to 27 weeks of unpaid medical leave due to personal illness or injury or medical appointments during working hours. Employees may take unpaid breaks ‘necessary for medical reasons’.
- **Job protection** – Continuing employment is guaranteed to employees taking leave including for medical leave, compassionate care, critical illness care and personal leave. No adverse action (e.g. dismissal, suspension, demotion or disciplinary processes) can be taken against employees who apply for, are on, or have taken leave.
- **Pensions and benefits** – Sickness (employment insurance) benefits subsidise employees unable to work for medical reasons and meet eligibility criteria for up to 6 months. The rate of pay is up to 55% of insurable earnings (capped) which may be ‘topped-up’ by employers.

Work and cancer caring

- **Paid care leave** -
 - **Family responsibility leave:** to care for immediate family members with the maximum duration of 3 to 12 days varying across jurisdictions (can be taken in half day increments). Caregiving (employment insurance) Benefits may be available for employees (in federally regulated industries) unable to work due to caregiving responsibilities if they meet eligibility requirements.
 - **Compassionate care leave:** up to 28 weeks to care for a family member with a serious medical condition with a significant risk of death (can be taken in increments). Eligible employees (in federally regulated industries) may be entitled to Compassionate Care (employment insurance) Benefits.
 - **Critical illness leave:** to care for a family member (up to 18 weeks unpaid leave in a 52-week period for an adult and up to 37 weeks unpaid leave in a 52-week period for a child). Eligible employees (in federally regulated industries) may be entitled to Family Caregiving (employment insurance) Benefits.

- **Other protections** – Rights to request flexible work apply, as mentioned above. Bereavement leave of up to 10 days in the event of the death of an immediate family member is available. The first three days of bereavement leave is paid leave for employees who have three consecutive months of continuous employment with their employer.

Noteworthy: equity and access - Federally regulated employers (with over 100 employees) have legal requirements to establish proactive employment practices to address disadvantage by correcting the underrepresentation of designated groups in its workforce including people with disabilities.

Relevant federal laws include

Canada Labour Code

Employment Equity Act

Canadian Charter of Rights and Freedoms

Canadian Human Rights Act

Accessible Canada Act

Employment Insurance Act

Country snapshot: China

China's labour law framework includes the *Constitution of the People's Republic of China (PRC)*, *Labour Law of the PRC*, *Employment Contract Law of the PRC* and *Social Insurance Law of the PRC*, *Employment Promotion Law of the PRC* and implementing regulations and local laws and rules at the provincial or municipal level.

Workplace protections

- **Discrimination** – Discrimination in the workplace is prohibited including based on disabilities (but the legislation is unclear on whether this includes people living with advanced cancer as disability is not defined). The law does not distinguish between direct or indirect discrimination.
- **Accommodations** – Employers are required to make appropriate modifications to the workplace and equipment for employees with disabilities.
- **Flexible work** – No legal protections could be found.

Work and cancer

- **Paid sick leave** – Employees are entitled to employer-funded paid sick leave or sickness relief benefits for three to 24 months depending on duration of workforce participation, years of service for current employer and 'medical treatment period' under state laws and local regulations. Longer leave is available for some illnesses including cancer. The rate of payment is often lower than normal working wages and is determined by local laws and regulations. Sick leave can be taken for all types of medical activities associated with the illness.
- **Unpaid sick leave** - No legal protections could be found.
- **Job protection** – Employees are protected from dismissal in certain situations including during paid sick leave and while receiving medical treatment. However, if an employee is unable to perform their work responsibilities after their statutory medical treatment period, employers have the right to terminate the employee's employment and pay severance upon giving 30 days' notice or one month's payment in lieu of notice.
- **Pensions and benefits** – Eligible employees may be entitled to occupational illness or unemployment insurance benefits. Additionally, subject to local regulations, employers may pay medical treatment subsidies equivalent to 6-12 months of the employee's salary based on the seriousness of their illness.

Work and cancer caring

- **Paid care leave** – No national legislative entitlement to paid care leave could be found. However local regulations in some provinces and municipalities may include some paid care leave entitlements.
- **Unpaid care leave** – No legal protections could be found at a federal level. Some local regulations provide for paid elderly care leave.
- **Other protections** – Paid compassionate leave of 1 to 3 days may be available following the death of an immediate family member.

Of note –

- Employers are required to regularly arrange health examinations for their female employees including for gynaecological diseases and breast diseases.
- Although antidiscrimination laws in China exist, including on the basis of disabilities, these laws are general and limited court decisions exist to provide guidance. In practice, this means it may not be easy for people to rely on these laws.
- Court cases have confirmed that employment discrimination includes discrimination based on the employee's physical health status.
- The Constitution of the People's Republic of China provides for the protection of workers' rights and the right to material assistance from the State and society in the event of old age, illness or incapacity to work.

Relevant federal laws include

Constitution of the People's Republic of China
Labour Contract Law of the People's Republic of China
Labour Law of the People's Republic of China

Social Insurance Law of the People's Republic of China
Employment Promotion Law of the People's Republic of China
Law on the Protection of Women's Rights and Interests of the People's Republic of China
Protection of Disabled People Law of the People's Republic of China
Employment Service and Employment Management Regulations
Work Injury Insurance Regulations
Regulations on the Medical Treatment Period for Enterprise Employees with Sickness or Non-Work-Related Injury

Country snapshot: Colombia

Employment in Colombia is regulated nationally by the Substantive Labor Code (Código Sustantivo del Trabajo), the Colombian Constitution and a range of other laws and decrees. Colombian Constitutional Court rulings have been critical in establishing and advancing workplace conditions and labour norms.

Workplace protections

- **Discrimination** – Discrimination is prohibited including based on disability or health condition.
- **Accommodations** – Employers are legally required to provide reasonable adjustments to employees with a disability, which may include people living with cancer.
- **Flexible work** - Employers are obliged to grant leave for ‘serious domestic calamity’ to the employee, which allows workers to request reasonable labour adjustments, including flexible hours to care for seriously ill family members providing a medical certificate is supplied.
- **Bullying** – Harassment in the workplace is specifically regulated.

Work and cancer

- **Paid sick leave** – 180 days leave is available for temporary disability, with a further extension of another 180 days possible. The first two days of leave are employer-funded with any subsequent leave (capped based on a percentage of earnings (ranging from 50% to 66.67% of an employee’s base salary) funded by the social security system. A medical certificate must be presented to support the leave. Note that employees must make monthly contributions to the social security system.
- **Unpaid sick leave** - No legal protections could be found.
- **‘Reinforced job stability protection’** – In general, an employer may dismiss an employee with fair cause. However certain employees have special protection from dismissal, meaning they cannot be dismissed unless the employer has authorisation from the Ministry of Labor, including employees with disabilities (including a proven limitation or impediment that affects their ability to perform their duties). Employees have the right to return to their role or to an equivalent position if they have the physical and mental capacity to do so.
- **Pensions and benefits** – Employees with cancer in formal employment (including independent or self-employed workers) may be entitled to health benefits, temporary disability and disability pensions through the social security system. Informal workers may be eligible for health benefits but not disability or pension benefits.

Work and cancer caring

- **Paid leave to care for children** – 10 days of paid leave is available annually only for the care of minors (aged under 18) suffering from a terminal illness or condition, funded by the Colombian health system.
- **Unpaid care leave** – No legal protections could be found.
- **Other protections** –
 - ‘Social safeguard’: An employee who is a mother that is head of a household and unable to work (including due to caring responsibilities); and people with disabilities have special protection from dismissal as described above.
 - There is a legal entitlement to five days of employer-funded bereavement leave.
 - Leave for reasons of proven ‘severe family emergencies’ can be granted at employer discretion.
 - Remote workers caring for people with disabilities or adults aged over 60 can organise their work schedules around caregiving.

Noteworthy

- **Tax benefits** - Employers who employ persons with disabilities are entitled to tax benefits.
- **Constitutional protection** - Since 2024, the recognition of persons with cancer or suspected cancer as subjects of special constitutional protection has provided a tool for people in Colombia to assert their labour, pension, economic and health rights including by filing a ‘tutela’. Any person in Colombia has a constitutional right to file (formally or informally) a ‘tutela’ with any court in the country, if they believe their constitutional rights have been violated, and can expect a response within 10 days. Tutelas are

heard by the Constitutional Court with wide-ranging powers including to order access to health care. There is significant case law on tutela actions related to cancer and the workplace. The Constitutional Court has issued several rulings addressing the protection of rights of people living with cancer, emphasising their right to reinforced job stability and the prohibition of discrimination based on health conditions.

- **Sentencia T-386 of 2020:** The Court recognised that people living with cancer are in a state of manifest vulnerability, granting them special protection in the workplace.
- **Sentencia T-384 of 2024:** The Court reaffirmed the special protection people living with cancer deserve, highlighting employers' obligations to ensure adequate working conditions and avoid any form of discrimination.
- **Sentencia T-217 of 2022:** The Court emphasised that people living with cancer have the right to reinforced job stability, making dismissals without just cause and without authorisation from the Ministry of Labor unconstitutional.

As noted by Fundación SalBo these rulings reflect the commitment of Colombian jurisprudence to protect workers facing serious illnesses like cancer, ensuring their right to work under fair and dignified conditions.

Relevant federal laws include

Colombian Political Constitution

Decree 3135 of 1968

Decree 1072 of 2015

Law 361 of 1997

Law 2174 of 2021

Law 2360 of 2024

Law 1384 of 2010

Law 100 of 1993

Law 1010 of 2006

Law 1346 of 2009

Law 1618 of 2013

Law 2121 of 2021

Supreme Court Judgment SL1152-2023

Country snapshot: France

Work rights in France are protected by the Constitution, Labour Code (*Code du travail*) (non-discrimination, leave, adjustments, unfair dismissal), Social Security Code (*Code de la sécurité sociale*) (health insurance), regulations, collective agreements and EU legislation. Collective agreements are integral to French labour law with over 95% of employees covered, meaning most employees may have more generous benefits than are legally required.

Workplace protections

- **Discrimination** – The Constitution and Labour Code prohibit discrimination based on various protected attributes including health, loss of independence and disability. Discrimination is prohibited at all stages of the employment relationship, including recruitment. Harassment is also prohibited with significant penalties.
- **Accommodations including flexible work** – At law, employers are required to contact an occupational health physician and consider any recommendations made as to necessary workplace adjustments for employees with disabilities (provided implementation costs are not disproportionate) including adjustments to workstation, workplace and working time.
- **Individualised hours** - Any employee may request individualized working hours. Employers cannot refuse requests made by employees with disabilities or their caregivers.

Work and cancer

- **Paid sick leave/allowance** – Eligible employees are entitled to sick leave with a sickness allowance payable from the fourth day of absence onwards, provided a medical certificate is supplied within 48 hours. The allowance is generally paid at up to 50% of the employee's usual salary (capped) with a maximum duration of up to 12 months every three years. From the eighth day of absence onwards, employers are required to supplement paid sick leave (with the payment rate and maximum duration based on an employee's length of employment).
- **Leave for medical treatment** - There is a separate legal entitlement to leave for necessary treatment for employees with specified long-term illnesses including various cancer types, and for employees with serious or disabling conditions requiring prolonged and expensive treatment.
- **Unpaid sick leave** – No legal protections could be found for unpaid leave of absence.
- **Job protection** – Generally employers may only dismiss employees with 'real and serious cause'. Employees have a right to return to the same position upon their return from sick leave, and to redeployment to an equivalent position if the employee remains unfit to return. However, an employer may dismiss an employee if their prolonged or repeated absence interferes with company functioning and severance pay may be required.

Work and cancer caring

- **Paid care leave** –
 - *Compassionate care leave* – Compassionate care leave is available (maximum three-month duration) to eligible employees who have a close relationship with a care recipient that has a permanent, significant disability or loss of autonomy, including family, cohabitants and neighbours. Provided procedural requirements are met, an employer cannot refuse an application. With employer agreement, leave can be taken part-time and/or split with a minimum leave duration of one day at a time. Paid care leave can be renewed up to a cumulative period of one year. A state-funded daily caregiver allowance is payable at a daily capped rate for a maximum of 22 days per month (up to a total of 66 days).
 - *Family solidarity leave* – Allows employees to take time off at end of life. For a maximum duration of three months, renewable once, family solidarity leave can be taken full-time or part-time subject to employer agreement. Leave can also be split with a minimum leave duration of one day at a time. Provided procedural requirements are met, an employer cannot refuse an application. A state-funded daily allowance is payable depending on the circumstances.
- **Unpaid care leave** – No legal protections could be found for unpaid leave of absence.
- **Other protections** – Family carers and relatives of a person living with disabilities are entitled to request individualised working hours (flexitime), and employers may not refuse such a request.

Noteworthy –

- **Donating annual (holiday) leave between colleagues** – introduced by Mathys law in 2014 and initially limited to the parents of seriously ill children, donating leave to other employees is now available for the benefit of all caregivers.
- **Disability employee quotas:** Employers with more than 20 employees are required to have 6% of their workforce comprised of employees with disabilities. There are also quotas relating to gender equity, eg employers with 50 or more employees must publish annually a professional equality index.

Relevant federal laws include

Labour Code (*Code du travail*)

Social Security Code (*Code de la sécurité sociale*)

Law no 2018-771 of 5 September 2018

India: Summary of proposed reform of Indian labour laws

(as of 20 December 2024)

Overview

India's workplace laws are currently undergoing large-scale reform aimed at addressing what has been described as their 'archaic, inconsistent and complex' nature. The reforms include the introduction of four central labour codes and corresponding state rules. While the codes have been passed by Parliament at a central level and received Presidential assent, they yet to be brought into effect because they are reliant on the introduction of rules by all states, a process which is underway but incomplete.

Detail

To date, India's workplace laws have been issued at central (federal) and state levels, with an employee's entitlements varying depending on the industry they work in as well as the employee's seniority, wage and employer. The industry-specific nature of these laws has meant that a large proportion of the country's 50 crore workforce has missed out on protections.

At present there are around 50 separate industry-specific labour laws in place across India as well as various notifications, regulations and orders which are soon to be related replaced by four long-awaited Labour Codes which have been passed by Parliament and received Presidential assent, however, are yet to be brought into effect including –

- a wage code (working hours and pay including for gig and platform workers)
- social security code
- occupational safety, health and working conditions code and
- industrial relations code.

Major changes to be introduced by the codes include:

- Entitlements likely to apply to the organised and unorganised sectors (previously around 90% of unorganised workers missed out on protections).
- Introduction of a universal minimum wage with five-yearly review.
- Equal remuneration for men and women.
- Extension of social security and health security to 40 crore workers in unorganised sectors including gig and platform workers.
- Employer-funded annual health check-ups for employees.
- Qualifying period for leave reduced to 180 days from 240 days, then one day of leave accumulated for every 20 days of work.

The central government has published draft rules under the Labour Codes and requested that all state governments align their rules with the codes, a process which is currently underway. The central government has not yet announced an official implementation date for the codes, which is likely to occur once all states have finalised their rules.

Sources

Government of India, Ministry of Labour and Employment, [New Labour Code for New India, Biggest Labour Reforms in Independent India](#) (2023).

Grant Thornton Bharat, [Labour codes, Update and our value proposition](#) (January 2021).

Shardul Amarchand Mangaldas & Co, [Unveiling the future legal fabric: An insight into the employment law landscape following the implementation of new labour codes](#) (May 2024).

Country snapshot: Indonesia

Workplace protections are set by laws including the *1945 Constitution of the Republic of Indonesia*, *Law No 13 of 2003 on Manpower*, *Law No 39 of 1999 on Human Rights*, related regulations, company regulations and collective labour agreements. Legal protections apply to full and part-time employees, and fixed-term employees.

Workplace

- **Discrimination** – Indonesia’s Constitution provides broad protection from discriminatory treatment. Discrimination in employment (including for those seeking employment) is prohibited including based on disabilities (likely to include ABC). However, employees are required to obtain evidence of the alleged discrimination and may have their employment terminated if the industrial court finds the claim of discrimination to be false. Pay equality is protected by the human rights law. The Indonesian Constitution also recognises the right to work and receive just and adequate remuneration and treatment.
- **Accommodations** – Reasonable accommodations are required for employees with disabilities in the workplace. Under Indonesian human rights law, people with disabilities have a right to special treatment.
- **Flexible work** – No legal protections could be found specifically to assist people with disabilities (including ABC) and their carers to have formal flexible work arrangements to accommodate their illness and/or caring responsibilities. However, employees may work remotely if it has been agreed with the employer as part of their employment contract.

Work and illness

- **Paid sick leave** – There is a legal entitlement to 12 consecutive months of employer-funded sick leave, paid on a sliding scale depending on leave duration. The first four months are paid at 100% of wages. Civil servants must supply a medical certificate for leave beyond two days. Civil servants may also be eligible for a further six months of leave provided a government-issued medical certificate is supplied.
- **Unpaid sick leave** – No legal protections could be found.
- **Job protection** – Employees are protected from dismissal during sick leave (where supported by a medical certificate). Employees subsequently dismissed are entitled to severance pay, long service pay and compensation. All employee dismissals require court approval unless agreed to by the employee. Employment cannot be terminated because an employee is unable to attend work due to prolonged illness as certified by a doctor for a continuous period not exceeding 12 months or because the employee has a permanent disability (or illness resulting from a work accident, or illness due to work-related factors as certified by a doctor, with a recovery period that cannot be determined according to the medical certificate).
- **Pensions and benefits** – Self-employed and informal workers experiencing loss of income due to illness may be entitled to small lump sum social insurance payment per year (*Askesos*).

Work and care

- **Paid care leave** – Family leave is not available for caring purposes. However, civil servants have an entitlement to ‘leave due to important reasons’ for a maximum of one month at full salary, which is available to care for immediate family members who are seriously ill, and an application must be made in writing and accompanied by a certificate of hospitalisation.
- **Other protections** –
 - **Bereavement leave:** there is an entitlement to two days of paid leave following the death of an immediate family member, and one day of paid leave following the death of a household member.

Of note –

- **Impending reforms:** In MK Decision No 168/2023 dated 31 October 2024 Indonesia’s Constitutional Court (*Mahkamah Konstitusi*) directed legislators to draft a new manpower law within two years to remove any inconsistencies and make the law easier to understand and use.
- **Employment quotas for people with disabilities:** At least 2% of the workforce in the public sector and 1% of the workforce in the private sector must be comprised of people with disabilities.

- **Protection against dismissal during paid sick leave upheld:** In a 2019 case, the Supreme Court ordered an employer to pay severance pay, long service pay and compensation to an employee with uterine cancer found to have been unlawfully dismissed during the 12-month period of continuous paid sick leave: *PT Genero Pharmaceuticals vs Lola Audita Anastasia*, Supreme Court Decision No. 1016 K/Pdt.Sus-PHI/2019.
- **Social security rights:** The Indonesian Constitution and human rights law protect the right to social security including a constitutional duty on the state to develop a national security system for all and empower the underprivileged in society.

Commentary -

- Jobseekers are required by law to provide medical certificates as conditions for employment which act as a barrier to employment for people living with advanced cancer (See: University of Melbourne, [Indonesian courts rule to protect the work rights of people with disability](#) (Webpage, 5 December 2022)).
- There have been calls to reform Indonesia's limited discrimination protections as they apply to employment. See, eg, The World Policy Analysis Centre, [Indonesia: A Brief on Legal Guarantees to Non-Discrimination in Work and Employment, Constitutional Guarantees to Equality and Non-Discrimination, and Child Marriage](#) (2023).

Relevant federal laws include

Law No 13/2003 on Manpower

Law No 39 of 1999 on Human Rights

The 1945 Constitution of the Republic of Indonesia

Law 11/2020 on Job Creation

Disability Law (Law No 8 of 2016)

State Personnel Agency Regulation No 7 of 2021 Concerning Procedures For Granting Leave For Civil Servants

Government Regulation Number 24 of 1976 concerning Leave for Civil Servants

Governmental Regulation Number 88 of 2019 on Occupational Health

Country snapshot: Iran

The Iranian Constitution guarantees labour rights. Mandatory employment terms including employee rights and working conditions are set out in the Labour Code 1990 with benefits set each year through directives by the relevant ministry (not applicable to employees working in Iran's free trade zones which are governed by separate regulations).

Workplace protections

- **Discrimination** – Discrimination against people with disabilities is not explicitly prohibited.* The Constitution of the Republic of Iran states that all people are equal in rights and before the law.#
- **Accommodations and/or flexible work** - No specific legislative provisions requiring individual accommodations could be found.
- **Flexible work** –
 - Employers are required to reduce the weekly work hours of employees with severe or very severe disabilities by 10 hours.
 - Female employees of government and state-owned entities are entitled to request a change in their work status from full-time to part-time.

Work and cancer

- **Paid sick leave** – Employees are entitled to sick leave with no maximum duration.
 - **Employer-funded:** Sick leave is employer-funded for the first three days.
 - **Sickness benefit:** From the fourth day onwards, a sickness benefit is available. Approval of a medical professional designated by the Social Security Organization (SSO) is required from days 15 to 60 and more than 60 days of sickness benefits requires approval of the SSO Medical Committee.
 - **Disability or retirement pension:** People living with cancer may be entitled to a disability pension if after six months of treatment it is determined further treatment is unlikely to be effective, or a retirement pension if after 12 months return to work is not possible or the cancer is deemed incurable.
- **Unpaid sick leave** – No specific legislative provisions could be found enabling unpaid sick leave.
- **Job protection** – Employees can be dismissed where employers have valid reasons and/or where approval is granted by the workplace's Islamic labour council, or due to total disability. Employees dismissed due to a work-related deterioration of their physical or mental health (confirmed by a medical committee) are entitled to severance pay.
- **Pensions and benefits** – For non-work-related illnesses including cancer, a one-off payment equal to 18 times a monthly pension may be granted if a worker loses between 30%-66% of their capacity.

Work and cancer caring

- **Care leave** – No specific legislative provisions could be found.
- **Other protections** –
 - **Bereavement leave:** Employees are entitled to three days of paid leave upon the death of a spouse, parent or child.
 - **Caregiving allowance:** A nursing or caregiving allowance may be available to family members of people with disabilities depending on the type and degree of disability and reasonable caregiving expenses.
 - **Part-time employment:** Employees with family members living with disabilities being cared for at home may be entitled to part-time work (for women employees) or a 25% reduction in weekly work hours (for male employees).

Noteworthy

- **Treatment cost and retirement benefits** - In Iran, there are specific national laws addressing the needs of people with cancer, focusing on treatment costs and retirement benefits.

- **Quota for people with disabilities** – The government is required by law to adopt measures to create employment opportunities for people with disabilities including to assign at least 3% of employment permits to qualified people with disabilities.

Commentary: According to one of Iran’s first female judges and Nobel Peace laureate Shirin Ebadi, laws enabling women to request a change in work status from full-time to part-time was intended to ease pressure on working women but may have contributed to a rise in female unemployment due to employers preferring full-time employees: Nayereh Tohidi, ‘Iran’ in Sanja Kelly and Julia Breslin (eds), *Women’s Rights in the Middle East and North Africa: Progress Amid Resistance* (New York, 2010). The Center for Human Rights in Iran notes that pre-COVID-19 pandemic, the proportion of unemployed women was almost double that of men. The Center has also observed that workers face serious human rights violations in Iran and that discrimination in the workplace is rife: Center for Human Rights in Iran, [Fact Sheet: Labor in Iran](#) (2020).

Relevant federal laws include

- Constitution
- Labour Code 1990
- Social Security Law 1975
- Law on Unemployment Insurance 1990
- Law on the Formation of Islamic Labour Councils 1985
- Regulations on Employment, Insurance and Social Security in the Free Trade and Industrial Zones 1994
- Comprehensive Law on the Protection of Persons with Disabilities 2004
- Law on Women’s Part-time Service 1983

*Source: Australian Government Department of Foreign Affairs and Trade, [DFAT Country Information Report, Iran](#) (24 July 2023).

Source: United Nations Committee on the Rights of Persons with Disabilities, [Initial reports of States parties due in 2011 Islamic Republic of Iran](#) (8 July 2015, CRPD/C/IRN/1).

Country snapshot: Japan

Japan's labour law is established by Japan's Constitution, labour statutes including the Labour Standards Act and Labour Contract Act, court precedents, interpretations and guidelines issued by administrative authorities. Labour-related laws generally apply to part-time and fixed-term employees as well as full-time employees, other than in relation to leave and insurance. Board members and independent contractors are not protected by Japan's labour laws.

Workplace protections

- **Discrimination and harassment** – Employers are prohibited from discrimination including due to disabilities (which could include ABC) and/or applying for or taking caregiver leave.
- **Accommodations** - Employers are required by law to provide reasonable accommodations for employees with disabilities which could include people living with advanced cancer, provided there is no excessive burden on the employer. In law, reasonable accommodations include necessary and appropriate modifications and adjustments that do not impose a disproportionate or undue burden on the employer.
- **Flexible work** – Government-issued Guidelines for Supporting Workers with Disease Balancing Treatment and Work encourage employers to create a supportive environment for workers with diseases including cancer, such as by establishing leave systems and flexible working arrangements such as reduced hours and flexitime.
- **Bullying** – Employers are required to take measures to prevent harassment of employees for taking leave for caring purposes.

Work and cancer

- **Paid and unpaid sick leave** – Employers are not legally required to provide paid sick leave to employees as there is no legislation concerning sickness, injury or disability arising outside of employment or commuting. Most employers may have their own rules for paid and/or unpaid sick leave.
- **Insurance benefits** – Under the social insurance system eligible employees may be entitled to benefits including due to sickness, disability or if aged 65 or older, long-term care. The Injury and Sickness Allowance (Shōbyō Teate-kin) is typically paid at two-thirds of the person's average daily wage for a maximum period of 18 months.
- **Job protection** – Employers are prohibited from dismissing an employee without objective, logical and reasonable reasons (defined by courts), and for discriminatory reasons. Employers are also prohibited from dismissing an employee receiving treatment for an illness suffered in the course of duty or within 30 days thereafter. There is no right to severance pay in law for employees who are dismissed, however procedural and notice requirements may apply.
- **Occupational illness** – Employees may be entitled to compensation for sickness and disability caused during employment or commuting.

Work and cancer caring

- **Paid care leave** – Employees providing short-term care are generally not entitled to paid leave in law.
 - **Longer-term:** Full-time employees (after one year or more of employment) may take a leave of absence of up to 93 days annually to care for a family member due to injury, sickness or disability and may be eligible for a carer's leave benefit under the employment insurance program, typically paid at two-thirds of the person's average daily wage for the 93 days. Government employees have additional entitlements, for example, to take two hours off for caregiving per day for a maximum of three consecutive years.
- **Unpaid care leave** –
 - **Short-term:** Full-time employees may take up to five days of leave to accompany a family member to hospital or for related reasons (on an hourly, half-day or full-day basis).
- **Flexible work** – Caregivers providing long-term care are entitled to shortened working hours and flexitime with the express purpose in the law to make it easier to combine caring and work. Employers are required by law to inform employees who are caregivers of these entitlements.

- **Other protections** – Overtime exemptions and late-night work exemptions are available to some employees caring for family members, with a qualifying period of one year of employment. Employers are prohibited from dismissing an employee for requesting or taking family care leave. There is no legislative entitlement to bereavement leave, but in practice employers may allow leave in this situation.

Noteworthy:

- **disability employee incentive** - employers with more than a set number of permanent employees are required by law to ensure a certain percentage of their workforce is comprised of persons with disabilities and can be fined for non-compliance, and to report their workforce statistics to the government annually.
- **part-time employee entitlements:** while part-time employees are generally entitled to annual paid leave in proportion to their working hours, employees working above a threshold number of hours are entitled to the same paid leave as full-time employees. Likewise, part-time employees working above a set threshold number of hours are treated equally to full-time employees for the purposes of social and labour insurance.

Relevant laws include

Constitution (1946)

Labour Standards Act (1947)

Labour Contract Act (2007)

Employment Security Act (1947)

Employment Insurance Act (1974)

Persons with Disabilities Discrimination Elimination Act (2013)

Act for Promotion of Employment of Persons with Disabilities (1960)

Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members (2022)

Industrial Health and Safety Act (1972)

Country snapshot: Kenya

Work rights in Kenya applicable to people living with ABC are established by the Constitution of Kenya and legislation including the Cancer Prevention and Control Act, the Employment Act and case law.

Working conditions

- **Discrimination** – Discrimination in the workplace including on the basis of health status and disabilities (which could include due to breast cancer) is prohibited by the Kenyan Constitution and other laws. This prohibition extends to discrimination in respect of advertising, recruitment, the terms and conditions of employment including wages, training, promotions and terminations.
- **Accommodations and flexible work** – Employers are required to take necessary steps to ensure workstations, equipment and work tasks are adapted to fit the employee and the employee's ability including protection against mental strain and access to flexible working hours. Facilities and modifications in the workplace must also be made where reasonably required to accommodate people with disabilities (which could include due to breast cancer).

Work and cancer

- **Paid sick leave** – After two consecutive months of service with an employer, an employee is entitled to a minimum of seven days of employer-funded sick leave at full pay and a further seven days of sick leave at half pay, per year, subject to production of a medical certificate of incapacity to work. The law does not specify the purposes for which paid leave can be used which could include attendance at medical appointments and procedures.
- **Unpaid sick leave (leave of absence)** - No legal protection could be found meaning leave of absence may be granted at the employer's discretion.
- **Job protection** – Employees are protected from dismissal during leave and in relation to any proposal to take leave. In any employment termination claim, it is up to the employer to prove the dismissal was not unfair/unlawful.
- **Pensions and benefits** – Employees permanently or partially incapacitated and unable to work due to disabilities may be entitled to withdraw retirement benefits before reaching the mandatory retirement age.

Work and cancer caring

- **Paid and unpaid care leave** – No legal protection relating to carer leave could be found.
- **Bereavement leave** – No legal protection relating to bereavement leave could be found.

Noteworthy -

- The Supreme Court has held that for an employer to justify termination on grounds of incapacity, they have a duty to independently investigate the extent of incapacity and the alternatives short of dismissal before dismissing an employee (*Gichuru v Package Insurance Brokers Ltd* (Petition 36 of 2019) [2021] KESC 12 (KLR) (22 October 2021) (Judgment)).
- The Constitution of Kenya protects the right to social security and requires the state to provide social security to those unable to support themselves and their families.

Relevant federal laws include

Constitution of Kenya

Cancer Prevention and Control Act 15 of 2012, Chapter 246B of the Laws of Kenya

Health Act 2017

The Employment Act Cap 26 Law of Kenya

Occupational Health and Safety Act 2010

Persons with Disabilities Act No 14 of 2003

National Social Security Fund Act

Regulation of Wages (General) Order

Country snapshot – Mexico

The main laws regulating employment rights and benefits in Mexico are the Constitution, Federal Labour Law, Social Security Law and Law of the Institute of Security and Social Services for State Workers.

Working conditions

- **Discrimination** – The Federal Labor Law protects against discrimination in the workplace based on disability or health condition.
- **Accommodations** – Employers with more than 50 employees must have appropriate facilities for employees with disabilities.
- **Flexible work** – Since 2023 employers are required to implement a teleworking policy to protect the health and safety of employees working remotely.

Work and cancer

- **Paid sick leave** – Insured employees are entitled to one-year (365 days) of paid leave due to temporary incapacity. Employers fund sick leave for the first three days. After three days, employees may receive disability benefits from the Mexican Institute of Social Security (IMSS) or Institute for Social Security and Services for State Workers (ISSSTE) systems, typically paid at 60%-70% of the employee's salary. Medical evidence must be provided in support of applications. Note that these laws apply to insured workers only.
- **Unpaid sick leave / leave of absence** – No minimum legal entitlement could be found.
- **Job protection** – In Mexico, there are currently no specific legal protections against unlawful or unfair dismissal solely because a person has cancer or is caring for someone with cancer. However, there may be an entitlement to severance pay for termination without cause. Currently, Cancer Warriors of Mexico Foundation in collaboration with other civil society organizations are advocating for an amendment to the General Health Law to incorporate the "right to be forgotten" for cancer survivors.
- **Pensions and benefits** – Employees who remain unfit to work for longer than one year may be entitled to permanent total or partial disability benefits.

Work and cancer caring

- **Paid and unpaid care leave (for parents only)** – Occupational leave is available to parents of children diagnosed with cancer, supported by a government subsidy, during their children's oncological treatments. The maximum duration of occupational leave for parents is one year (365 days) and they will receive 60% of their salary, funded by the government. Medical certificates must be supplied to confirm the child's diagnosis and treatment plan. These amendments were promoted by Cancer Warriors of Mexico Foundation.
- **Bereavement leave** – No minimum legal entitlement could be found.

Noteworthy

- **Subnational laws promoting cancer screening** – Several subnational laws promote cancer screening with a focus on the early detection of certain cancers including breast cancer and provide entitlements to medical leave for public sector employees. All these subnational laws were promoted by Cancer Warriors of Mexico Foundation.
- **Preference in hiring** – Employers are required to give preference in hiring to certain groups including those economically responsible for their families and whose employment is their sole source of income.
- **Impending reforms** –
 - Mexico's first female President took office on 1 October 2024 and has announced an intention to reform employment policies and laws including in favour of gender and wage equality; to extend labour rights to digital platform workers; and to introduce a quota to encourage employment of people with disabilities.
 - Cancer Warriors of Mexico Foundation, in collaboration with other civil society organizations are actively advocating for an amendment to the General Health Law to incorporate a comprehensive cancer care approach in Mexico. This initiative aims to mandate the creation of a National Cancer Care Plan, which would ensure an integrated, systematic approach to cancer care, from prevention to treatment and support for survivors.
- **Employment pre-conditions** – Employees must submit to employer-mandated medical examinations.

Commentary

- Cancer Warriors Mexico notes that there are some legal provisions aimed at protecting working people with cancer and their carers, however the existing laws are, unfortunately, not as comprehensive or effective as they could be. The legal framework does offer some support, but there are significant gaps in terms of both protection against discrimination and support for people with cancer or those caring for a loved one with cancer. There is clearly a need for an amendment in Mexico's labour and healthcare laws to ensure better protections for cancer survivors and those providing care.

Relevant federal laws include

Political Constitution of the United Mexican States

Federal Labor Law

Social Security Law

Law of the Institute of Security and Social Services for State Workers

Official Standard NOM-037-STPS-2023, Telework-Safety and Health Conditions

Country snapshot – Nigeria

The main laws governing work rights include the Constitution of the Federal Republic of Nigeria 1999, the Labour Act, international and regional human rights laws, and other federal and state laws. Various labour laws apply to different categories of workers. For example, the Labour Act applies only to ‘workers’ including those performing manual labour or clerical work, not to those performing administrative, executive, technical or professional functions known as non-workers. Minimum terms and conditions of employment for non-workers (including sick pay) are set by contracts of employment. Non-workers are subject to all other employment-related laws including the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 and National Industrial Court of Nigeria (Civil Procedure) Rules 2017.

Working conditions

- **Discrimination** – Discrimination is prohibited by the Constitution. There is no federal anti-discrimination law specific to employment, however there is a law prohibiting discrimination against people with disabilities (which could include ABC) including in employment, with penalties for non-compliance including fines and imprisonment. Equal pay for equal work is also required by law.
- **Accommodations** – When making accommodations for employees, employers are required to give first consideration to people with disabilities.
- **Flexible work** - No legislative entitlements could be found. Provision of flexible working hours is at the discretion of the employer, and if granted will be subject to the terms of the employee’s contract of employment.

Work and cancer

- **Paid sick leave** – Employees covered by the Labour Act are entitled to a maximum of 12 days of paid sick leave per year (paid at salary) provided a medical report is supplied. For other employees, sick leave is determined by the employer’s rules.
- **Unpaid sick leave (leave of absence)** - No legal protection could be found.
- **Job protection** – Generally an employer can dismiss an employee and for employees covered by the Labour Act, notice must be provided (or payment made in lieu). Severance pay is not required by law.
- **Pensions and benefits** – Employers are required to contribute to the national health insurance scheme and provide group life insurance for employees. Compensation is available to employees who suffer occupational illnesses.

Work and cancer caring

- **Paid and unpaid care leave** – No legislative entitlements could be found.

Noteworthy

- **Disability employee quotas** – Public sector employers must ensure that people with disabilities constitute at least 5% of their workforce. However, research suggests that this is not well enforced.
- **Regional human rights law** – Nigeria ratified the African Charter on Human and Peoples’ Rights in 1981 and fully implemented the treaty into national law through the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act. Article 15 provides that ‘every individual shall have the right to work under equitable and satisfactory conditions and shall receive equal pay for equal work’.

Relevant federal laws include

African Charter on Human and Peoples Rights (Ratification and Enforcement) Act

Constitution of the Federal Republic of Nigeria, 1999

Labour Act, Chapter L1, Laws of the Federation of Nigeria, 2004

Discrimination against Persons with Disabilities (Prohibition) Act, 2018

Lagos State Special Peoples Law, 2011

Employees Compensation Act, 2010

The National Industrial Court of Nigeria (Civil Procedure) Rules, 2017

Country snapshot: Norway

The main employment law is the Working Environment Act (Lov om arbeidsmiljø, arbeidstid og stillingsvern mv) which establishes minimum requirements for the work environment, leave, discrimination and dismissal protections. Collective agreements are also an important part of employment regulation in Norway.

Workplace protections

- **Discrimination** – Discrimination and harassment based on disabilities is prohibited in all aspects of employment including hiring.
- **Accommodations** – In law, employers are required to accommodate employee needs ‘as far as possible’ by implementing necessary measures to enable employees with reduced capacity for work to retain or be given suitable work, so long as there is no undue burden on the employer.
- **Flexible work** – Employees are entitled to request flexible working hours so long as there is no undue burden on the employer. Employees are also entitled to request a reduction in working hours due to health reasons again so long as there is no undue burden on the employer.

Work and cancer

- **Paid sick leave** – Employees and independent contractors are eligible for up to 12 months of paid sick leave due to cancer and other serious illnesses with a qualifying period of four weeks. The pay rate is generally equivalent to the employee’s recent salary (up a maximum cap). The first 16 days of leave is employer-funded with the remainder state-funded via a ‘sickness benefit’ (sykepenger).
- **Unpaid sick leave** - No legal protection could be found.
- **Job protection** – In general, any dismissal must have proper cause. Employees on paid sick leave are protected from dismissal and subsequently may be dismissed where objectively justified. There is no legal right to severance pay.
- **Pensions and benefits** – Those unfit for work after 12 months may be entitled to a work assessment allowance (temporary illness) or disability benefit (permanent illness) to replace income lost, with the (capped) pay rate based on the employee’s recent income. A benefit is also available for occupational illness (yrkessykdom).

Work and cancer caring

- **Paid care leave** - During the final days of a loved one, an employee is eligible to state-funded paid leave via an ‘attendance allowance’ (pleiepenger) for up to 60 days provided a medical certificate is supplied. The pay rate is generally equivalent to the employee’s recent salary (up a maximum cap).
- **Unpaid care leave** – Unpaid carers leave is generally limited to ten days per year.
- **Other protections** – An ‘assistance allowance’ is available to carers of people living with cancer (to cover care needs expenses). At the municipal level, a care benefit (Omsorgsstønad) is available for carers performing particularly demanding caregiving tasks. Rights to request flexible work apply to all employees including caregivers. Reduced working hours is open to employees including for ‘welfare reasons’ so long as there is no undue burden on the employer.

Noteworthy –

- **Pre-employment protection:** Employers are prohibited from gathering pre-employment information as to family life or functional disability unless of fundamental importance to work performance.
- **Healthy and safe workplace** – Employers must safeguard the health, working environment and safety of employees with an emphasis on the prevention of injuries and diseases.
- **Gender equality** – Employers must make active, targeted and systematic efforts to promote gender equality, including equal pay. Employers with 50 employees or more must publish information about compliance with this duty.

Relevant federal laws include

Working Environment Act (Lov om arbeidsmiljø, arbeidstid og stillingsvern mv)

National Insurance Act

Equality and Anti-Discrimination Act (Lov om likestilling og forbud mot diskriminering (likestillings- og diskrimineringsloven)

Country snapshot: Aotearoa New Zealand

In Aotearoa New Zealand, workers (employees and contractors) with ABC, and their carers have general rights and protections under national employment and human rights laws. There are no workplace rights laws specifically for people living with ABC (or other types of cancer).

Workplace protections

- **Discrimination** – Discrimination in the workplace (including recruitment) on the basis of disabilities (could include cancer) and caring responsibilities is prohibited and applies to all types of workers whether employees and contractor (or any other types of workers), with some exceptions. It is also illegal to ask questions that indicate, or could reasonably be understood as indicating, an intention to discriminate on the grounds of disability.
- **Accommodations** – Employers are legally required to make reasonable adjustments to accommodate a person's disabilities, which includes cancer.
- **Flexible work** - All employees have the right to request flexible working arrangements. Employers must consider a request for flexible working arrangements in good faith, but do not have to approve it if there is a good business reason for declining.

Work and cancer

- **Paid sick leave** – All employees (full time, part-time and casual) are entitled to 10 days of paid sick leave per year (paid at usual daily pay rate) provided they have met qualifying requirements (six months of employment with current employer). Sick leave can be used for any illness including stress and can be used for cancer-related appointments. Unused sick leave can be carried over at the end of each year to a maximum of 20 days. Employers can ask for proof of sickness such as a medical certificate.
- **Unpaid sick leave** – There is no legal entitlement to leave without pay.
- **Job protection** – People with cancer may be dismissed if they are unable to perform their job due to illness; however, there are a range of factors to consider and steps an employer has to take, including following a fair and reasonable process.
- **Pensions and benefits** – Employees may be entitled to accident compensation insurance for work-related cancers. Means-tested income support payments may be available for people whose capacity to work is affected by cancer.

Work and cancer caring

- **Paid care leave** - All employees are entitled to take sick leave to care for a dependent and the same conditions apply as with sick leave (above).
- **Unpaid care leave** – There is no legal entitlement to leave without pay.
- **Other protections** – Full-time carers may be eligible for a means-tested income support payment. Rights to request flexible work apply, as described above.

Noteworthy

- **Sick leave for part-time employees:** Sick leave entitlements are not pro-rated (assessed proportionately). Even if a part-time employee only works three days a week, they still get 10 days of sick leave a year and can accumulate up to 20 sick days a year.

Commentary

- The scope of discrimination protections in human rights law extends beyond traditional employment relationships, offering protection to a broad cohort of workers, including contractors, and helps to mitigate some of the more stringent requirements and time limitations for remedies in employment law.

Relevant federal laws include

Human rights laws: Bill of Rights Act 1990; Human Rights Act 1993

Employment law: Employment Relations Act 2000

Leave: Holidays Act 2003

Occupational cancers: Accident Compensation Act 2001

Country snapshot, The Philippines

Employment rights of those with illnesses including cancer are protected through a range of national laws, primarily the Labor Code of the Philippines, special labour legislations (including the Magna Carta for Disabled Persons and Magna Carta for Women, and the National Integrated Cancer Control Act), as well as administrative rules, regulations and guidelines. The Philippines Constitution also protects the right to health and affords full protection to labour and workers' right to security of tenure. Entitlements are applicable to employees including casual employees after one year of service.

Workplace protections

- **Discrimination** – Employees with disabilities including cancer are protected from discrimination at work and in recruitment.
- **Accommodations** – Employers are required to provide reasonable accommodations. Employees with disabilities including cancer are also entitled to 'sheltered employment' meaning the government has a duty to provide facilities, projects and schemes to support income-generation and transition to employment in open industry.
- **Flexible work** – Government-issued advisory guidelines encourage employers to provide flexible work arrangements for employees with cancer, including changing work hours and remote working, however there is no legal requirement.
- **Bullying** – Employers are required to take preventive measures, including establishing and implementing policies and programs with reporting mechanisms to address and prevent problems on bullying and all forms of work-related violence, threats, shaming, alienation and other forms of discrimination.

Work and cancer

- **Paid sick leave** – Philippine law does not mandate employers grant sick leave or sick pay. However, employers may do so. Government-issued advisory guidelines encourage employers to provide additional paid leave benefits for employees with cancer. Minimum legal leave requirements after one year of service is five days of employer-funded 'service incentive leave' annually which can be used for any purpose including illness, attending medical and screening appointments. If unused, this entitlement can be converted to cash. This entitlement does not apply to government employees, managers, personal service workers, field personnel or small employers with fewer than 10 staff. Government employees have entitlements under other laws.
- **Paid special leave for women** – After six months of continuous service within 12 months, female employees are entitled to up to two months (60 days) paid special leave at full pay for surgery caused by gynaecological disorders defined to include mastectomy. Multiple applications may be made, and all applications must include a medical certificate and clinical summary.
- **Unpaid sick leave** - No legal protections could be found.
- **Job protection** – Employees with cancer generally have the right to return to work and are protected by law against unjust dismissal. However, employers can dismiss employees who have a disease that cannot be cured within six months, and where continued employment is likely to be prejudicial to the employee's health or the health of other employees, provided the employer complies with legal requirements including satisfying the burden of proof required. Employees must be given notice and an opportunity to present evidence against their dismissal. If dismissed, the employee is entitled to severance pay.
- **Pensions and benefits** – Employees with cancer who have exhausted their paid leave entitlements and are confined in hospital or at home for at least four days may be entitled to a sickness benefit, paid at 90% the employee's average salary for 120 days in one calendar year and not more than 240 days in total, subject to qualifying conditions under the Social Security System (SSS).

Work and cancer caring

- **Paid care leave and job protection** – There is no specific paid carer leave. Carers have entitlements to mandatory service incentive leave of five days and the same unjust dismissal protections as employees living with cancer.
- **Other protections** – The government must, by law, 'develop appropriate and easily accessible social protection mechanisms for cancer patients, people living with cancer, cancer survivors, their families

and carers'. However, neither the law nor its implementing rules and regulations provide further detail on protections for carers. Unlike people living with cancer, carers do not have entitlements to sheltered employment or flexible work rights.

Noteworthy –

- **Paid special leave for women following surgery:** See above.
- **Equal opportunity in employment:** In law, 5% of all casual, emergency and contractual positions in government agencies, offices and corporations engaged in social development are reserved for people with disabilities, including cancer. Private corporations with more than 100 employees are encouraged to reserve at least one percent of all positions for people with disabilities.
- **Cancer Prevention and Control Workplace Policy and Program:** Employers are required by government-issued Guidelines to adopt a Cancer Prevention and Control Policy and Program including measures to assist the return to work and reintegration into the workplace of employees with cancer.

Commentary - slow progress towards implementation of cancer law: Introduced in 2019, the Philippine national cancer law named the National Integrated Cancer Control Act prioritised cancer control for the government, including mandating that relevant departments and agencies consider the lived experience of people with cancer and evaluate the regulatory measures that support or hinder their access to a better quality of life. To date developments have focused on awareness-raising in the workplace and providing access to screening and referral services however there have been no improvements in paid leave or flexible work entitlements.

Relevant federal laws include

1987 Constitution of the Republic of the Philippines

[Presidential Decree No. 442, As Amended: Labor Code of the Philippines](#)

[Republic Act No. 11215: National Integrated Cancer Control Act](#)

[Republic Act No. 7277, as amended: Magna Carta for Disabled Persons](#)

[Republic Act No. 9710: Magna Carta of Women](#)

Republic Act No. 11199 Social Security Act

Country snapshot: Poland

The legal framework for work rights in Poland includes the Constitution of the Republic of Poland, the Polish Labour Code and related laws, and collective labour and other agreements.

Workplace

- **Discrimination and harassment** – Discrimination, harassment and victimisation in employment are prohibited in law on grounds of disabilities (non-exhaustive grounds). Further, all employees are entitled to equal remuneration for the same work or for work of the same value, with compensation payable for infringements of this principle.
- **Accommodations** – Employers are required to provide a workplace adequately adapted for people with disabilities.
- **Flexible work** – Since 2023, the law has provided the right to request flexible work after six months of employment. Employers are required to define remote work rules in agreements or regulations. Ongoing or occasional remote work is permitted by agreement, and employers are required to provide work tools and devices and to reimburse employees for any remote work costs. Occasional remote work is available for up to 24 days in a year.

Work and illness

- **Paid sick leave and benefit** – Employees are entitled to employer-funded sick leave for the first 33 days (or 14 days where an employee is 50 years old or older), generally paid at the rate of 80 to 100% of the employee's recent average salary. From the 34th day onwards, a sickness allowance is funded by the employer or Polish Social Insurance Institution, Zakład Ubezpieczeń Społecznych (ZUS) for a maximum period of 182 days per year (or 270 days if the sickness occurs during pregnancy). Employees are entitled to sick pay and sickness allowance after meeting the insurance qualifying period which is generally 30 days or more of contributions. A medical certificate must be provided for paid sick leave and employers are able to access these electronically immediately via an online platform. Employees may be entitled to subsequent periods of paid sick leave after returning to work for at least 60 days. Entitlements differ for those who acquire occupational diseases.
- **Other paid leave** –
 - **Force majeure leave** – A force majeure leave entitlement of two days or 16 hours of paid leave per year (proportionate to hours worked) at 50% of an employee's usual salary is available for urgent, unforeseeable matters caused by illness or accident of a family or household member, if the employee's immediate presence is needed. An application must be submitted on the day the leave is taken but need not be in writing.
 - **Leave on demand** – Employees are entitled to take four days paid leave per calendar year without prior request. Any leave on demand days taken will be deducted from the employee's annual holiday leave entitlement. The employee need not provide reasons for taking the leave but must inform the employer before the start of the workday.
- **Unpaid sick leave** – Unpaid leave of absence is available for any purpose, is regulated by law and requires employer agreement.
- **Job protection** – In general, dismissal must be based on real reasons and be justified by the circumstances. Generally, employees are protected from dismissal while on leave including due to illness, unpaid care leave and force majeure leave, however an employer may then dismiss an employee without notice if unfit for work. Otherwise notice must be given and the duration differs depending on the employment contract. Severance pay is required including in connection with disability.
- **Social security benefits** – If unfitness to work extends beyond paid sick entitlements, eligible employees may be entitled to a rehabilitation benefit for a maximum of 12 months. Benefits/allowances are also available to those with disabilities.

Work and care

- **Paid care leave** – 'Force majeure leave' and 'leave on demand' entitlements are available for caregiving purposes as described above.
- **Unpaid care leave** – Employees are entitled to five days unpaid care leave per year to care for or support a family or household member requiring care or support for serious medical reasons. Unpaid care leave

must be requested in writing or electronically one day or more in advance. Additionally, unpaid leave of absence is available for any purpose, is regulated by law and requires employer agreement.

- **Other protections –**

- **Flexible and remote work for carers:** Employees caring for immediate family or household members with disabilities are entitled to work remotely. Employers can only refuse remote work in these circumstances if the type of work is impossible to be performed remotely. As described above, there is also a right to request flexible work after six months of employment with the same employer.
- **Bereavement leave:** There is an entitlement to two days of paid leave in the event of the death of an immediate family member and one day following the death of a close family member.
- **Social security benefits:** A care benefit, nursing benefit, special attendance allowance and caregiver allowance may be available to caregivers unable to work due to family caring responsibilities.

Of note –

- **Stricter evidence requirements for sick leave likely:** In October 2024 the government announced proposed reforms to strengthen requirements for medical certificates in support of paid sick leave.
- **Reverse burden of proof for discrimination:** Where a discrimination complaint has been made and verified by an employee, the employer must prove that no unlawful discrimination occurred, rather than then the employee proving they were discriminated against.
- **Mandatory medical checks:** Employers must complete regular medical checks of employees, connected with their occupational health and safety obligations.
- **Reform calls:** The obligation to provide reasonable accommodation to people with disabilities has been identified as in need of reform to ensure compatibility with the Convention on the Rights of Persons with Disabilities. See, eg, Magdalena Paluszkiewicz, '[Reasonable accommodation as a means of ensuring access to work for persons with disabilities in the Polish legal system](#)' (2023) 46 *Law & Social Bonds* 447-469.

Relevant federal laws include

Constitution of the Republic of Poland

Polish Labour Code 1974

Act on Vocational and Social Rehabilitation and Employment of Disabled People

Act on Equal Treatment

Act on Social Assistance

Country snapshot: Portugal

Workplace protections in Portugal are established by the Constitution of the Portuguese Republic, Labour Code (Código do Trabalho), Legal Framework for the Promotion of Occupational Health and Safety, Legal Framework for Sickness Protection under Social Security, among other legislation, and collective bargaining agreements (Contratos Coletivos de Trabalho).

Working conditions

- **Discrimination** – Employees and candidates are protected from discrimination and harassment based on any grounds including disabilities and chronic illness.
- **Accommodations** – Employers must provide reasonable accommodations to employees with cancer and other chronic illnesses and disabilities according to their medicine at work evaluation, unless this would pose an undue financial or operational burden. There are also specific situations in which adaptations will be required to protect employee health and wellbeing. Workers with disabilities or chronic illnesses are exempt from work that may harm their health or safety at work.
- **Flexible work** – Flexible and remote work are permitted – however, unless under certain conditions provided for by law, e.g. caregivers, this is at the employer’s discretion, and applicable conditions should be defined in a written agreement. Workers with disabilities or chronic illness have preference in admission to part-time work. Additionally, employees undergoing oncological treatments may be exempt from certain working regimes such as time bank, adaptability, or night work if these would harm their health.

Work and cancer

- **Paid sick leave** – Eligible employees are entitled to three days of unpaid sick leave twice per year without having to provide medical evidence. Employees are also entitled to time off to attend medical consultations, procedures and treatments and diagnostic tests where medical certification is supplied. Additionally, employees may be entitled to a maximum 1095 days (three years) of paid sick leave funded by social security at a percentage of the employee’s wage depending on the leave duration. Access to social benefits related to illness may be restricted for those in informal employment.
- **Unpaid sick leave** - There is no fixed maximum period for time off work due to illness. Absences from work due to illness are considered justified, including for medical appointments or exams, however this will result in a reduction in monthly remuneration.
- **Job protection** – Employees have the right to return to the same position, provided that the position remains available. If it is not possible to retain the original position, the employee may be placed in another available position that is adequate to the employee’s abilities and experience. The employer, however, is not required to create a new position, and if no equivalent positions are available or the employee is not fit to work in that position, the employment contract may terminate.
- **Pensions and benefits** – Employees may be entitled to a disability pension if permanently incapacitated for work. Self-employed persons may be entitled to sickness protections under the social security system with specific conditions.

Work and cancer caring

- **Paid and unpaid care leave** – Employees are entitled to paid leave to fulfil caregiving responsibilities for seriously ill family or household members requiring continuous care of five days per year, to be used consecutively. Further, a carer is allowed to be absent from their employment for up to a further 15 days per year to care for a member of their household (which includes parents, siblings, spouse/de fact partner, siblings-in-law). The employee may be required to declare that no other household member was able to assist and, if professionally active, are not taking the same leave during the same period. A means-tested ‘primary informal carer allowance’ is available to eligible carers.
- **Bereavement leave** – Employees are entitled to leave due to the death of a close family member.
- **Job protection** – Dismissal of informal carers requires prior approval of the Portuguese Commission for Employment Equality (Comissão para a Igualdade no Trabalho e Emprego). Dismissal for a reason

attributable to an employee who is a carer is presumed to be without just cause. Additionally, dismissing an employee due to the need to care for a family member with cancer cannot be used as grounds for dismissal.

- **Flexible work** – Informal carers are generally entitled to flexible and/or reduced work hours and remote work arrangements. Additionally, carers are not obliged to work overtime for as long as there is a need for assistance.

Noteworthy

- **Exemptions from time bank, adaptability and night work for employees undergoing oncological treatment** - These protective measures were introduced in 2019 for the benefit of employees with chronic or disabling diseases and require a prior medical examination.
- **Minimum quotas for employees with disabilities** – Employers of more than 74 employees must hire a certain percentage of people with disabilities with quota requirements varying by employer size. Employers may face fines for non-compliance.
- **Gender equality** – Employers must ensure the existence of a transparent pay policy, based on the evaluation of job components, using objective criteria that apply equally to men and women. Labor authorities may request employers with more than 50 employees to draft an equality report in order to justify any wage disparities between men and women.
- **Right to social security** – The right to social protection is included in the Constitution.
- **Caring for children with a disability or chronic illness** – Employees may be entitled to social security-funded leave of 30 days per year for a child who is ill and social security-funded leave of six months (renewable up to a maximum of 6 years) to care for a child with a disability, chronic illness or oncological disease. However, this cannot be accumulated with the carer leave rights outlined above.

Commentary - Portuguese legislation provides protection for employees with cancer and caregivers and for parental rights allowing to care for children with oncological diseases. These regimes allow for work regime adaptations and for financial benefits from social security. However, employees without formal employment may be left unprotected and the effectiveness of these regulations will also depend on the effort of the companies. The strong regulations may be hard for smaller companies, who may face enforcement and implementation challenges. Considering that there are many small companies in Portugal, the application of these regulations can be challenging, as companies need to balance the needs of employees with operational requirements. Further, flexible work entitlements may be at the discretion of the employer in certain situations.

Relevant federal laws include

Constitution of the Portuguese Republic

Law 7/2009 (Labour Code), amended by Law 93/2019

Social Security Code (Código dos Regimes Contributivos do Sistema Previdencial de Segurança Social)

Law 60/2018

Law 102/2009

Law 93/2017

Law 38/2004

Law 46/2006

Law 4/2019 (Legal Framework for the Promotion of Occupational Health and Safety)

Decree-Law 28/2004 (Legal Framework for Sickness Protection under Social Security)

Decree-Law 91/2009 (Legal Framework for Sickness Protection under Social Security)

Country snapshot: Samoa

Samoa has two national employment laws providing for working entitlements in the public or government sector and the private or non-government sector which also includes civil society and non-governmental organisations: the *Public Service Act 2004* and the *Labour Employment and Relations Act 2013*.

Workplace protections

- **Discrimination and harassment** – Discrimination in employment and hiring is prohibited by law including based on family responsibilities and disability. The Samoan Constitution also protects against discrimination.
- **Accommodations** – In law, employees living with disabilities are entitled to modified facilities at work, where reasonable and subject to a written request for funding.
- **Flexible work** – Employees within the public service are entitled to request flexible working hour arrangements and in considering the request, the employer must consider any impact on services or functions and sure service delivery is maintained at all times.

Work and cancer

Cancer treatment is not available in Samoa at present. Those seeking cancer treatment (including chemotherapy or radiation) must travel overseas (in practice, this is usually to India or New Zealand). Government funding for overseas treatment may be available, provided the Medical Overseas Treatment Scheme criteria are met and necessary approvals obtained.

- **Paid sick leave** –
 - *Public service:* Employees in the public service are entitled to a minimum five days of paid sick leave annually, paid at the employee's usual salary rate, and this entitlement increases with the number of years a person works for their employer. The maximum paid sick leave entitlement for government employees is up to twenty days per annum (usually only for senior executives). Sick leave is for all illnesses, including cancer, and can be taken to attend medical appointments and to undergo treatment. Evidence of illness is required for more than three consecutive days of sick leave.
 - *Non-government:* Non-government employees are entitled to a minimum of ten days paid sick leave annually, after twelve consecutive months of employment with the same employer. Sick leave may accrue up to a maximum 20 days. Evidence of illness is required for more than three consecutive days of sick leave.
- **Unpaid sick leave** –
 - *Public service:* Public service employees with long term chronic or prolonged illness are entitled to unpaid sick leave for a maximum of three consecutive months. Sick leave utilised overseas for contract employees (who may be seeking treatment) including CEOs, must seek the approval of the Public Service Commission/Cabinet.
 - *Public service:* Public service employees may also be entitled to a maximum of two months of unpaid 'special leave' after having utilised all accrued annual (holiday) leave for urgent private/personal reasons or on compassionate grounds, for example to seek medical treatment overseas.
- **Job protection** – Employees are protected from dismissal while on approved leave. However, if leave entitlements are exhausted including sick leave without pay for three consecutive months, then there is no right to return to the same or equivalent position.
- **Pensions and benefits** – A disability allowance is available.

Work and cancer caring

- **Paid and unpaid care leave** – There is no legal entitlement to paid or unpaid care leave. However public service employees may request 'special leave' for this purpose.
- **Other protections** – Bereavement leave may be granted to an employee for a maximum of three consecutive working days following the death of an immediate or close family member and twice in a calendar year subject to evidence requirements and approval from the relevant authority. Two additional days for return based travel may be granted.

- **Employer-funded medical costs** - In law, employees living with disabilities are entitled to reimbursement of medical costs, time off and transport to seek medical attention, provided the relevant approval is granted. Eligibility requirements include 12 months of continuous employment with the current employer.

Relevant federal laws include

Constitution of Samoa 1962

Public Service Act 2004

Labour Employment and Relations Act 2013

[Public Service Working Conditions and Entitlements 2015](#)

Labour Employment & Relations Regulations 2016

Public Service Commission Working Conditions & Entitlements Manual 2015

Public Service Regulations 2008

Country snapshot: South Africa

Primary sources of employment law in South Africa include the Labour Relations Act, Employment Equity Act, Basic Conditions of Employment Act, the South African Constitution, codes of good practice and case law.

Working conditions

- **Discrimination** – Unfair discrimination (direct and indirect) is prohibited against employees, including for disability. Employers are required to take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in employment including based on disability (which could include ABC if it substantially limits prospects of entry into, or advancement in, employment) and family responsibility such as caring responsibilities.
- **Accommodations** – Designated employers must implement affirmative action measures including making reasonable accommodations to ensure women and employees with disabilities enjoy equal opportunities and are equitably represented in the workforce.
- **Flexible work** – No legislative protections could be found, however employer responsibilities to promote equal opportunity could extend to enabling flexible work for people with disabilities and family responsibilities.

Work and cancer

- **Paid sick leave** – Employees (who work 24 hours or more per month) are entitled to paid sick leave equal to the number of days they would normally work during a period of six weeks over a three-year ‘sick leave cycle’. Therefore, full-time employees working a 5-day work week are entitled to 30 days (six weeks) of paid sick leave, paid at the employee’s usual earnings during each three-year sick leave cycle. However, during the first six months of employment, an employee’s paid sick leave entitlement is limited to one day of paid sick leave for every 26 days worked and any sick leave days taken during this period are deducted from the sick leave cycle entitlement. An employer may require a medical certificate (can include from a registered traditional healer) from an employee absent for more than two consecutive days, or more than twice in an eight-week period. By agreement, an employee’s sick pay may be reduced to 75% of usual earnings) provided the number of sick days is increased commensurately.
- **Unpaid sick leave** (leave of absence) – No minimum legislative entitlements could be found.
- **Job protection** – Employees are protected from dismissal based solely on an employee’s disability. However, an employer may be able to dismiss an employee for incapacity due to persistent absence from work because of ill-health.
- **Pensions and benefits** – Compensation is available for occupational diseases, including cancer. The Unemployment Insurance Fund (UIF) provides short-term financial relief for contributors unable to work due to an illness. Employers are obliged to pay the UIF contributions. South African Social Security Agency (SASSA) also provides social grants, disability grant and dependent grants.

Work and cancer caring

- **Paid and unpaid care leave** – No relevant legislative entitlements could be found.
- **Family responsibility leave for bereavement:** Employees working at least four days a week are entitled to three days paid family responsibility leave annually (provided a qualifying period of four months employment is met) following the death of a close family member.

Noteworthy

- **Medical testing prohibited:** Medical testing of employees is prohibited unless required by a specific law or justifiable considering medical facts, employment conditions, social policy, fair distribution of employee benefits or inherent requirements of a job.
- **Proposed reform of unfair dismissal laws:** In October 2024, the government announced its intention to introduce reforms through a new bill with the aim to simplify dismissal procedures and limit compensation for unfair dismissal.

- **Unfair discrimination burden of proof:** If an employee alleges unfair discrimination based on disability or family status, the employer must prove the discrimination did not occur or is rational, fair or otherwise justifiable.
- **Equity in employment obligations:** Under the Employment Equity Act, employers must take steps to promote equal opportunity and eliminate unfair discrimination in any employment policy or practice. Employers must also take proactive and remedial steps to prevent all forms of unfair discrimination and harassment in the workplace, including by providing relevant workplace training. Further obligations include consultation with employees, analysis to identify barriers, preparation of an employment equity plan and progress reporting.
- **Paid ‘family responsibility’ leave for carers of children** - Paid ‘family responsibility’ leave where the employee’s child who is younger than 18 years old is sick or in the case of bereavement as outlined below.
- **Codes of good practice:** Legislation enables the Government to develop informative codes of good practice to help employers and employees understand their legal rights and obligations, and as a guide for any Court or tribunal to consider when interpreting or applying relevant laws. In relation to disability, the relevant Code indicates that employers must reasonably accommodate the needs of persons with disabilities through a consultation process with that person. Regarding family responsibilities, employers should endeavour to provide accessible, supportive and flexible environments, which includes flexible working hours and granting sufficient family responsibility leave for parents.

Relevant federal laws include

Constitution of the Republic of South Africa 1996

Labour Relations Act 66 of 1995

Employment Equity Act 55 of 1998

Basic Conditions of Employment Act 75 of 1997

Compensation for Occupational Injuries and Diseases Act 130 of 1993

Employment Rights Bill 2024

Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000

Unemployment Insurance Act 2001

Unemployment Insurance Contributions Act 2002

[Code of Good Practice on Employment of Persons with Disabilities No 1085 of 2015](#)

[Code of Good Practice on the Integration of Employment Equity into Human Resource Policies and Practices No 1358 of 2005](#)

Labour Relations Act 66 of 1995, [Schedule 8 Code of Good Practice: Dismissal](#)

Country snapshot: Spain

The main sources of employment protections in Spain include the Spanish Constitution, Royal Decree 2/2015 (the Workers' Statute), General Social Security Law (Law 8/2015 of 30 October) and collective bargaining agreements, some of which are industry wide.

Working conditions

- **Discrimination** – Discrimination (and harassment) in employment is prohibited on any grounds, including based on health (including cancer) and disability.
- **Accommodations** –
 - **Health reasons:** Employers should consider necessary adjustments for people returning to work after sick leave if the employee has residual effects from the illness (including cancer).
 - **Disabilities:** Employers must make necessary and appropriate modifications and adjustments to adapt the workplace to ensure accessibility and participation by people with disabilities unless this would impose a disproportionate or undue burden on the employer.

Work and cancer

- **Temporary incapacity (medical leave)** - Employees are entitled to employer-funded sick leave when they are temporarily unable to work and require health care. This temporary incapacity has a maximum duration of 365 days, which can be extended for a further 180 days. During the time that the person needs to be on sick leave, they will receive a financial benefit (with a percentage that varies between 65% and 75% of the regulatory base), which means that, in some cases, the worker's income may be reduced, unless their collective agreement includes improvements in the amount of the benefit.
- **Permanent incapacity benefit:** This is a contributory benefit that covers the loss of income of the employee who is recognised as having limitations for the performance of the work activity. There are different types: partial, total and absolute. Depending on the type, the amount of the benefit may vary, and the person's income may be reduced. In these cases, the worker has the right to reserve his/her job during the first two years of the permanent disability.

Work and cancer caring

- **Paid care leave**– Employees are entitled to five days of paid leave due to serious accident or illness, hospitalisation and/or surgery of a close family member or household member.
- **Unpaid care leave / leave of absence** – Employees are entitled to take an unpaid leave of absence of up to two years to care for a close relative who cannot take care of themselves including due to age, illness or disability, and who is not employed. During the first year of leave, the employee has the right to be reinstated (or for a longer period if established by a collective agreement) and, thereafter, to return to a similar position if available. The worker has the right to job retention for the first year of the leave of absence; beyond that period, they are only entitled to a position within the same professional group or an equivalent category.
- **Bereavement leave** – Employees are entitled to two days of leave due to the death of a spouse, civil partner, or direct relatives up to the second degree.
- **Flexible work** – Employees may request an adjustment in working hours to meet caring responsibilities for close family members and dependent household members unable to care for themselves including to care for people suffering from cancer up to 26 years of age.
- **Job protection** – Caregivers exercising their rights (for example while working reduced hours) cannot be dismissed for that reason.

Noteworthy

- **Disability quota** – Employers with more than 50 employees must reserve 2% of positions for people with disabilities.
- **Gender pay equity laws** – Several laws protect equal treatment and opportunities between women and men in employment.

Recent developments

- **Legislation under development to prohibit automatic termination due to total permanent incapacity** - On 18 January 2024 the European Court of Justice found Spain's social security law in breach of EU disability discrimination laws by allowing for automatic termination of employment contracts when a worker was granted total permanent disability for their position (Case C-631/2022). Legislation is under development to ensure compliance with EU disability discrimination requirements which permit termination only where an employee's role cannot be modified or adapted to accommodate the employee's disabilities.
- **Pre-hearing required before disciplinary dismissal** – On 18 November 2024 the Spanish Supreme Court issued a landmark ruling declaring employers must hold a hearing prior to disciplinary dismissal. The obligation ensures that Spanish law complies with Article 7 of ILO Convention No 158.

Relevant federal laws include

Spanish Constitution

General Social Security Law (Law 8/2015 of 30 October)

Occupational Risk Prevention Law (Law 31/1995 of 8 November)

Equal Treatment and Non-Discrimination Law (Law 15/2022 of 12 July)

Reconciliation of Work and Family Life Law (Law 39/1999 of 5 November)

Royal Decree Law 2/2015

Royal Decree Law 1/2013

Social Security Act 1/1994

Organic Act 3/2007

Royal Decree Law 6/2019

Royal Decree Law 5/2023

Royal Decree Law 28/2020

Law 39/2006

Country snapshot: Sweden

Working conditions in Sweden are largely self-regulated by employer organisations and trade unions often via collective bargaining agreements. However, many statutory minimum standards such as those regarding work environment, working hours, and anti-discrimination laws apply to all employers, not only those with collective agreements. Furthermore, many employers are covered by collective agreements through subsidiary agreements (hängavtal) even if the workplace is not union-organised. National labour laws (including the Employment Protection Act and Work Environment Act) provide mandatory minimum standards applicable to workers in formal employment excluding managers and self-employed workers. Self-employed workers may be eligible for sickness benefits through the national insurance system.

Workplace protections

- **Discrimination and harassment** – Discrimination and harassment in working life are prohibited by law including based on disabilities which includes chronic illnesses such as cancer.
- **Accommodations and flexible work** – Employers are required by law to make reasonable adjustments to accommodate employees with illnesses like cancer. Examples of adjustments include flexible working hours, modification of duties, reduced workload or changing work conditions to accommodate medical needs.

Work and cancer

- **Paid sick leave** – Employees are entitled to sick leave for as long as they are certified unable to work by a doctor and cannot find another suitable job. There is no fixed maximum period of sick leave. Sick pay for the first 14 days of illness is employer-funded at 80% of the employee's usual salary, excluding the first day of illness, which is a "karensdag" (waiting day) with no pay. Sick pay from day two is set at 80% of the usual salary.
- **Sickness benefit** – From day 15 of sick leave onwards, the Swedish Social Insurance Agency (Försäkringskassan) funds a sickness benefit. This benefit typically covers a percentage of the employee's previous salary, up to a certain income ceiling. After 364 days the rate of pay changes to 75% of the employee's usual salary. However, it will remain at 80% for employees with serious illness, though additional medical certification is required to confirm the condition qualifies as serious.
- **Job protection** – Employees are protected from dismissal when there are no objective reasons for the dismissal and where the dismissal may be seen as unjust or discriminatory due to an illness. Employees have a legal right to return to their original or equivalent position after illness, provided they are still fit for work.
- **Pensions and benefits** – Employees with terminal or long-term illnesses may be eligible for a disability allowance, assistance allowance (personal support for disability), sickness compensation or activity compensation (for younger people) and a housing supplement.

Work and cancer caring

- **Carer's allowance** –
 - **Life-threatening situations:** Employees are entitled to paid leave of 100 days to care for a closely related person (not limited to family), paid at around 80% of the employee's usual salary. Carer's allowance (närståendepenning) is provided by Försäkringskassan, not the employer. Eligibility criteria include that the close relative has a life-threatening health condition posing a threat to the person's life now or in the near future. Only one working employee in a family at a time can claim the carer's allowance but this can be shared between them. The allowance requires a timely application and eligibility confirmation based on Försäkringskassan's medical criteria. Once the 100 days is exhausted there is no legislative entitlement to further days of leave specifically for caregiving purposes.
 - **Other situations** – Employees may be entitled to family allowance under the Swedish Social Insurance Code.
- **Other protections** – Carers of people with cancer are legally entitled to request flexible working arrangements. Laws protect against unlawful or unfair dismissal due to caregiving responsibilities.

Noteworthy: paid leave for multiple carers – The entitlement of 100 days paid carer's leave for compassionate reasons can be shared by several people providing care.

Commentary from Swedish Cancer Society: While legal employment protections for people with cancer and their carers are generally considered quite robust, there are concerns about access to justice for unionised versus non-unionised employees, and high litigation costs that may be a barrier to people living with advanced cancer asserting their rights, as well as the lack of protections for informal workers. Additionally, sanctions (primarily damages) for breaches of Swedish discrimination law have been criticised as insufficient to promote systemic change and prevent discrimination, particularly in large companies.

Relevant federal laws include

Discrimination Act (Diskrimineringslagen SFS 2008:567)

Employment Protection Act (Lagen om anställningsskydd LAS SFS 1982:80)

Sick Pay Act (Sjuklönelagen SFS 1991:1047)

Care Leave Act (Lag om ledighet för närståendevård SFS 1988:1465)

Work Environment Act (Arbetsmiljölagen SFS 1977:1160)

Country snapshot: Uganda

In Uganda, both the Constitution of the Republic of Uganda 1995 as amended, and the Employment Act of 2006 protect the work rights of people living with advanced cancer and other illnesses.

Working conditions

- **Discrimination** – Discrimination is prohibited in law, including in relation to disability (includes physical illness). The Ugandan Constitution also prohibits disability discrimination and protects the right to work and equal payment for equal work without discrimination.
- **Accommodations** – Employers must provide reasonable accommodations for people with disabilities including employees and applicants for positions.
- **Flexible work** – The legal requirement for employers to provide reasonable accommodations includes a modified work schedule where necessary.

Work and cancer

- **Paid sick leave** – The maximum legal entitlement to sick leave is two months annually (for employees working at least six hours per week with a qualifying period of one month of continuous employment). Employer-funded sick leave is paid only for the first month, at the employee's usual salary. A medical certificate must be provided if requested by the employer. Sick leave can be used to attend medical appointments and medical tests, scans, procedures and treatment.
- **Unpaid sick leave** - No specific legal protection could be found.
- **Job protection** – Employees with disabilities and illnesses are protected from dismissal. Employees with illnesses such as advanced cancer cannot be unfairly dismissed or be subject to disciplinary penalties for being absent from work for a period of up to three months due to their illness. Employees on sick leave are also protected from dismissal, however, may be dismissed if subsequently unfit for work.
- **Pensions and benefits** – Compensation is available for occupational disease.

Work and cancer caring

- **Paid and unpaid care leave** - No specific legislative provisions could be found. However, paid leave is available to employees related to 'the occurrence of exceptional events preventing the employee from working' provided they have completed three months' continuous service.
- **Bereavement leave** – Employees who have completed three months' continuous service are entitled to a maximum of three days of paid leave per occasion related to the death of a family member or dependent relative, with a maximum entitlement of six days in a calendar year.
- **Job protection** – No legal entitlement could be found for protection from unfair dismissal due to caring responsibilities.

Noteworthy

- **Tax incentive for employers:** Employers of employees with disabilities are allowed tax deductions.
- **Employees with disabilities quota:** The Minister can determine a quota of persons with disabilities that must be employed with fines or imprisonment as potential penalties for non-compliance.
- **Flexible work arrangements in practice:** While there is no legal entitlement to flexible work arrangements for employees with advanced cancer or their working carers, in practice, people living with cancer may come to an agreement with their employer for flexible working arrangements.

Relevant federal laws include

Constitution of the Republic of Uganda 1995 as amended
Employment Act of 2006
Persons with Disabilities Act of 2020
Workers Compensation Act of 2000

Country snapshot: United Kingdom

The main legislation governing employment rights in the United Kingdom (other than Northern Ireland) are the *Employment Rights Act 1996* and the *Equality Act 2010*. Although employment rights laws in Northern Ireland are similar, there are some differences particularly in relation to discrimination under the *Disability Discrimination Act 1995* (not outlined below). Employment rights in the United Kingdom also arise from the common law and retained EU law.

Workplace protections

- **Discrimination and harassment** – Direct and indirect discrimination and harassment in employment is unlawful including based on cancer including situations where an employer could reasonably have been expected to know that a person has cancer. Discrimination and harassment protections also apply to a person who has previously had cancer.
- **Accommodations and flexible work** - Employers must make reasonable adjustments in the workplace for employees with cancer that reduce or remove any disadvantage related to the person's cancer.
- **Flexible work** – All employees are eligible to make two flexible working requests (must be in writing) each year. Employers must respond within two months and may only refuse the flexible working request if there is a genuine business reason not to as set out in the law. Reasons set out in the law include cost burden; detrimental impact on staffing, quality, performance, or customer service; planned structural business changes. Employers must not reject a request without first consulting the employee.

Work and cancer

- **Paid sick leave** – Although employees are not entitled under legislation to receive their salary while on sick leave, employer-funded 'statutory sick pay' is available to employees from the fourth day of sick leave onwards for up to 28 weeks. Payment is at a set rate below the minimum wage. Employees must provide a 'fit note' from a healthcare professional after 7 days. It is not available to employees on low incomes (below a set threshold).
- **Unpaid sick leave** - No legislative protections could be found. There is no legal right to time off work to attend a medical appointment. However, given employers owe a duty of care to their employees to reasonably protect their health, safety and wellbeing at work, most employers will allow time off work to attend medical appointments, however this may be unpaid.
- **Job protection** – Unfair dismissal is prohibited (applies to employees continuously employed for two years or more). However, dismissal of an employee due to illness may be considered fair if there are no reasonable adjustments available to assist the person to meet their employment terms. Victimisation is prohibited meaning employers must not subject an employee to any detriment or dismissal including in relation to a flexible working or part-time work request or proceeding. If dismissed, employees have the right to severance pay.
- **Pensions and benefits** – A state pension (universal credit) is available for people unable to work and people with cancer may also be eligible for additional allowances including in situations where a person has less than 12 months to live. Allowances differ depending on whether a person is living in England, Scotland, Northern Ireland or Wales.

Work and cancer caring

- **Paid care leave** – No legislative entitlements could be found. Further, there is currently no legal entitlement for employees to take bereavement leave following the death of a loved one (except for parents who lose a child under 18).
- **Unpaid care leave** –
 - **Long-term:** Unpaid care leave of one week every 12 months is available to employees to care for a dependant (including a spouse, civil partner, child, parent, household member or someone reasonably reliant on the employee to arrange care) with a long-term care need (for

more than three months, with disabilities or requiring care due to old age). Unpaid care leave can be taken as half days, full days.

- o **Short-term:** Unpaid leave is available to employees to care for dependants for ‘a reasonable amount of time’.
- **Other protections –**
 - o **Job protection** – Employees taking time off to care for dependants are protected from dismissal.
 - o **Pensions and benefits** - Available pensions and benefits include a Carer’s Allowance and Carer’s Credit (national insurance credit to help with gaps in a carer’s National Insurance Record for State Pension purposes).

Noteworthy –

- **Pre-employment health checks prohibited:** Other than in limited circumstances, employers must not ask about an applicant’s health or disabilities to decide whether to offer employment. Offers of employment can be made conditional upon satisfactory health checks however discrimination protections continue to apply.
- **Proposed reforms to employment protections and sick pay:** In 2024 the Starmer Government introduced new employment laws to the UK Parliament. The Employment Rights Bill significantly reforms labour law in the United Kingdom and includes plans to remove the two-year qualifying period for unfair dismissal protection; making it harder for employers to reject flexible work requests; strengthening statutory sick pay by removing the lower earnings limit and removing the three-day waiting period; and creating a new statutory right to bereavement leave.
- **Gender equality:** Discrimination is prohibited in relation to pay (and other terms and conditions of employment) between men and women. Employers with 250 employees or more must report their gender pay gap figures annually.
- **Positive employer duties in recruitment and promotion:** When deciding which of two equally qualified applicants to employ or promote, employers can give preference to the applicant with disabilities (or any other protected characteristic such as gender or age).
- **EU laws and principles may no longer be applicable:** Many EU-derived employment laws and principles previously in place in the United Kingdom are under reform due to the United Kingdom having left the EU in 2020. Laws passed in 2023 provide the UK government with expansive powers to implement changes to EU-derived laws. It remains to be seen whether the government will use these laws to amend EU-derived employment laws and to what extent court decisions will move away from EU judgments related to work rights.

Relevant federal laws include

Social Security Contributions and Benefits Act 1992

Statutory Sick Pay (General) Regulations 1982

Employment Rights Act 1996

Carer’s Leave Regulations 2024

Equality Act 2010

Disability Discrimination Act 1995

Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000

Country snapshot: United States of America

Federal laws protecting the work rights of people living with cancer include the *Americans with Disabilities Act of 1990* (non-discrimination and ‘reasonable accommodation’) and the *Family and Medical Leave Act* (leave).

There are also state (and local) laws which protect the rights of people living with cancer and their carers including providing for sick leave, carers leave and disability insurance.

Workplace protections

- **Discrimination** – Discrimination and harassment in the workplace, including during recruitment, is prohibited in federal law based on disabilities including cancer or due to having a relationship with a person with cancer. Anti-discrimination laws are underpinned by the Constitution (equal protection and commerce clauses). Virtually all 50 states have their own anti-discrimination and anti-harassment laws (as do some municipalities).
- **Accommodations and flexible work** – Employers (with 15 or more employees) are required to make ‘reasonable accommodations’ to enable employees living with disabilities (including cancer) to enjoy equal employment opportunities unless this would cause undue hardship.

Work and cancer

- **Paid sick leave** – No legal protections exist at the federal level; however, many states and municipalities have recently introduced laws requiring employers to provide paid sick leave. Independent contractors are also entitled to paid sick leave in certain states and municipalities.
- **Unpaid sick leave:**
 - **Serious health condition** - Employees with a serious health condition (involving inpatient care or continuing treatment by a health care provider) are entitled to 12 weeks of sick leave per year after 12 months of service with the employer provided the employer employs 50 or more employees. The leave may be taken continuously or intermittently. A certificate must be provided as evidence of illness for sick leave.
 - **Disabilities** – Employees with disabilities (including cancer) may be entitled to unlimited unpaid leave as a ‘reasonable accommodation’ (see above) unless this would cause undue hardship for the employer.
 - **States:** Various state laws include more generous leave of absence entitlements.
- **Job protection** – Generally both employers and employees are entitled to terminate employment at any time without notice or reason. However, it is unlawful to dismiss an employee based on the person having cancer or caring for a person with cancer. Eligible employees taking leave due to serious health conditions are entitled to return to the same or an equivalent position. Enforcement Guidance makes clear that employees with disabilities granted leave as a reasonable accommodation are also entitled to return to the same or an equivalent position unless this would cause the employer undue hardship.
- **Pensions and benefits** – Employees unable to work due to cancer could be eligible for: Social Security Disability Insurance; Supplemental Security Income (where unable to work for more than a year); Compassionate Allowance; Medical Vocational Allowance. Certain large employers are also required to offer minimum essential healthcare coverage to their full-time employees. Several states also offer disability insurance and/or paid family leave programs.

Work and cancer caring

- **Paid care leave** - No legal protections could be found at the federal level; however, many states and municipalities have recently introduced laws requiring employers to provide paid sick leave which can be used for caring purposes.
- **Unpaid care leave** – Eligible employees are entitled to 12 weeks of unpaid leave per year (after 12 months of service with the employer) to care for an immediate family member with a serious health condition (which can be taken intermittently or on a reduced schedule) provided the employer employs 50 or more employees. The leave may be taken continuously or intermittently. A certificate must be provided as evidence of illness for care leave.
- **Other protections** – Discrimination protections extend to carers, however there is no legal entitlement to flexible working arrangements or other reasonable accommodations for carers of people living with cancer.

Noteworthy –

- **Genetic discrimination protection:** At law discrimination based on genetic information is prohibited in employment (including recruitment) and health insurance.
- **Breast and cervical cancer screening laws:** Federal laws aiming to improve access to breast and cervical cancer screening, diagnostic and treatment for people on low incomes who do not have adequate insurance include the Breast and Cervical Cancer Mortality Prevention Act of 1990, and Breast and Cervical Cancer Prevention and Treatment Act.
- **Breast reconstruction law:** At law, group insurance plans that cover mastectomies should also cover breast reconstruction: Women's Health and Cancer Rights Act.
- **No pre-employment medical examinations:** Employers are prohibited from conducting pre-employment medical examinations or inquiries about an applicant's disability. However, in certain situations employers may make offers of employment conditional on the results of medical examinations.
- **Reported discrimination:** Recent research suggests higher numbers of reported discrimination in areas including unlawful discharge, demotion, wages, layoffs and benefits by people living with cancer compared to others with disabling conditions: Mykal Leslie et al, 'The Workplace Discrimination Experiences of Individuals with Cancer in the Americans with Disabilities Act Amendments Act Era' (2020) 30(1) *Journal of Occupational Rehabilitation*. This suggests that anti-discrimination laws are not working as effectively as they could be and may require reform.

Relevant federal laws include

Americans with Disabilities Act of 1990

Family and Medical Leave Act of 1993

The Constitution of the United States

Code of Federal Regulations

Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA

Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the ADA

Genetic Information Nondiscrimination Act

Affordable Care Act

WORK RIGHTS SURVEY DEVELOPED BY THE MCCABE CENTRE FOR LAW AND CANCER

1. In your country, does a **national** law protect the work rights of individuals with illnesses such as cancer and advanced cancer?
 - a. If yes, please include the full name
2. Do any subnational laws exist that protect work rights of individuals with illnesses such as cancer/ advanced cancer?
 - a. If yes, please include the full name
3. Are there specific employment/workplace laws for people with advanced cancer?
4. Is the employer required to make adjustments to work tasks/role for someone with cancer/advanced cancer?
 - a. Yes/No/Sometimes
 - b. Examples of work adjustments that can be made?
5. What is the eligibility for entitlements/protections?
 - a. Formal employment / informal
 - b. Are self-employed persons covered?
6. If time off work due to illness is permitted, what is the maximum period?
 - a. Number of day or weeks
7. Can sick leave be utilised to attend medical appointments (e.g. review appointments), procedures and treatment (e.g. surgery, chemotherapy, radiotherapy), and/or for scans and test (e.g. blood tests)?
8. If time off work due to illness is required, is there a right to return to the same or equivalent position?
 - a. Guaranteed/not guaranteed/not applicable
9. If paid leave entitlements to sick leave is available, who is it paid by?
 - a. Paid by government/paid by employer/combination/unpaid
 - b. What is the rate of pay (in some countries the wage replacement rate is less than 100%)
10. Is carer's leave available for employees to look after someone with an illness such as advanced cancer?
 - a. Yes/No
11. What are the eligibility criteria for carer's leave?
12. If carer's leave is available, what is the maximum period?
 - a. Number of days or weeks
13. If carer's leave is available, who is it paid by?
 - a. Paid by government/paid by employer/combination/unpaid
14. Can carers of people with cancer request flexible working arrangements?
15. Is evidence of illness for sick leave or caring responsibilities required? (e.g. providing employer medical certificate or carer leave certificate)
16. Are there any protections against unlawful or unfair dismissal because a person has cancer or is caring for someone who does?
 - a. Yes/No dis
17. Who has the burden of proving an unlawful or unfair dismissal?
 - a. Employee / employer
18. Are there any additional entitlements/protections for people living with cancer or caring for someone who does? (e.g. sickness benefits/pensions)
19. Are there any additional specific entitlements/protections for people with long-term or chronic or terminal illnesses?
20. Optional: Commentary on how effective existing laws are for working people with cancer and their carers (e.g. any important cases or legal critique of laws including inquiry reports etc).

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- *Legislation and case law relied upon is not included here; rather is listed in country snapshots.*
- *While all of the below resources are free to access, some services such as Lexology and Icroner may require you to subscribe (free of charge) to access the documents.*

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About us:

The McCabe Centre of Law & Cancer builds the capacity of individuals, organisations and governments to use law as a powerful tool to prevent and control cancer and other noncommunicable diseases (NCDs).

The McCabe Centre acknowledges the traditional custodians of the lands on which we live and work.

We pay respect to Aboriginal and Torres Strait Islander elders past, present and emerging and extend that respect to all other Aboriginal and Torres Strait Islander people.

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