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EMPLOYMENT

Parental, adoption and commissioning parental leave

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The provisions in the Basic Conditions of Employment Act 75 of 1997 relating to parental, adoption and commissioning parental leave came into effect on 1 January 2020. The difference between these types of leave, its applicability, period of entitlement and commencement date are summarised below –

Type of leave entitlement	Applicable to whom	Period of entitlement	Commencement date	Provisos
Parental Leave	An employee who is a parent of a child.	10 consecutive days	The day that the employee's child is born.	The employer must be informed in writing at least one month in advance, or as soon as reasonably practicable, of the date on which the employee intends to commence parental leave and the date on which he/she intends to return to work.
Adoption Leave	An employee who is an adoptive parent of a child under two years.	10 consecutive weeks	The day that the adoption order is granted or the date the child is placed in the care of a prospective adoptive parent by a competent court, pending the finalisation of an adoption order, whichever date occurs first.	The employer must be informed in writing at least one month in advance, or as soon as reasonably practicable, of the date on which the employee intends to commence adoption leave and the date on which he/she intends to return to work. If both parents are adoptive parents, one parent may apply for adoption leave and the other for parental leave, provided that the choice is exercised by the two adoptive parents.
Commissioning Parental Leave	An employee who is a commissioning parent in a surrogate motherhood agreement ("SMA").	10 consecutive weeks	The date that the child is born as a result of an SMA.	The employer must be informed in writing at least one month in advance, or as soon as reasonably practicable, of the date on which the employee intends to commence commissioning parental leave and the date on

				which he/she intends to return to work. If both parents are commissioning parents, one parent may apply for commissioning parental leave and the other for parental leave, provided that the choice is exercised by the two commissioning parents.
Maternity Leave	An employee who is expecting a child.	Four consecutive months	At any time from four weeks before the expected date of birth (unless otherwise agreed) or on a date from which a medical practitioner or midwife deems it necessary for the health of the employee and/or unborn child.	The employer must be informed in writing at least four weeks in advance, or as soon as reasonably practicable, of the date on which the employee intends to commence maternity leave and the date on which she intends to return to work. No employee may work for six weeks after the birth of her child, unless a medical practitioner certifies her fit to do so.
Maternity Leave	An employee who miscarries or has a stillborn child.	Six weeks	An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.	



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