

EMPLOYMENT

PARENTAL LEAVE BENEFITS: NEW REGULATIONS TO THE UNEMPLOYMENT INSURANCE ACT 63 OF 2001

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On 4 November 2019 the Minister of Labour and Employment published an amendment to the regulations to the Unemployment Insurance Act 63 of 2001 ("**UI Act**") ("**Amendment Regulations**").

The Amendment Regulations are in response to the recent sections of the Labour Laws Amendment Act 10 of 2018 ("**LLAA**") which came into effect on 1 November 2019. The provisions deal with amendments to the UI Act to provide for the payment of unemployment insurance benefits for parents who are on parental leave.

The Amendment Regulations pertain to the application forms which are to be completed when applying for parental, commissioning parental or adoption benefits.

Regulations 5A and 5B provide for the application for parental and commissioning parental benefits respectively. Applications must be made at an employment office and must be accompanied by the completion of the prescribed form UI 2.9. An applicant for parental or commissioning parental benefits must provide the following in his/her application:

- (a) the applicant's identity document;
- (b) a full birth certificate of the child with full details of parents;
- (c) a surrogate motherhood agreement in terms of the Children's Act 38 of 2005;
- (d) an interim court order placing the child in the care of the prospective adoptive parent pending the finalisation of an adoption order in respect of that child
- (e) details of a valid bank account, in the form of UI 2.8; and
- (f) remuneration received by the employee whilst still in employment, in the form of UI 2.7.

Regulation 6 provides for the application for adoption benefits. These applications are done by completing form UI 2.4. Prior to the Amendment Regulations the old regulation 6 provided that an applicant for adoption benefits must provide the following in his/her application:

- (a) the applicant's identity document;
- (b) if the employee's services have been terminated, a certificate of service;
- (c) details of a valid bank account;
- (d) a certified copy of the birth certificate of the child; and
- (e) a certified copy of the order of adoption.

The Amendment Regulations have inserted the following paragraph after paragraph (e):

“(f) interim court order placing the child in the care of the prospective adoptive parent pending the finalisation of an adoption order in respect of that child.”

As a result, parents who apply for adoption benefits must produce documents (a) – (f).

Regulation 5A of the Amendment Regulations came into operation on 4 November 2019. Regulations 5B and 6(f) will come into operation from 1 April 2020.

In addition the Amended Regulations substitute a number of forms in the UI Act and provide a number of additional forms.

The Amendment Regulations along with their respective forms are available in English and Venda. The forms can be obtained from the Government Gazette website at www.gpwonline.co.za or from Werksmans Attorneys upon request.



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