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EMPLOYMENT

Paternity leave

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The Basic Conditions of Employment Act 75 of 1997 ("BCEA") presently entitles a female employee to at least four consecutive months of maternity leave. The BCEA does not, however, entitle an employee to paternity leave. The Labour Laws Amendment Bill ("LLA Bill"), which has been passed by Parliament and has been sent for assent by the President, amends the BCEA to provide for parental leave, adoption leave, and commissioning parental leave and the payments in connection therewith.

The LLA Bill amends the BCEA to provide that an employee, who is a parent of a child, is entitled to at least ten consecutive days' parental leave. The parental leave may commence on the day that the employee's child is born or whichever is earlier: the date that the adoption order is granted; or the date that a child is placed in the care of a prospective adoptive parent by a competent court, pending the finalisation of an adoption order in respect of that child.

The LLA Bill further amends the BCEA to provide that an employee, who is an adoptive parent of a child who is below the age of two, is entitled to adoption leave of at least ten weeks consecutively or the parental leave referred to above.

The LLA Bill further amends the BCEA to provide that an employee, who is a commissioning parent in a surrogate motherhood agreement is entitled to a commissioning parental leave of at least ten weeks consecutively or the parental leave referred to above. The definition of commissioning parent, as well as surrogate motherhood agreement has the meaning assigned to it in the Children's Act.

The payment of parental leave, adoption leave, and commissioning parental leave will not be paid by the employer, but will be paid by the South African Unemployment Insurance Fund ("UIF"). The Unemployment Insurance Act 63 of 2001 ("UIA") has thus been amended in light of the LLA Bill. It must be noted that before a person is entitled to any payment for parental leave, adoption leave, and commissioning parental leave, such person must have worked for 13 weeks.

The LLA Bill captures the interest of the African Christian Democracy Party policy on family values, the Green Paper on Family, and concerned fathers. The LLB Bill provides further protection and benefits to families in the LGBTQI community.



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