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EMPLOYMENT

# The Labour Laws Amendment Bill

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## INTRODUCTION

The Labour Laws Amendment Bill ("LLA Bill") is a Private Member's Bill, which was drafted in line with the African Christian Democracy Party policy on family values, the Green Paper on Family, and by concerned fathers.

The LLA Bill provides for parental leave, adoption leave and commissioning parental leave. It further provides for the payment of parental benefits as well as commissioning parental benefits from the Unemployment Insurance Fund. It enables a prospective adoptive parent to access the adoption leave and adoption benefits, which are paid out by the Unemployment Insurance Fund. The LLA Bill was passed by the National Assembly and sent for concurrence to the National Council of Provinces.

## LABOUR LAW AMENDMENTS

The LLA Bill provides for amendments to the Basic Conditions of Employment Act 75 of 1997 ("BCEA") and the Unemployment Insurance Act 63 of 2001 ("UIA").

## BCEA AMENDMENTS

The LLA Bill inserts definitions into the BCEA, which include: adoptive parent; adoptive order; and prospective adoptive parent. The additional terms are defined in accordance with their respective definitions in the Children's Act 38 of 2005 ("CA").

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 payment of parental benefits will be determined by the Minister in accordance with the UIA.

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 payment of adoption benefits will be determined by the Minister in accordance with the UIA.

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 CA. The payment of commissioning parental benefits will be determined by the Minister in accordance with the UIA.

The LLA Bill amends the BCEA to provide that a collective agreement concluded in a bargaining council may alter, replace or exclude any basic condition of employment if the collective agreement is consistent with the purpose of the BCEA and the collective agreement does not reduce an employee's entitlement to parental leave, adoption leave, and to commissioning parental leave.




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