

IN A NUTSHELL - BENEFITS ENCAPSULATED IN THE LABOUR LAWS AMENDMENT ACT, 2018

Category: Administrative and Procurement Law, Commercial Law

written by Zandile Mthabela | March 20, 2019



Included in the Labour Laws Amendment Act, 2018 (LLA) is the provision for parental, adoption and commissioning parental leave to employees, amendment of the Unemployment Insurance Act, 2001 so as to provide for the right to claim parental and commissioning parental benefits from the Unemployment Insurance Fund and for the application for, and the payment of, parental and commissioning parental benefits from the Unemployment Insurance Fund.

The LLA amends the Basic Conditions of Employment Act in relation to:

Parental leave

Section 25A of the Basic Conditions of Employment Act, 1997 provides for an employee, who is a parent of a child, to be entitled to at least ten consecutive days parental leave.

Parental leave commences on the day that the employee's child is born; or the date that the adoption order is granted; or 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, whichever date occurs first.

Adoption leave

An employee, who is an adoptive parent of a child who is below the age of two may claim adoption leave of at least ten weeks consecutively. Such employee may commence adoption leave on the date that the adoption order is granted or that a child is placed in competent court, pending respect of that child, whichever date occurs first.

Commissioning parental leave

An employee, who is a commissioning parent in a surrogate motherhood agreement may claim commissioning parental leave of at least ten weeks consecutively or the parental leave.

The commissioning parent may commence commissioning parental leave on the date a child is born as a result of a surrogate motherhood agreement.

Section 1 of the Children's Act, 2005 defines commissioning parent as a person who enters into a surrogate motherhood agreement with a surrogate mother.

Who pays and how are parental benefits paid

The Director-General must pay the parental benefits to the contributor at the employment office at which the application was made or any other employment office determined by the applicant at the time of application.

The payment of parental benefits will be determined by the Minister, subject to the provisions of the Unemployment Insurance Act, 2001.

Irrespective of whether you are a biological, adoptive or commissioning parent, section 9(2) of the Constitution of Republic of South Africa, 1996 places you on par by conferring equality which allows you full and equal enjoyment of all rights and freedoms.

Contact us for more good, clear, precise advice.