

Short notes on:

AMENDMENTS TO THE LABOUR LAWS AMENDMENT ACT REGARDING PARENTAL LEAVE

Introduction

The sections of the Labour Law Amendment Act 10 of 2018 (hereinafter referred to as “the Act”) dealing with parental, adoption, and commissioning of parental leave and related benefits came into effect on 1 November 2019. In terms of Section 26A of the Act, new fathers, adoptive parents and couples who are parents through surrogacy motherhood agreements are now entitled to leave days and parental benefits which they were not previously entitled to. Herein, we will discuss the new Amendments as they pertain to paternity leave, adoption leave and surrogacy leave.

Parental leave

The Act entitles new fathers to ten consecutive days of unpaid paternity leave commencing on the day the employee’s child is born. This means that fathers can finally take leave to bond with their children.

Adoption leave

The Act also entitles employees who are adoptive parents of a child who is two years old or younger to either ten consecutive weeks or ten consecutive days leave per parent. The leave will commence on the date that a competent court grants the adoption order. Accordingly, if an adoption order is made in respect of two adoptive parents, one of the adoptive parents may apply for adoption leave of ten consecutive weeks and the other adoptive parent may apply for the ten consecutive days parental leave.

Surrogacy leave

Furthermore, the Act entitles employees who are parents to a child born as a result of a surrogate motherhood agreement to either ten consecutive weeks or ten consecutive days per parent. The commencement of the aforesaid leave will be the date a child is born as a result of the surrogate motherhood agreement. If a surrogate motherhood agreement has two commissioning parents, one of the commissioning parents may apply for ten consecutive weeks leave and the other commissioning parent may apply for ten consecutive days.

However, the employee is not entitled to the aforesaid benefits unless he or she was in the employment “for at least thirteen weeks before the date of application for parental benefit.”

Conclusion

These amendments reaffirm South Africa's commitment in advancing its progressive labour laws in line with African countries like Ghana, Kenya and Cameroon. Employers are advised to consistently inform workers of the introduction of the amendments, to amend their leave policies and contracts of employment in order for employees to exercise these benefits.

For any Labour Law Related matters, contact SchoemanLaw Inc.

