

New parental leave laws and UIF benefits: Dispelling the confusion

Following a period of legal limbo, the government notified employers that the parental leave laws that were promulgated in November 2018 would take effect from 1 January 2020.

By [Rob Cooper](#) 5 Feb 2020



Image source: Getty Images

The Labour Laws Amendment Act added three new leave types to the Basic Conditions of Employment Act (BCEA): parental leave (for fathers); adoption leave; and commissioning parental leave. The recent Government Gazette announcement means that employees are entitled to these new forms of parental leave with effect from 1 January this year. It also means that family responsibility leave may no longer be granted in respect of childbirth.

Employers who last year took heed of the call to prepare for the new legislation should be well prepared – though the timing of the Government Gazette notice (published on Christmas Eve last year) may have caught some by surprise.



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When I presented the Sage Annual Payroll Tax Seminar last year, I received many questions about parental leave. The latest notice in the Government Gazette is likely to add to the confusion, so I'd like to go through some of the questions payroll administrators and business owners may have:

1. What are the new UIF benefit entitlements for parents?

The Labour Laws Amendment Act amended the Unemployment Insurance (UIF) Act to provide that the

Fund pays a benefit for 10 consecutive days of parental leave and for 10 consecutive weeks of adoption and commissioning leave. In the past, the company (rather than the UIF) paid for the three days of family responsibility leave for fathers when used as parental leave.

2. Is the UIF ready for the changes?

With the Gazette notice, the UIF benefit for parental leave is in effect, but the UIF benefits for adoption leave and commissioning parental leave will come into effect on 1 April 2020. Until then, the employer must pay for the leave or treat it as unpaid leave. The occurrence of adoption leave and commissioning parental leave is low, so the impact on most employers will be limited.

3. Does the father's name need to be in the child's birth certificate for him to qualify for parental leave benefits?

While the employer may legally grant the 10 days of parental leave to the father in respect of the birth of his child without seeing the birth certificate, it is better to do so as the UIF will not pay the benefit for the leave if the father's name is not on the birth certificate. This means that either the employer must pay for the leave or treat it as unpaid leave. Given that more than 60% of babies born in recent years have no information about their father included on their birth certificate (for various reasons), this is a weakness in the legislation.



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4. Is there a limitation on how many parental leave days a father can take in a year?

The BCEA does not limit the number of times in total that a male can be granted parental leave, nor does it limit the number of times in a year (or any other period). In theory, if a man fathers 10 children in a year (and is included in all 10 birth certificates), he can apply for 10 parental leave periods of 10 days each.

5. In the case of adoption and surrogate commissioning leave, when one parent applies for the 10 consecutive weeks of adoption leave, can the other partner apply for 10 days of parental leave?

In the cases of adoption leave and surrogate commissioning leave, one of the two 'parents' is eligible for 10 consecutive weeks of leave and the other parent is eligible for 10 consecutive days of parental leave. The choice of which parent takes each of these leave allocations is for them to decide. In practice, it may be hard to police whether both parents take the full 10 weeks of leave, unless they both work for the same employer. It remains to be seen whether the UIF will detect such an abuse.

ABOUT THE AUTHOR

Rob Cooper is the chairman of the Payroll Authors Group of South Africa, and host of the Sage Annual Payroll Tax Seminar.