

30 OCTOBER 2019

# EMPLOYMENT ALERT

## IN THIS ISSUE

### **BREAKING NEWS**

#### **UIF gears up for parental leave and benefits, come 1 November 2019**

On 1 November 2019, s8, 11, 15 and 16 of the Labour Laws Amendment Act 10 of 2018 (Act) comes into effect. The amendments see the much-awaited implementation of parental benefits in terms of the Unemployment Insurance Act 63 of 2001 (UIA).

## UIF gears up for parental leave and benefits, come 1 November 2019

The Act provides that parental benefits, adoption benefits and commissioning parental benefits must be paid at a rate of 66% of a beneficiary's earnings at the date of application. This is subject to the maximum income threshold set out in the UIA.

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Before attempting to apply for parental benefits, it is important to consider that a contributor, who is the parent of a child, (subject to section 14 of the UIA) is only entitled to the parental benefits provided for in the Act if the contributor:

- has been registered as the father of the child in terms of the Births and Deaths Registration Act 51 of 1992 (BDRA);
- is the parent of a child below the age of two in an adoption order;
- is the prospective adoptive parent of a child below the age of two (in terms of a court order that placed the child in the care of the prospective adoptive parent, pending the finalisation of the adoption order in respect of that child); or
- is the parent of a child who has been born as a result of a surrogate motherhood agreement.

The contributor must not have claimed adoption benefits in terms of s27 of the UIA or the commissioning parental benefits referred to in s29A of the UIA.

The right to parental benefits is subject to further restrictions. When taking into account any parental leave paid to the contributor in terms of any other law or any collective agreement or contract of employment, the parental benefit may not be more than the remuneration the contributor would have received if the contributor had not been on parental leave. The maximum period of parental leave in terms of s26(A) is 10 consecutive days. A contributor is not entitled to benefits unless he or she was in employment, whether as a contributor or not, for at least 13 weeks before the date of application for parental benefits.

In terms of s26B, an application for parental benefits must be made in the prescribed form at an employment office. The application must be made within 12 months after:

- the date of childbirth;
- the date that a competent court grants the adoption order; or
- the date a child is placed in the care of a prospective adoptive parent by a competent court, pending finalisation of an order in respect of that child.

## UIF gears up for parental leave and benefits, come 1 November 2019

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The introduction of parental benefits and the mechanisms for their application is an advancement for our country.

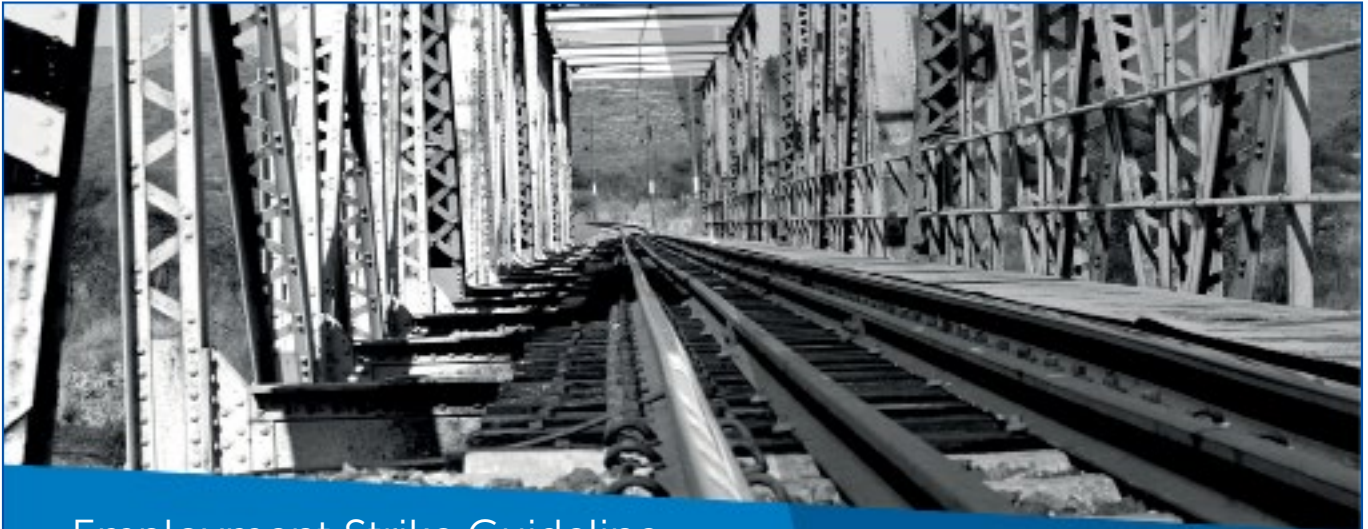
The application will be investigated by a claims officer and the claims officer can request more information if necessary regarding the period during which the applicant was not working in order to care for the child. If the application complies with the provisions of Chapter 3 of the UIA, the claims officer will approve the application, determine the amount of benefits the applicant is entitled to, authorise the payment of benefits and stipulate how benefits are to be paid. In the event that the application does not comply with the provisions of Chapter 3, the claims officer must advise the applicant in writing that the application is defective and the reasons why it is defective.

The payment of parental benefits is regulated in terms of s26C of the UIA and prescribes that 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 amendments to the Basic Conditions of Employment Act 75 of 1997 ("BCEA") make provision for parental leave, adoption leave and commissioning parent leave. Accordingly, the amendments to the UIA puts in place the necessary mechanisms to give effect to the BCEA amendments relating to parental leave. The introduction of parental benefits and the mechanisms for their application is an advancement for our country. Workers need to be informed of the introduction of these benefits in order to exercise these benefits. Although the payment of parental benefits will be paid by the South African Unemployment Insurance Fund (UIF), employers ought to also consider the effects that the amendment will have on their leave policies and contracts of employment.

*Michael Yeates and Arlina Ramothar*

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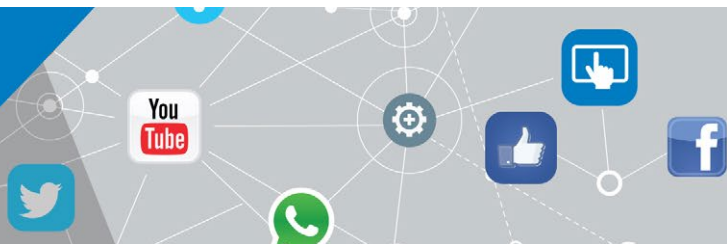
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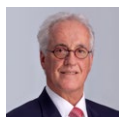
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