



Parental Leave

By Judith A. Kanyoko

Parental leave is a form of leave given to a parent to enable them cater for their child after birth. The Employment Act in Kenya only provides for parental leave for birth parents. There is no provision for leave for adoptive parents, which is given in some jurisdictions. In Kenya, the decision to grant leave to adoptive parents may be given at the discretion of the employer. The two forms of parental leave in Kenya are maternity leave, and paternity leave.

1. Maternity Leave

This is leave given to a female employee and lasts for three months. A female employee who intends to take maternity leave must give their employer at least 7 days' written notice of their intended leave. A female employee on maternity leave is still entitled full pay during the three months leave and to their statutory annual leave. Maternity leave cannot substitute annual leave. Such an employee is also entitled to come back to the position they held before their maternity leave and under the same terms and conditions of employment. If the employer consents to the extension of maternity leave or if immediately after maternity leave, a female employee proceeds on any other leave before resuming her duties, the three months maternity leave is deemed to expire on the last day of the extended leave.



2. Paternity Leave

Every male employee is entitled to two weeks maternity leave with full pay. Unlike maternity leave, there is no notice period provided by the law, but the employee should give sufficient notice of his intended paternity leave. After termination, a male employee who was not allowed paternity leave is entitled to seek compensation for the same, but only after proving that the employer was aware of his eligibility.