

A BILL

entitled

EMPLOYMENT (MATERNITY LEAVE EXTENSION AND PATERNITY LEAVE)
AMENDMENT ACT 2019

WHEREAS it is expedient to amend the Employment Act 2000 to provide for vacation leave after the first six months of continuous employment, to extend the period provided for maternity leave and to make provision for paternity leave;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Employment Act 2000 ("the principal Act"), may be cited as the Employment (Maternity Leave Extension and Paternity Leave) Amendment Act 2019.

Amends section 12

2 Section 12 of the principal Act is amended—

- (a) by deleting the heading and substituting "Vacation leave";
- (b) in subsection (1), by inserting after "annual vacation" the word "leave";
- (c) by inserting after subsection (1)—

"(1A) Without prejudice to subsection (1), an employee who has completed the first six months of continuous employment shall be entitled to a period of one week's vacation leave, but where such leave (or any part thereof) is taken prior to the completion of the first year of continuous employment, the leave so taken shall be deducted from the period of annual vacation leave to which the employee is entitled pursuant to subsection (1)(a).";

- (d) in subsection (2)—
 - (i) by deleting "annual vacation" and substituting "vacation leave"; and
 - (ii) by inserting after "subject to the", the word "reasonable"; and

EMPLOYMENT (MATERNITY LEAVE EXTENSION AND PATERNITY LEAVE)
AMENDMENT ACT 2019

- (e) in subsection (3), by deleting “annual”.

Amends section 16

3 Section 16(2) of the principal Act is amended—

- (a) in paragraph (a) by deleting “a period of twelve weeks, consisting of eight weeks paid leave and four weeks unpaid leave” and substituting “a period of 13 weeks paid leave”; and
- (b) in paragraph (b) by deleting “eight weeks” and substituting “13 weeks”.

Inserts section 16A

4 The principal Act is amended by inserting after section 16—

“Paternity leave

16A (1) An employee shall be entitled to be absent from work for the purpose of caring for a child or supporting the child’s mother (hereinafter referred to as “paternity leave”) if he—

- (a) is the father of the child; and
- (b) submits to his employer—
- (i) a certificate of a registered medical practitioner certifying that the child’s mother is pregnant and the estimated date of the child’s birth; and
- (ii) an application for paternity leave at least four weeks before the day he specifies as the day on which he intends to commence his leave.
- (2) The period of paternity leave shall be—
- (a) in relation to an employee who has completed at least one year of continuous employment or will have done so by the expected date of birth of the child, a period of five consecutive days paid leave;
- (b) in any other case a period of five consecutive days unpaid leave.
- (3) Paternity leave may only be taken once during a 12 month period beginning with the date on which the child is born and such leave shall be taken within a period not exceeding 14 weeks from that date.”.

Consequential amendments

5 (1) In consequence of the amendments made under section 2 of this Act—

- (a) sections 6(2)(g) and 20(3)(a) of the principal Act are amended by deleting “annual vacation” and substituting “vacation leave”; and

EMPLOYMENT (MATERNITY LEAVE EXTENSION AND PATERNITY LEAVE)
AMENDMENT ACT 2019

- (b) the National Training Board (Apprenticeship and Training) Regulations 2009 are amended in paragraph 10 of Form 1 of the Schedule by deleting “annual”.

(2) In consequence of the amendments made under section 4 of this Act, sections 5(3)(a) and 20(3)(a) of the principal Act are amended by inserting after “maternity leave” the words “, paternity leave”.

Savings and commencement

6 (1) Nothing in this Act shall affect any entitlement to maternity leave under section 16 of the principal Act where such leave commenced prior to the coming into operation of this Act.

(2) This Act shall come into operation on such day as the Minister may appoint by notice published in the Gazette.

EMPLOYMENT (MATERNITY LEAVE EXTENSION AND PATERNITY LEAVE)
AMENDMENT BILL 2019

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Employment Act 2000 (“the principal Act”) to provide for vacation leave after the first six months of continuous employment, to extend the period provided for maternity leave and to make provision for paternity leave.

Clause 1 provides the citation for the Bill.

Clause 2 amends section 12 of the principal Act to reflect the broader heading “Vacation leave” and provides that an employee who has completed the first six months of continuous employment shall be entitled to one week’s vacation leave but that such leave (or any part thereof), if taken prior to the completion of the first 12 months of continuous employment, shall be deducted from the period of annual vacation leave to which the employee is entitled. This clause also provides that an employer shall where practicable grant an employee’s request to take vacation leave subject to the “reasonable” requirements of the business.

Clause 3 amends section 16 of the principal Act to extend the period of maternity leave, in relation to employees having at least one year of continuous employment by the expected date of delivery, from a period of eight weeks paid leave and four weeks unpaid leave, to a period of 13 weeks paid leave and in any other case maternity leave is extended from 8 weeks unpaid leave to 13 weeks unpaid leave.

Clause 4 inserts new section 16A into the principal Act to provide for paternity leave. This clause enables an employee to be absent from work for the purpose of caring for a child or supporting the child’s mother if that employee is the child’s father and submits to his employer a medical certificate certifying the pregnancy and estimated date of birth and an application for such leave in the required time. Where the employee has at least one year of continuous employment by the expected date of birth, he is entitled to five consecutive days paid leave or, in any other case, five consecutive days unpaid leave. This clause also provides that paternity leave may only be taken once in a 12 month period beginning with the date on which the child is born and such leave shall be taken within a period not exceeding 14 weeks from that date.

Clause 5 makes consequential amendments to replace the reference to “annual vacation” with “vacation leave” in respect of sections 6 and 20 of the principal Act. These sections relate, respectively, to the particulars included in a statement of employment and notice of termination. This clause makes a similar amendment to Form 1 of the Schedule to the National Training Board (Apprenticeship and Training) Regulations 2009, to delete “annual” from the reference to annual vacation leave. Finally, this clause makes consequential amendments to include a reference to paternity leave (alongside maternity leave) in respect of sections 5 and 20 of the principal Act which relate, respectively, to the determination of continuous employment and notice of termination.

EMPLOYMENT (MATERNITY LEAVE EXTENSION AND PATERNITY LEAVE)
AMENDMENT BILL 2019

Clause 6 provides that the amendments made by this Bill shall have no affect on any maternity leave which commenced prior to its coming into operation and provides for commencement by notice published in the Gazette.