



Landmark Judgment: Equal Parental Leave for All Parents



In a groundbreaking decision, the Constitutional Court of South Africa has ruled that the parental leave provisions under the Basic Conditions of Employment Act (BCEA) and Unemployment Insurance Fund Act (UIF Act) are unconstitutional. The judgment in *Van Wyk and Others v Minister of Employment and Labour and Others* affirms that **all parents—regardless of gender or type of parenthood—must be entitled to equal parental leave.**

Background to the Case

- Originated in the Gauteng High Court (2023) when Mr. Van Wyk, a father seeking to be the primary caregiver, was denied equal leave.
- The High Court found the BCEA and UIF Act discriminatory for granting four months of maternity leave only to child-bearing parents, while fathers, adoptive, and commissioning parents received significantly less.

Constitutional Court Findings (October 2025)

- The BCEA and UIF Act provisions unfairly discriminate between parents.
- The denial of equal leave is unconstitutional and invalid.
- Equality in parenting is essential to dignity, gender neutrality, and child welfare.
- Interim relief granted to protect rights immediately.

Employers must act immediately to align with the Court's ruling:

- ☒ Update parental leave policies to reflect shared four-month entitlement.
- ☒ Adjust UIF and payroll systems to accommodate new standards.
- ☒ Avoid discriminatory practices in leave approvals.
- ☒ Revise employment contracts, HR policies, and internal communications.

Exclusive Value Add for Attendees

- A Parental Leave Policy Template aligned with the ruling.
- A Model Employment Contract Clause for immediate implementation.

Why This Judgment Matters

- Promotes gender equality in the workplace.
- Recognises both parents as caregivers.
- Reduces gender stereotypes in caregiving roles.
- Enhances child welfare through early parental involvement.
- Aligns South Africa with international best practices in family-friendly employment.

DATE: 10 November 2025 (14h00 - 15h00)
24 November 2025 (10h00 - 11h00)

VENUE: Virtual via Zoom

PRICE: R950.00 excl. VAT

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