

THE NEWBORN CHILD, PARENTS AND THE WORKPLACE under Tanzanian law



The newborn child, parents and the workplace

The arrival of newborn child is a blessing that marks a time of joy and happiness in most families. As we are living in a world which is constantly changing and more and more demanding each and every day, many couples do not have the luxury of having only one breadwinner, and even more so during pregnancy and after the arrival of a child. In today's world, where most women and men must earn an income to provide the best for their families, the arrival of a newborn whether planned or unplanned, may increase pressure on parents to balance hours of paid and unpaid work and undergo role adjustments both at work and at home.

The pressures facing the modern Tanzanian family have caught the attention of law makers and in particular the Parliament of Tanzania, and accordingly the laws of Tanzania do take into account the interests of a new-born child, both pre and post-natal, as well as the importance of both parents' in child-rearing, especially in the early days of a child's life.

The protection of the mother and child under Tanzanian labour laws begins long before the birth of the child. Employers in Tanzania should note that discrimination in the work place is prohibited by law and in particular by Section 7 (4) (j) of The Employment and Labour Relations Act [CAP. 366 R.E. 2019] which prohibits discrimination, directly or indirectly, in any employment policy or practice, on the ground of pregnancy. Pursuant to Section 33(9) where an employee performs work that is hazardous to her health or that of her child, her employer **shall** offer her suitable alternative employment, if practicable, on terms and conditions that are no less favourable than her terms and conditions.

Whereas maternity leave has always been recognized under Tanzanian labour law, Tanzanian fathers have also been granted the legal right to take paternity leave with pay, to witness the blessed first few days of the life of their newborn. Sections 33 and 34 of The Employment and Labour Relations Act [Cap 366 R.E 2019] was enacted to entitle both female and male employees parental leave in connection with the birth of their children.

Despite paternity and maternity leave being two sides of the same coin, the duration of leave granted by law differs. On one side of the coin, a male

Employee is entitled to at least 3 days paid paternity leave if the employee is the father of the child, and if the leave is taken within 7 days of the birth of the child. While on the other side of the coin, a female employee's maternity leave depends on the number of children born at the same time. Where a mother has given birth to a single child she is entitled to 84 days paid maternity leave, where a mother gives birth to more than one child at the same time she is entitled to 100 days paid maternity leave.

In the unfortunate circumstance where an expectant mother who has already commenced her maternity leave gives birth to a stillborn child, she will be entitled to paid leave of only an additional six weeks from the date of delivery. It should be noted that the law prohibits anyone who has given birth from resuming work within six weeks of the birth of the child unless a medical practitioner certifies that she is fit to do so.

Despite maternity and paternity leaves being a statutory right still, there are conditions. Not all expectant mothers are eligible for the full 84 days of paid leave. An expectant mother who is employed for less than six months only qualifies for six weeks of un-paid maternity leave. It should be further noted that an employer is only obliged to grant four terms of paid maternity leave during an employees tenure of service, and that a female employee is entitled to take maternity leave only once after every three years of service with the same employer. A male employee is entitled paternity leave of only 3 days for every 3 years of service with the same employer, irrespective of how many children are born.

In the tragic event of a mother losing a child within one year of birth, she is entitled to an additional 84 days of paid maternity leave regardless of the fact that 3 years have not elapsed.

An expectant mother is required to notify her employer of her intention to take maternity leave at least three months before the expected due date. The said notice must be in writing and supported by a medical certificate issued by a registered medical practitioner. After notifying her employer, an expectant mother may commence her leave anytime from four weeks before the expected date of delivery or earlier if a medical practitioner certifies that it is necessary.

A male employee requesting paternity leave should request such leave within 7 days of the birth of the child; the employer may require reasonable proof that the employee is the father of the child.

All employees resuming employment post maternity/paternity leave are entitled to return to work on the same terms and conditions of employment as before they went on leave. The employee shall not suffer any reductions of status or lose any benefits because he/she has taken Maternity/paternity Leave.

Expectant parents should take note of the fact that in addition to their statutory benefits, both National Social Security Fund (NSSF) and Public Service Social Security Fund (PSSSF) offer maternity benefits to eligible members to ensure that expectant mothers and their offspring are well taken care of during pregnancy and maternity leave. For information regarding the benefits available, please feel free to contact the funds directly.

Should you require further information regarding Maternity and Paternity leave in Tanzania please feel free to contact the author of this article,



Ms. Lige James – Partner

Lyson Law Group-Advocates & Legal Consultants



ligejames@lysonlaw.co.tz



+255755683316



Lige James



www.lysonlaw.co.tz

