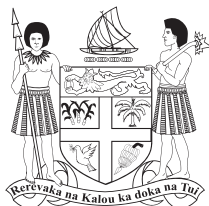


**ACT NO. 23 OF 2018**

I assent.

J. K. KONROTE  
President

[13 July 2018]

**AN ACT****TO AMEND THE EMPLOYMENT RELATIONS ACT 2007**

ENACTED by the Parliament of the Republic of Fiji—

*Short title and commencement*

**1.**—(1) This Act may be cited as the Employment Relations (Budget Amendment) Act 2018.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

(3) In this Act, the Employment Relations Act 2007 is referred to as the “Principal Act”.

*Section 47 amended*

**2.** Section 47 of the Principal Act is amended by—

(a) in subsection 1(b) after “life”, inserting “or medical”; and

(b) in subsection (5), deleting “Any” and substituting “With the exception of deductions in respect of life or medical insurance or a medical scheme, any”.

*Section 68A inserted*

3. The Principal Act is amended after section 68 by inserting the following new section—

*“Family care leave*

68A.—(1) In this section—

“household” means the occupants of a dwelling-house who are financially dependent on each other or an occupant of the dwelling-house; and

“immediate family” consists of a worker’s spouse, child, parent and sibling.

(2) Where a worker has completed more than 3 months continuous service with the same employer and wishes to provide care or support to a member of the worker’s immediate family or a member of the worker’s household, the worker is entitled to paid family care leave of not less than 5 working days during each year of service.

(3) Family care leave entitlement must not be accumulated and unused family care leave for each year automatically lapses in the next year.

(4) For a worker to be entitled to family care leave, the worker must, as soon as reasonably practicable, notify the employer of his or her absence or intended absence and the reason for it.”.

*Part 11 amended*

4. Part 11 of the Principal Act is amended in the heading by deleting “MATERNITY LEAVE” and substituting “PARENTAL LEAVE”.

*Section 100 amended*

5. The Principal Act is amended by deleting section 100 and inserting the following new sections—

*“Objects of this Part*

100. The objects of this Part are to—

- (a) emphasise that taking time out of the paid workforce to care for a child is part of the usual course of life and work for parents;
- (b) promote balance between work and family life; and
- (c) protect women and ensure that they are not disadvantaged when taking maternity leave.

*Interpretation of Part 11*

100A. In this Part, unless the context otherwise requires—

“*de facto* partner” means a person in a *de facto* relationship;

“*de facto* relationship” means a relationship between a man and a woman who are at least 18 years of age and, although not legally married to each other, have lived with each other as spouses on a genuine domestic basis for—

- (a) a period of more than one year; or

(b) a period of less than one year, provided the employer, having regard to the circumstances listed in section 154A of the Family Law Act 2003, considers it just to treat the relationship as a *de facto* relationship;

“his child” includes a child that a man is or will be responsible for as a primary caregiver;

“partner” means a spouse or *de facto* partner; and

“primary caregiver” means a person who is responsible for the care, development and upbringing of a child.”.

*Section 101 amended*

6. Section 101 of the Principal Act is amended by deleting “84” wherever it appears and substituting “98”.

*Section 101A inserted*

7. The Principal Act is amended after section 101 by inserting the following new section—

*“Rights of men on paternity leave*

101A.—(1) A man whose partner is entitled to maternity leave under this Part, or would be entitled to maternity leave under this Part if she were employed, is entitled to paternity leave and to abstain from work for a period of not less than 5 working days provided that he—

(a) is or is to be a primary caregiver for his child; and

(b) produces to his employer a certificate from a registered medical practitioner or registered nurse specifying the possible date of birth of his child.

(2) Where a man has completed more than 3 months continuous service with the same employer he is entitled to paid paternity leave for a period of not less than 5 working days, as follows—

(a) for the first 3 births, to the normal remuneration he would have received as if he had been at work; and

(b) for the fourth and subsequent births, to half the normal remuneration he would have received as if he had been at work.

(3) The man may only proceed on paternity leave during the 3 months immediately before the date specified under subsection 1(b) and the 3 months after the birth of his child.

(4) The paternity leave entitlement under this section may be taken in a lump sum period or in shorter periods amounting in the aggregate to not less than 5 working days, as agreed between the man and his employer.”.

*Section 105 amended*

**8.** Section 105(2) of the Principal Act is amended after “Part” by inserting “or seeks to withhold, limit or impose a restriction on an entitlement under this Part”.

*Section 191BTB amended*

**9.** Section 191BTB(1) of the Principal Act is amended by deleting “28” and substituting “49”.

Passed by the Parliament of the Republic of Fiji this 12th day of July 2018.