

SPECIAL ISSUE

Kenya Gazette Supplement No. 13 (Senate Bills No. 1)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2015

NAIROBI, 11th February, 2015

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THE EMPLOYMENT (AMENDMENT) BILL, 2015

A Bill for

AN ACT of Parliament to amend the Employment Act.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Employment (Amendment) Act, 2015. Short title.

2. The Employment Act is amended by inserting the following new section immediately after section 29 — Insertion of new section 29A.

Adoptive leave.

Cap. 141.

29A. (1) Where an adoption order is made pursuant to section 154 of the Children Act authorizing an employee whether male or female, to adopt a child, that employee shall be entitled to adoptive leave in the manner set out in subsection (2).

(2) Where the child in respect of whom an adoption order is made is —

- (a) not more than three years of age, an employee shall be entitled to three months adoptive leave with full pay;
- (b) above three years of age but below twelve years of age, the employee shall be entitled to two months adoptive leave with full pay;
- (c) above twelve years of age, the employee shall be entitled to one month's adoptive leave with full pay.

(3) Subsections (2), (3), (4), (5) and (7) of section 29 shall, with necessary modifications, apply to an employee authorized to adopt a child.

(3) Where an adoption order made pursuant to section 154 of the Children Act is made in favour of a man and woman who are married —

- (a) the woman shall be entitled to adoptive leave in terms of subsection (2);
- (b) the man shall be entitled to two weeks adoptive leave with full pay.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

This Bill seeks to amend the Employment Act so as to provide for adoptive leave for employees in respect of whom an adoption order is made authorizing such employees to adopt a child pursuant to section 154 of the Children Act.

The Employment Act presently provides for maternity and paternity leave, which applies to biological children, but does not provide for adoptive leave. This means that where an employee adopts a child the employee may not have the opportunity to care for and nurture the child as the employee would have in the case of a biological child.

Article 53 of the Constitution of Kenya, 2010 provides for the rights of children which include the right to parental care and protection. These rights are to be availed to all children, including adopted children.

This Bill therefore seeks to ensure that the rights of adopted children are safeguarded and that an opportunity for parental care and protection is availed to adopted children on their adoption.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement of how the Bill concerns County Governments

The Bill applies to employees serving both at the national and the county levels of Government.

The Bill therefore concerns county governments in terms of Article 110(1)(a) of the Constitution as it contains provisions that affect the functions and powers of the County Governments as set out in the Fourth Schedule to the Constitution.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 3rd November, 2014.

MARTHA WANGARI,
Senator.