

BILL NO. 14 OF 2021

A BILL

FOR 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 2021.

(2) This Act comes into force on a date 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 245C amended

2. Section 245C of the Principal Act is amended by deleting “not less than 2 working days” and substituting “one working day”.

Section 245D amended

3. Section 245D(1) of the Principal Act is amended by deleting “not less than 2 working days” and substituting “one working day”.

*Section 245E amended***4.** Section 245E of the Principal Act is amended by—

- (a) in subsection (1), deleting paragraph (d); and
- (b) in subsection (2), deleting paragraph (d).

*Section 245F inserted***5.** The Principal Act is amended after section 245E by inserting the following new section—*“Transitional provisions for the Employment Relations (Budget Amendment) Act 2021***245F.—(1)** In relation to family care leave, and for the avoidance of doubt—

- (a) a worker who has utilised at least one working day of paid family care leave under section 68A in a year of service commencing before the date of commencement of the Employment Relations (Budget Amendment) Act 2021 and ending within the COVID-19 period is not entitled to paid family care leave for the remainder of such year of service;
- (b) a worker who has utilised one or 2 working days of paid family care leave under section 68A in a year of service commencing before the date of commencement of the Employment Relations (Budget Amendment) Act 2021 and ending within the COVID-19 period—
 - (i) must not be made to reimburse his or her employer for the use of such leave; and
 - (ii) subject to the reductions to leave entitlements under the Employment Relations (Budget Amendment) Act 2021, does not lose his or her entitlement to any other type of leave guaranteed under this Act or his or her employment contract; and
- (c) if an employer approved, before the date of commencement of the Employment Relations (Budget Amendment) Act 2021, an application for paid family care leave in a year of service commencing before the date of commencement of the Employment Relations (Budget Amendment) Act 2021 and ending within the COVID-19 period and the approved application pertains to working days within the COVID-19 period and which, if counted together with any paid family care leave day utilised within that year of service amounts to at most 2 working days, the excess day is not a statutory leave entitlement under this Act, however the employer, at the employer’s discretion, may grant the approved leave despite the statutory reduction of such leave provided by the Employment Relations (Budget Amendment) Act 2021.

- (2) In relation to paternity leave, and for the avoidance of doubt—
- (a) a worker who has utilised at least one working day of paid paternity leave under section 101A in a year of service commencing before the date of commencement of the Employment Relations (Budget Amendment) Act 2021 and ending within the COVID-19 period is not entitled to paid paternity leave for the remainder of such year of service;
 - (b) a worker who has utilised 2 working days of paid paternity leave under section 101A in a year of service commencing before the date of commencement of the Employment Relations (Budget Amendment) Act 2021 and ending within the COVID-19 period—
 - (i) must not be made to reimburse his or her employer for the use of such leave; and
 - (ii) subject to the reductions to leave entitlements under the Employment Relations (Budget Amendment) Act 2021, does not lose his or her entitlement to any other type of leave guaranteed under this Act or his or her employment contract; and
 - (c) if an employer approved, before the date of commencement of the Employment Relations (Budget Amendment) Act 2021, an application for paid paternity leave in a year of service commencing before the date of commencement of the Employment Relations (Budget Amendment) Act 2021 and ending within the COVID-19 period and the approved application pertains to working days within the COVID-19 period and which, if counted together with any paid paternity leave day utilised within that year of service amounts to at most 2 working days, the excess day is not a statutory leave entitlement under this Act, however the employer, at the employer’s discretion, may grant the approved leave despite the statutory reduction of such leave provided by the Employment Relations (Budget Amendment) Act 2021.”.

July 2021

EMPLOYMENT RELATIONS (BUDGET AMENDMENT) BILL 2021

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 In 2020, Parliament enacted amendments to the Employment Relations Act 2007 (**‘Act’**) to reduce the entitlements for family care leave and paternity leave from 5 days to 2 days during the COVID-19 period. These were measures taken to help businesses and employers cope with the COVID-19 pandemic.
- 1.2 However, given the current outbreak and the continued effect of COVID-19, it has become prudent to further reduce these entitlements while increasing employee and employer contributions from 5% to 6% to the Fiji National Provident Fund. The Employment Relations (Budget Amendment) Bill 2021 (**‘Bill’**) seeks to amend the Act to reduce the entitlements for family care leave and paternity leave from 2 days to one day during the COVID-19 period.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill amends section 245C of the Act to reduce the entitlement to family care leave from 2 days to one day during the COVID-19 period.
- 2.3 Clause 3 of the Bill amends section 245D of the Act to reduce the entitlement to paternity leave from 2 days to one day during the COVID-19 period.
- 2.4 Clause 4 of the Bill amends section 245E of the Act to remove the transitional provision for workers with years of service commencing before the COVID-19 period and ending after the COVID-19 period. At the time the Employment Relations (Amendment) Act 2020 was enacted, there was no definitive time frame for how long the COVID-19 period would last. However, as the COVID-19 period has continued for over a year, the transitional provision which caters for a lesser time frame is no longer applicable.

2.5 Clause 5 of the Bill amends the Act by inserting a new transitional provision to cater for the reduction of the leave entitlements proposed under clauses 2 and 3 of the Bill.

3.0 MINISTERIAL RESPONSIBILITY

3.1 The Act comes under the responsibility of the Minister responsible for employment.

A. SAYED-KHAIYUM
Attorney-General