

BILL NO. 15 OF 2022

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 (Revised Budget Amendment) Act 2022.

(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 “entitled to paid family care leave for one working day within the COVID-19 period for a year of service” and substituting “not entitled to paid family care leave within the COVID-19 period”.

2 *Employment Relations (Revised Budget Amendment)— of 2022*

Section 245D amended

3. Section 245D of the Principal Act is amended by—

- (a) deleting subsection (2);
- (b) renumbering subsection (1) as section 245D; and
- (c) deleting “entitled to paternity leave and to abstain from work for one working day within the COVID-19 period for a year of service” and substituting “not entitled to paid paternity leave within the COVID-19 period”.

Section 245G inserted

4. The Principal Act is amended after section 245F by inserting the following new section—

“Transitional provisions for the Employment Relations (Revised Budget Amendment) Act 2022
245G.—(1) In relation to family care leave, and for the avoidance of doubt—

- (a) a worker who has utilised 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 (Revised Budget Amendment) Act 2022 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 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 (Revised Budget Amendment) Act 2022 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 (Revised Budget Amendment) Act 2022, 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 (Revised Budget Amendment) Act 2022, an application for paid family care leave in a year of service commencing before the date of commencement of the Employment Relations (Revised Budget Amendment) Act 2022 and ending within the COVID-19 period and the approved application pertains to a working day within the COVID-19 period, 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 (Revised Budget Amendment) Act 2022.

(2) In relation to paternity leave, and for the avoidance of doubt—

- (a) a worker who has utilised 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 (Revised Budget Amendment) Act 2022 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 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 (Revised Budget Amendment) Act 2022 and ending within the COVID-19 period—
 - (i) must not be made to reimburse his employer for the use of such leave; and
 - (ii) subject to the reductions to leave entitlements under the Employment Relations (Revised Budget Amendment) Act 2022, does not lose his entitlement to any other type of leave guaranteed under this Act or his employment contract; and
- (c) if an employer approved, before the date of commencement of the Employment Relations (Revised Budget Amendment) Act 2022, an application for paid paternity leave in a year of service commencing before the date of commencement of the Employment Relations (Revised Budget Amendment) Act 2022 and ending within the COVID-19 period and the approved application pertains to a working day within the COVID-19 period, 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 (Revised Budget Amendment) Act 2022.”.

**EMPLOYMENT RELATIONS (REVISED BUDGET AMENDMENT) BILL
2022**

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.
- 1.2 In 2021, Parliament enacted amendments to the Act to further reduce the entitlements for family care leave and paternity leave from 2 days to 1 day during the COVID-19 period.
- 1.3 These were measures taken to help businesses and employers cope with the COVID-19 pandemic.
- 1.4 The Employment Relations (Revised Budget Amendment) Bill 2022 (**‘Bill’**) seeks to amend the Act to suspend the entitlements for family care leave and paternity leave during the COVID-19 period to further assist businesses and employers cope with the effects of the COVID-19 pandemic which are likely to be felt over at least the next 2 years.

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 suspend the entitlement to family care leave during the COVID-19 period.
- 2.3 Clause 3 of the Bill amends section 245D of the Act to also suspend the entitlement to paternity leave during the COVID-19 period.

2.4 Clause 4 of the Bill amends the Act by inserting a new transitional provision to cater for the suspension 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