

# P O L I C Y   B R I E F

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## Parental leave in South Africa: Why this is important for working fathers and their families

### Key messages

1. Parental leave for working fathers is key to enabling men's childcare rights and responsibilities and has positive effects on children's development.
2. Shared parental leave enhances gender equality by balancing the work and family responsibilities of mothers and fathers.
3. Survey evidence indicates that there is public demand for expanded parental leave and growing recognition of the need for working fathers to receive paternity leave, with a preferred entitlement that significantly exceeds the 10 days currently offered.

## Background

As of the 1<sup>st</sup> of January 2020, the three days of family responsibility leave employees were entitled to upon the birth of a child was replaced with parental leave as per the Labour Laws Amendment Act 10 of 2018 (Government of South Africa, 2018). In terms of this Act, an employee is entitled to 10 days of consecutive parental leave upon the birth of the employee's child. Parental leave may also be applicable in circumstances where an employee legally adopts a child or when a child is placed by a court in the care of a prospective adoptive parent. Both male and female employees may qualify for parental leave depending on the circumstances.

If a female employee gives birth to a child, she would not qualify for parental leave but is instead entitled to four months of unpaid maternity leave (CCMA, 2022). Female employees may, however, qualify for parental leave in circumstances where they are adoptive parents or prospective adoptive parents. For adoption leave, the child must be younger than two years of age. Adoptive parental leave entitles one of the parents to 10 weeks of consecutive unpaid adoption leave. If an adoption order is made in respect of two adoptive parents, only one may apply for adoption leave and the other for parental leave.

These entitlements are reinforced by the Revised White Paper on Families in South Africa (2021), which recognises the importance of policies that strive to achieve a better work-life balance and promote gender equity in caregiving, including extending paternity leave (Government of South Africa, 2021). Against this context, questions remain about what a suitable parental leave entitlement is that will best meet the needs of the newborn child and parents alike. Recognising this, the policy brief explores the importance of parental leave for working fathers and their families in South Africa and examines survey-based evidence to determine whether public preferences align with progressive policy recommendations in this regard.

## The October 2023 High Court decision

Progress is being made to promote equal parenting and gender equality regardless of gender or the mode of becoming parents in South Africa. On 25 October 2023, the Gauteng High Court handed down a judgment declaring sections of the Basic Condition of Employment Act, 75 of 1997 ("BCEA") and the Unemployment Insurance Act, 63 of 2001 (UIA) unconstitutional to the extent that they unfairly discriminate between mothers and fathers, as well as against surrogate and adoptive parents when it comes to "maternity leave" benefits (GroundUp, 2023). In effect, specific provisions on maternity, parental, adoption, and commissioning parental leave contained within this legislation were found wanting in terms of the rights of equality and dignity enshrined in the Constitution of Republic of South Africa, 1996 (sections 9 and 10). The High Court ruling means that, in the interim until Parliament addresses this legislative matter, all parents are entitled to four consecutive months of "parental leave" collectively as well as Unemployment Insurance Fund (UIF) benefits if they contribute.

## Why this is important for working fathers and their families

Parental leave for fathers, as well as for mothers, provides real benefits for working families, as it has a significant positive impact on parental mental health and wellbeing, child health and survival, child development, and relationships in the home. Whether they are biological or adoptive, parents are fundamental to child health and wellbeing. Parental leave for fathers ensures that men have the support they need to prioritise their family responsibilities, while also meeting work demands, which can significantly increase the personal and economic well-being of their families (Makusha & Richter, 2018).

Promoting parental leave for fathers is a vital tool for the South African government, which is looking to make progress in relation to the United Nations Sustainable Development Goals (SDGs) outcomes that are relevant to maternal, paternal and child health – such as SDG 1 (poverty), SDG 3 (health), SDG 5 (gender equality), SDG 8 (decent work), and SDG 10 (inequality) (Heymann et al., 2017). Longer parental leave for fathers, as pronounced in the High Court judgment, can promote fathers’ practical and emotional investment in infant care, and parent-child bonding, thereby improving outcomes for children, and even increasing gender equity at home and the workplace.

### What does South African public opinion data say about parental leave?

The voice of the public is a powerful force in influencing progressive family-oriented policies. Since the early 2010s, the Human Sciences Research Council (HSRC) has undertaken periodic surveys to gauge public preferences relating to parental leave, including views on entitlements for working fathers. In both 2012 and 2022, the HSRC fielded in-depth questions on family and changing gender roles in the annual rounds of its nationally representative South African Social Attitudes Survey (SASAS) series.

One of the questions included in these surveys asked respondents to express the preferred length of parental leave that should be afforded to working parents. Specifically, the phrasing of this question was: “Consider a couple who both work full-time and now have a newborn child. One of them stops working for some time to care for their child. Do you think there should be paid leave available and, if so, for how long?” As Table 1 indicates, in 2012 South Africans expressed a preference for 5 months of parental leave for working couples on average (mean=5,04 months, with a 95% confidence interval of 4.9 - 5.2 months). A decade later, the 2022 survey results suggest a preference for 4.5 months of leave (mean=4,48 months, with a 95% confidence interval of 4.4 - 4.6 months). Although the mean parental leave figure is lower in 2022 than in 2012, the ideal length of parental leave favoured by the public is in a similar general range in both rounds of surveying.

**Table 1: Preferred number of months of paid parental leave for working parents, 2012 and 2022 (%)**

	Mean	25th percentile	Median 50th percentile	75th percentile	Std. err.	95% LBCI	95% UBCI
<b>Including those stating there should be no paid leave (0 months)</b>							
Preferred length of paid leave for working couples (months) in 2012	5,04	3,00	5,00	6,00	0,07	4,91	5,17
Preferred length of paid leave for working couples (months) in 2022	4,48	3,00	4,00	6,00	0,06	4,36	4,60
<b>Excluding those stating there should be no paid leave (0 months)</b>							
Preferred length of paid leave for working couples (months) in 2012	5,29	3,00	6,00	6,00	0,07	5,16	5,42
Preferred length of paid leave for working couples (months) in 2022	5,16	3,00	5,00	6,00	0,06	5,04	5,28

Note: Survey question: “Consider a couple who both work full-time and now have a newborn child. One of them stops working for some time to care for their child. Do you think there should be paid leave available and, if so, for how long?”

Source: HSRC SASAS, 2012, 2022.

A follow-up question included in the 2012 and 2022 surveys asked respondents to express their preference regarding the sharing of paid parental leave between working couples. The question asked respondents: “Still thinking about the same couple, if both are in a similar work situation and are eligible for paid leave, how should this paid leave period be divided between the mother and the father?”. The options presented to the respondents ranged from a scenario where the mother receives the entire leave entitlement and the father takes no parental leave, to the converse where the father takes the entire leave, and the mother takes none.

The national results for the two survey rounds, which are presented in Table 2, showed that 61% supported the mother taking all the leave in 2012, with approximately 38% suggesting that some accommodation be made for the father. The corresponding figures for 2022 point to a discernible change in viewpoint, with greater accommodation being made for fathers in the division of parental leave. The share stating that the mother should exclusively take the full leave entitlement fell to 46%, a drop of 15 percentage points, while the allowance made for fathers rose to 53%.

**Table 2: Preference towards the sharing of paid parental leave between parents, 2012 and 2022 (%)**

	2012	2022	Change
The mother should take the entire paid leave period and the father should not take any paid leave.	61	46	-15
The mother should take most of the paid leave period and the father should take some of it.	24	30	5
The mother and the father should each take half of the paid leave period.	12	20	8
The father should take most of the paid leave period and the mother should take some of it.	1	2	2
The father should take the entire paid leave period and the mother should not take any paid leave.	1	1	0
(Do not know)	1	1	0
Total	100	100	0

Note: Survey question: “Still thinking about the same couple, if both are in a similar work situation and are eligible for paid leave, how should this paid leave period be divided between the mother and the father?”

Source: HSRC SASAS, 2012, 2022

The shift towards greater recognition of the need for paternity leave for fathers is notable but does not inform us how much paternity leave is deemed necessary by the public. This is where a second SASAS-based study commissioned by the DG Murray Trust in 2018 proves particularly informative. The question included in this study was framed as follows: “Consider a couple who both work full-time and now have a newborn child. Do you think there should be paid leave available for the father of the child and, if so, for how long?”, with respondents allowed to specify a duration of their choosing in terms of number of days. Overall, South African adults (16 years and older) felt that 25 days of paternity leave should be provided to fathers (mean=25.4 days, with a 95% confidence interval of 24.3 - 26.5 days). Further analysis found limited variation in viewpoint based on personal attributes, such as gender, age, and employment status, signifying that a fairly broad consensus exists on this issue. This suggests that the public in 2018 felt that approximately a month of leave was deemed an appropriate paternity leave benefit for working fathers.

**Table 3: Preferred number of days of paid paternity leave for fathers, 2018 (%)**

	Mean	25th percentile	Median 50th percentile	75th percentile	Std. err.	95% LBCI	95% UBCI
<b>Including those stating there should be no paternity leave (0 days )</b>							
Preferred length of paid leave for working fathers (days) in 2018	25,41	5,00	15,00	30,00	0,57	24,29	26,54
<b>Excluding those stating there should be no paternity leave (0 days)</b>							
Preferred length of paid leave for working couples (days) in 2018	29,08	7,00	21,00	6,00	0,63	27,85	30,32

Note: Survey question: “Consider a couple who both work full-time and now have a newborn child. Do you think there should be paid leave available for the father of the child and, if so, for how long? [in days]”.

Source: HSRC SASAS, 2018

### Beyond policy to implementation?

The survey evidence outlined above suggests that South Africans desire between 4,5 and 5 months of parental leave on average, which exceeds the current prevailing norm of four months of maternity leave for mothers. In addition, over the 2012-2022 period, there emerged a growing recognition of the need for working fathers to receive parental leave, and the 2018 results point to at least a month of paternity leave being envisaged. This is substantively higher than the current 10-day parental leave entitlement offered to fathers.

Decisions around family roles and responsibilities, such as childcare and the division of responsibilities at home, are naturally taken by families themselves, effectively limiting what policy can achieve in this area in practice. Nonetheless, government, employers, trade unions and relevant civil society organizations still have several tools at their disposal to advocate for better work policies to strengthen families by promoting longer parental leave for fathers.

**Some of the key recommended interventions that warrant consideration are:**

The South African government and private sector must ensure that the work environment is family-friendly through employment and parental leave benefits that impact on the quality of life of family members. The focus must be on extending the duration of parental leave provided for fathers as per the recommendations of the October 2023 High Court decision, which states that all parents are entitled to four consecutive months of “parental leave” collectively. In the short-term, a campaign should be undertaken framed around the ‘one-month’ paternity leave preference that currently exists among the South African public, with a progressive expansion to the four-month collective leave period referenced in the High Court ruling in the medium to longer term.

The South African government and private sector must ensure that leave arrangements are flexible. For parents who may be unwilling or unable to stop work completely, flexible, or part-time leave arrangements that allow parents to adjust their work schedules or take reduced hours to accommodate their family responsibilities, particularly around the time of childbirth and during the early stages of parenting may provide a solution. Such arrangements can help to minimise the financial impact of taking leave while allowing employees to remain connected to their jobs and to care for children. They can also help partners to “shift-share” part-time leave and work commitments. Employers may benefit too: In many cases, they may not have to go to the expense of finding and hiring a replacement worker if the employee is on leave only part-time.

The Government should strengthen Labour Laws to ensure that fathers can confidently take leave without fear of risking their jobs, including support mechanisms like tax incentives and subsidies to encourage employers to comply to the legislation. This is because taking up parental leave by fathers may be influenced by perceived or real penalties or discrimination.

Expand coverage to the informal sector. This could be done by extending the Basic Condition of Employment and the Unemployment Insurance Fund to the informal sector and creating legal definitions for informal work.



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## Ethics statement

Ethical approval for the survey research was granted by the HSRC's Research Ethics Committee.

## Disclaimer

The report's findings and conclusions are those of the authors and do not necessarily reflect the official stance of the funding institutions.

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