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## Highlights

- Increased maternity leave on an unpaid basis
- Employer to provide a lactating / breastfeeding room for female employees
- The designated room also needs to be conducive to the needs of the baby
- Requirement to provide baby changing facilities if building is accessible by the public.

## Background

Recently published in the Kenya Gazette were two significant pieces of draft legislation that seek to enhance women's rights in the work place: the Employment (Amendment) Bill, 2017 (the Employment Bill); and the Breastfeeding Mothers Bill, 2017 (the Breastfeeding Bill). Both bills are still at the preliminary stages of the legislative process. We have highlighted below the main proposals of both bills.

### Increased Maternity Leave

The Employment Bill proposes to allow women a further 3 months maternity leave on an unpaid basis (in addition to the current 3 months paid leave).

It has been reported that the Federation of Kenya Employers opposes the amendment on the basis that employers cannot sustain the length of time off. Supporters of the Employment Bill argue that the provisions will help with the retention of women in the work place which leads to economic savings for the employer. Also that the period of time off reflects WHO advice on the health benefits for both baby and mother.

It is unclear at this stage if the Employment Bill will garner the political goodwill to pass into law.

### Breastfeeding & Lactation at Work

The Breastfeeding Bill requires employers to provide an area within the work place (not being the bathroom) for a woman to either breastfeed or lactate. The room will need to have a wash basin, a fridge, a lockable door along with other requirements. In addition, since the Breastfeeding Bill covers both breastfeeding and lactation the room also needs to be safe for a baby.

The employer is also required to:

- provide 'appropriate programs that develop a baby's cognitive, emotional social and language abilities';
- employ an adequate number of trained staff; and
- provide the mother with nutritionally balance meals and snacks daily.

Other significant changes employer will have to adopt include:

- Giving the female worker break time for breastfeeding or expressing milk during working hours. In a 4 hours period the break should not exceed 40 minutes.
- Permitting the female worker to apply for a flexible working arrangement to facilitate breastfeeding.

### Baby Changing Facilities & Fines

Finally, if you own, lease or rent a building accessible to the public which has a 'maximum' capacity of 30 persons you will also be required to provide baby changing facilities. The use of the term 'maximum' may be a typographical error as it would be more reasonable to set a minimum occupancy.

Failure to comply with any provision of the Breastfeeding Bill is an offence attracting a fine not exceeding KES 500,000 and or imprisonment for a term not exceeding 1 year.

For further advice about any of the information contained here please feel free to contact:

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