

# FROM THE DESK



*of Kate*

## THE IMPORTANCE FOR UNMARRIED LIFE PARTNERS TO HAVE A COHABITATION AGREEMENT IN PLACE.

Many people mistakenly believe that cohabitation, which is often also referred to as a common law marriage, is recognised as a legal relationship in South African law. This, however, is not the case as there is no law in SA that regulates the rights of parties in a cohabitation relationship. Individuals living together do therefore not enjoy the same rights and duties as married couples, irrespective of the duration of the relationship. It is therefore vitally important to have a Cohabitation Agreement in place to protect both parties' rights should the relationship be terminated for whatever reason.

FROM THE DESK OF Kate Barnard  
Commercial Litigation Attorney  
24 November 2023

### **NB DATES TO DIARISE:**

Courts will be closed from **4 December 2023 to 22 January 2024** during the festive season. Only urgent matters, such as bail applications, etc, will be heard over this period.

Our offices will be closed from **22 December 2023 to 4 January 2024** during the festive season. We will be contactable for urgent matters only during this period.

## **FATHERS ARE NOW ENTITLED TO 4 MONTHS OF PARENTAL LEAVE AND TO CLAIM UIF DURING THIS PERIOD.**

The High Court has delivered a groundbreaking ruling declaring the Basic Conditions of Employment Act unconstitutional as it found that provisions of the Act discriminate unfairly between mothers and fathers, as well as surrogate mothers and adoptive parents. Now both biological parents are entitled to take maternity/paternity leave, as our surrogate mothers and adoptive parents.

**LANDMARK MEDICAL NEGLIGENCE RULING ORDERS SOUTH AFRICAN HOSPITAL TO TREAT - NOT PAY - THE VICTIM FOR FUTURE MEDICAL EXPENSES AND SUPPLIES.**

A recent High Court Ruling has overturned the common law practise of paying out large lump sums for medical negligence cases against the State and ruled that future medical treatment can now be paid in kind, provided that the standard of care is reasonable, thus placing less financial strain on Government Hospitals and making more resources available for members of the public who simply cannot afford private medical care.



**Can mothers apply for maintenance on behalf of their young adult children?**

The answer is Yes. On 21 July 2022 the Supreme Court of Appeal made an unanimous decision in the matter of Z v Z 2022 (5) SA 451 (SCA) and dispelled the notion that mothers cannot apply for maintenance on behalf of their young adult children. Mothers of young adult children are indeed allowed to apply for maintenance on their behalf.

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