

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Local Division, Johannesburg

CASE NO: **2022-017842**

In the matter between:

**WERNER VAN WYK ,IKA VAN WYK
,SONKE GENDER JUSTICE**

Plaintiff / Applicant / Appellant

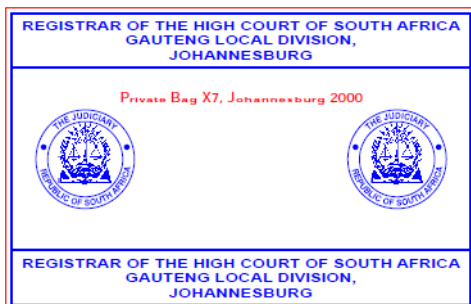
and

**MINISTER OF EMPLOYMENT AND
LABOUR**

Defendant / Respondent

Notice (Other)

NOTE: This document was filed electronically by the Registrar on 14/9/2022 at 8:44:19 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY SIGNED BY:

**Registrar of High Court , Gauteng
Local Division,Johannesburg**

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

Case No: 2022-017842

In the matter between:

WERNER VAN WYK

FIRST APPLICANT

IKA VAN WYK

SECOND APPLICANT

SONKE GENDER JUSTICE

THIRD APPLICANT

and

THE MINISTER OF EMPLOYMENT AND LABOUR

RESPONDENT



NOTICE IN TERMS OF RULE 16A

KINDLY TAKE NOTICE THAT this Application raises the following constitutional issues:

1. Whether sections 25 and 26 of the Basic Conditions of Employment Act (75 of 1997) (“**BCEA**”) are unconstitutional in so far as they unfairly discriminate against fathers of newborn children by unjustifiably limiting the father’s rights to paternity leave in South Africa;
2. Whether these sections ought to be extended to ensure equal rights of all mothers, fathers and same-sex parents of newborn children in South Africa:
 - 2.1. to include circumstances where a father is the primary caregiver of the newborn child;

- 2.2. to allow for extended paternal and/or parental leave in workplace leave policies;
 - 2.3. to extend the definition of “maternity leave” to include ‘parental’ and ‘care-giving’ leave; and
 - 2.4. to include the recognition of a new category of ‘peri-natal leave’ for the pregnant, delivering, and breastfeeding parent for a period of 6 (six) weeks.
3. Whether the Minister of Employment and Labour is obliged to amend the legislation to encapsulate circumstances whether fathers are the primary caregivers to their newborn children and accordingly – to the extent that workplace policies deviate from this standard – they, themselves, will rise to unconstitutionality.



TAKE NOTICE FURTHER that any interested party may, with the written consent of all the parties to the proceedings, given not later than twenty (20) days after this notice has been filed, be admitted therein as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties.

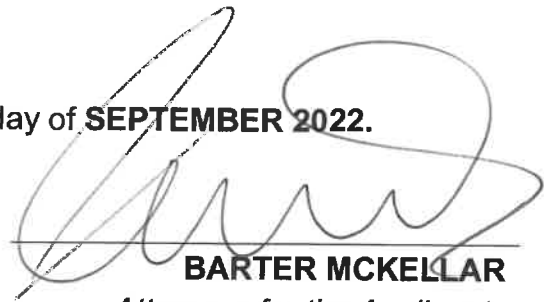
TAKE NOTICE FURTHER that the written consent referred to above shall, within five days of its having been obtained, be lodged with the Registrar and the *amicus curiae* shall, in addition to any other provision of the Rules, comply with the times agreed upon for the lodging of the written argument.

TAKE NOTICE FURTHER that if the interested party is unable to obtain written consent, they may, within five days of the expiry of the twenty (20) day period prescribed above, apply to the Court in the manner contemplated by Rule 16A(6) to be admitted as *amicus curiae* in the proceedings.

KINDLY PLACE this notice on the noticeboard designated for this purpose and ensure that the notice remains on that notice board for a period of twenty (20) days, whereafter you, the Registrar, shall endorse the notice to state on which day the notice was placed

on the notice board and, on the expiry of the twenty (20) day period, place such endorsed notice in the Court file.

SIGNED at JOHANNESBURG on this the 8th day of **SEPTEMBER 2022**.



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**TO: THE REGISTRAR OF THE ABOVE
HONOURABLE COURT**

**AND MEC FOR THE DEPARTMENT OF
TO: EMPLOYMENT AND LABOUR**
77 De Korte Street
Braamfontein
Johannesburg
2001