

Employees' Right to Leave in Uganda

An Overview



out of
office

1. Introduction

The Employment law in Uganda envisages the need for employees to take some time off work to rest. Employees are entitled to different types of leave which include annual leave, maternity leave, paternity leave, sick leave and weekly rest among others. The law also provides for the minimum amount of leave that an employee should be entitled to in the different circumstances. However, there is no hard and fast rule on the exact days on which leave should be taken by an employee and therefore leave planning is often dependent on a consensus between an employer and employee.

The purpose of this article is to highlight the different types of leave that an employee is entitled to under the law and also give an insight into how best employers can plan for leave without affecting the effectiveness and productivity of their business enterprises.

2. Annual Leave

In a calendar year, an employee is entitled to a seven day leave period for every four months of continuous service. This therefore means that an employee should have a minimum of twenty-one days of leave in a calendar year. During annual leave, an employee will still be entitled to his or her wages as well as all other benefits accruing under the law and contract of employment. The employee is under an obligation to apply for leave and he or she can either take the leave or accept payment in lieu of leave. When an employee does not exercise their right to apply for leave in the course of a year, the presumption is that the employee has forfeited his or her right to such leave and therefore cannot claim for it unless the contrary is provided for in the contract of employment. An agreement to relinquish the right to annual leave shall be null and void.

Annual leave is a fundamental term of a contract of employment and an employer's failure to grant leave gives an employee a right to terminate the contract. However, the employer will still be liable for constructive dismissal.

An employee is entitled to annual leave only if he or she has performed continuous service for the employer for a minimum of six months and normally works for a minimum of sixteen hours a week.

3. Maternity Leave

A female employee who gets pregnant shall be entitled to sixty working days leave from work of which at least four weeks shall follow the child birth or miscarriage. During maternity leave, the employer is expected to pay the employee her full wages and

other benefits accruing from the contract of employment. The employee has a right to return to the job she held immediately before her maternity leave or be allocated to a suitable alternative job provided that the terms and conditions of the new job are not less favourable. If the employee's return is not advisable because of sickness arising out of the pregnancy, her right to return to the job shall be available within eight weeks from the date of child birth or miscarriage. A female employee should give her employer at least seven days' notice of her intention to return to work.

4. Paternity Leave

A male employee has a right to four working days' leave from work immediately after his wife has delivered a child or suffered a miscarriage. The employee is entitled to his full wages during paternity leave and has a right to return to the job that he held before he went for the said leave.

5. Weekly Rest

An employee shall not be required to work for an employer for more than six consecutive days without a day's rest. The weekly rest could be taken on a customary rest day for example a Sunday or the employer and employee may agree on any other day of the week when the employee will rest. Where the employee's wages are calculated by reference to a period of one week or more, a deduction shall not be made from his or her wages on account of not working on the weekly rest day.

6. Length of Working Hours

Ideally, the maximum working hours for employees shall be forty-eight hours per week but an employee may agree to work for more than this period of time. However, the working hours in a week shall not exceed ten hours per day or fifty-six hours a week unless an employee works in shifts. Where an employee works in shifts, it will be permissible to work in excess of ten hours in a day or forty-eight hours in a week if it can be proven that the average number of working hours over a period of three weeks does not exceed ten hours in a day or fifty-six hours in a week.

Unless there is an agreement to the contrary, an employee who works for more than eight hours per day or forty-eight hours per week will be entitled to overtime pay at a minimum rate of one and a half times of the normal hourly rate. When an employee works overtime on a gazetted public holiday, the employee will be entitled to two times the hourly rate. Employees working for at least eight hours per day shall have a thirty-minute rest break each day.

7. Public Holidays

Employees have a right to a day off from work with full pay on public holidays and if the employee works on a public holiday, he or she will be entitled to a day off with full pay on another day that would otherwise be a working day. However, when an employee works on a public holiday and is paid a minimum remuneration worth double the rate payable for work on a normal working day, he or she forfeits the right to a day off in lieu of the public holiday.

8. Sick Leave

An employee who falls sick and is incapable of work has a right to his or her full salary and all benefits accruing under the contract of employment for the first month of his or her sickness. However, if the sickness persists rendering the employee unable to work, the employer can terminate the contract of employment at the end of the second month. The employee is under an obligation to notify the employer of his or her absence and the reason for it as soon as it is reasonably practical.

9. Study Leave

Employers are under no statutory obligation to grant study leave to an employee and therefore the decision on whether or not to grant an employee study leave will be at the discretion of an employer.

10. Conclusion

The law prohibits an employer from dismissing an employee for taking or proposing to take leave which he or she is entitled to under the law or contract of employment. Since leave is statutory and therefore binding on the employers, they should strategically plan to ensure that the business continues to run effectively even when some employees are off on leave. Employers are advised to encourage employees to apply for leave as early as possible. This will help the employer to ensure that there is always someone to perform the roles of an employee who has taken leave. The Human Resource Managers are advised to come up with a detailed lay out showing when each employee will be going on leave and when they will be expected to come back.

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