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## Leave types according to the Yemen Labour Law

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The weekly leave can be defined as a necessity, it's a kind of a treatment, a prescription for the worker to heal him/her from the constant and the tiring labour. But the annual leave is far more important and gives the worker the possibility to solve the problems and to gain new strength.

Article 79/1 of the labour law reads: The worker has the right of an annual leave at least thirty days a year, two and a half days a month. During that period he is supposed to be paid the full amount of his salary.

This article is also differentiated and does not treat all types of profession identically. Article 79/7 gives the right to the Minister of labour to increase the annual leave of particular types of professions. The annual leave is treated as a legal right of the worker and thus article 79/6 reads: The annual leave cannot be compensated by payment. The right of the full payment of the worker enables him to restore his strength in full capacity, to relax and to reach the goal of the period prescribed. In connection to this, article 88 reads: it is absolutely forbidden to the worker to perform any other kind of paid labour during the period of his annual leave. In case of proven misconduct, the worker is supposed to turn back such amount of money that equals his additional payment. The worker is not subjected to be fired in similar cases.

These two legal texts discussed above show that there is no differentiation between the experienced and the non-experienced workers. They are treated equally – 30 days annual leave. Thus Yemen law differs from other legal texts in treating all the workers similarly. The second characteristic of the Yemen labour law is the division of the days off according to the months – two days and a half per month. This decision is made by the Cairo Court (20.05.1956) according to which the worker has the right to an annual leave even if he has not worked during the whole year. This fact is also pointed by Dr. Mohamed Abdul Kadr al-Hadge (see p. 215 of the cited source). Article 29/34 reads: The work is considered not interrupted despite the annual leave paid or not. The law requires the worker's annual leave but in case of mutual agreement between the worker and the manager half of it can be postponed for the next year.

A special attention has to be paid on the fact that the postponement is of mutual interest. The workers interest is expressed in the need for a rest and the management's interest lies in the increasing of the productivity process.

The Labour Law requires the worker's leave to be not less than two days at a time. It is established in article 79/3. As we mentioned above article 79/1-3 deal with the worker's right to receive the full payment for his leave in case of full-time work during the past year. By payment is meant the whole sum together with the additional sums. It's stated in article 2 of the Labour Law.

The Egyptian Court of Appeal decides on 27.11.1976 (see p. 1678, issue of the civil service) that the annual payment leave is fixed and the worker receives the full payment

for a given type of work even if there are additional sums. This fact is also mentioned by Professor Anuar al-Amrusi in the publication cited.

I think that the Court of Appeal made the right decision in respect to the additional sums paid as a percentage of the income. These additional sums are estimated as additional working hours respectively.

It is worth mentioning that the annual leave is not influenced by the other types of leaves. Therefore the week days off, the official non-working days and others are not considered to be part of the annual leave. This therefore leads us to the conclusion that the annual leave is thus extenuated in time. Article 82 reads:

“1. The management should take into consideration the leave in case of illness and not to include this period into the annual leave of the worker.

2. The interrupted annual leave is further extenuated according to the above mentioned point.”

The period from January, the 1<sup>st</sup> and December, 31<sup>st</sup> is considered to be the period according to which the annual leave is granted. In case of a change of the owner, the old contracts and obligations remain. This also includes the whole sum of the annual leaves. This can be seen in article 31/1 of the Labour Law. It reads: the new owner is obliged to carry on all the contracts signed in case of a new agreement.

#### *Obligations to be carried by the organization of the working period and the worker's leaves*

The articles 71-86 of the Labour Law define the management obligations in respect to the worker's time-table and the weekly days off. These articles define four leave types: the annual leave, the religious fests leave, leave in case of illness and pilgrimage leave. There is a fifth kind of leave that is directly related to women – the maternity leave and “the idda”.

#### **Leaves for official celebrations and non-working days**

Article 78 of the Labour Law defines the worker's right to a full payment during the non-working days and the official celebrations that are stated to be such.

The law issue from 1991 concerns the official leaves and non-working days and defines 12 days off a year due to official celebrations and Fridays to be non-working.

If the official celebration – May, the 1<sup>st</sup> – The day of Labour and July, the 7<sup>th</sup> – The day of the Victory – happens to be on Friday, then there is an extra day off. The official celebrations are considered to be worker's right, so if he chooses to work on these days, he is supposed to be paid double. This lies in the power of the manager. If it is of mutual interest, the worker can continue working. If the worker chooses to stay at work without a particular order of the management, in that case, he is paid as usual. If the management wants the worker to do his duty and he refuses to do so, he is subjected to punishment. The worker hasn't got the right to declare that the working conditions are bad and they lead to some kind of disability to perform his obligations or that this extra work serves an illegal activity of the management.

The official non-working days differ from the annual leave in the fact that they are fixed on a particular date. In order to give the chance to the worker to celebrate a fest, all the working members of a family should have the same period of leave.

In case of a self-decision of the management of an enterprise to give additional, unfixed days off to the workers and it has turned to be popular among the society, the management is obliged to carry on with this practice. The management is strictly obliged to carry on the signed contract with the worker, especially if that concerns additional leaves.

### **Leaves in case of illness**

The worker has the right to a leave in case of illness taken at a time or partially according to the different percentage and payment criteria from the first till the eighth month of the illness period (article 80).

The worker uses the annual leave fund along with the right to take a leave in case of illness. If all the possibilities are expired, the worker is given additional non-paid period leave in order to recover or to be proven by the responsible organs the incapability to perform his obligations. The whole period of recovering spend in a hospital is considered to be a leave in case of illness (article 80).

The Yemen Law does not define a specific period for a leave in case of illness. The period is left open although the payment is different in the different periods of the leave.

The leaves in case of illness are not like the annual leave that is given due to his request. The leave in case of illness is given by a specialized medical institution according to article 81:

- By a doctor or a medical institution that have a contract with the manager;
- By medical institutions within the republic without a contract with the manager;
- By emergency rooms all over the territory;
- By private medical institutions and organizations. In such cases the manager has to seek approval by the specialized medical organs.

The manager can give a partial leave that corresponds to the working period from the beginning of the year. This is applied for all the workers in a given institution.

The right to a leave in case of illness concerns the whole year period. If the worker did not use this leave, it couldn't be used during the next year. The leave cannot be interrupted if the new year has not come yet. If the new year has come and the worker is in position of a leave in case of illness, the worker has the right of a new illness leave interrupted by the national celebration leaves.

In case of insufficiency of the leave in case of illness, the worker has the right to take the annual leave before the time has come. In this case the annual leave is attached to the leave in case of illness and the worker gets his full salary.

It is worth mentioning that the leave in case of illness is given after a verification by a doctor who has signed a contract with the management of the working institution.

## **Financial support during the time of illness**

The fact that the worker does not perform any kind of activity, he is not subjected to payment. Nevertheless the manager is obliged to pay a definite percentage of the salary, stated in article 80 of the Labour Law<sup>1</sup>:

- Leave in case of illness<sup>2</sup> that is fully paid during the first two months of the leave;
- Leave in case of illness that is paid 85% of the salary during the second two months of the leave;
- Leave in case of illness that is paid 75% of the salary during the last third of the leave;
- Leave in case of illness after the eighth month in order the worker to recover or to be proven disabled by the competent organs.<sup>3</sup>

The period of leave in case of illness is considered belonging to the worker. Although he does not perform any kind of work and his contract is temporarily interrupted, he is considered to be part of the working institution.<sup>4</sup>

The worker has the right<sup>5</sup> to leave in case of certified illness, no matter what are the reasons that has led to it. The worker has the right to seek leave in case of illness even if that illness is because of his fault – for example a car accident where he has the proven guilt but it is not done deliberately. In case of deliberate harm done to acquire a leave, the absence of the worker is considered to be illegal and he is subjected to interruption of the contract with the manager.

There are special articles in case of illness due to a professional obstacles or harm while performing his duties. It is article 82 that reads:

“In case of illness due to professional obstacles or harm while performing his working duties, the worker has the right to a full-time paid leave according to the issue of the specialized medical commission and regulated by the Social Law.”<sup>6</sup>

## **Parental Leave**

Labour Law treats the cases with pregnant workers in article 45. According to it she has the right to get a parental leave with a full paid compensation for the period of sixty days. If there were some medical complications, additional twenty days can be given. This is also true in case of birth of twins. The worker should not go to work during that period in any circumstances.

Article 45 establishes the full amount of compensation to be paid to the worker. The aim of that compensation is to secure the calm and the normal way of living of the

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<sup>1</sup> Alsharafi, Mohamed Ali, Labour Law, Sana, 2003-2004

<sup>2</sup> Abdul Karim Ahmed, Ganem Ishmael, Abdul Sabu Fatai, Labour Law, 2003

<sup>3</sup> Ganem Ishmael, labour Law, Cairo, 2001

<sup>4</sup> Abdul Kadr, Labour Law, Sana, 2000

<sup>5</sup> Abdul Hali, Ahmed Said, Labour Law, Kvitt, 1971

<sup>6</sup> Hasan Aliaua, Labour Law, 22-66 p., 2002

worker. In case of working for another manager, the worker is subject to return this amount of money.

The right of the worker to get parental leave is given no matter if the new born is alive or not.<sup>7</sup>

### **Idda Leave**

The she-worker has the right to receive forty days off that are fully paid in case of husband's death. This kind of leave is valid from the first day of the death. She has the right to receive additional non-paid period no longer than ninety days according to the Holy Book and the words of the Almighty: "And those whose husbands died, let them wait for four months and ten days".

### **Pilgrimage Leave**

Every worker that has worked for the period of four years has the right to twenty days full paid leave to perform pilgrimage including the post fasting period. This kind of leave is granted once a time. The manager has the right to assure himself for the right purpose of the leave (article 74).

### **Accidental Leaves**

The manager can grant a paid leave on different occasions but not more than ten days a year.<sup>8</sup>

### **Non-paid Leaves**

The manager can grant non-paid leaves on the worker's request.<sup>9</sup>

### **Working-time organization**

Article 71/1 reads that the working hours cannot exceed eight hours a day and 48 hours a week. The working hours are placed among six working days and then a whole day off. The official working hours during the fasting period should not exceed six hour a day and 36 hours a week. The minister can diminish the working hours in exception in cases of difficult or harmful work conditions. The decision in these cases is agreed with the workers and the managers, too.

The official working hours should be interrupted one or several time for a break. This includes the lunch break and the praying time break. The breaks should follow a

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<sup>7</sup> Mohamed, Ah. Mohrez, Labour Law, p. 165, 1998

<sup>8</sup> Hasan Ali, Labour Law, Sana, 1996

<sup>9</sup> Yemen's Law, 1995

period no longer than five working hours and should not exceed one hour a day. The break periods do not diminish the working time period.

Article 72. If the worker came to work in the appropriate time and is ready to start work but can't due to external reasons, it is considered that he has worked effectively.

Article 73/1. The work is considered to be done at night if it has been done within the period from eight till five in the morning. The worker cannot be subjected to night work more than a month period.

The working hours that merge with the night shift are considered to be performed at night but the time should not exceed half an hour a day.

The worker can work additionally during the official days off to increase the productivity if that is necessary.

The period for extra work should not exceed twelve hours a day.

Article 75/1. In accordance with article 56 of the Labour Law the worker has the right to a paid compensation for the extra working hours required. It is stated as follows:

A. One time and a half for a work day;

B. Twice for extra night labour.

The manager is obliged to calculate the compensation for the extra work performed during the non-working official days off within the period of one month.

The manager has to give information on the weekly days off, the working time-table and the break periods, leaves and holidays. It should be stated clearly and preferably done as an announcement glued on the front gate of the working institution.