



Workplace Bulletin

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eDomestix™
Secure domestic solutions

HOW MANY DAYS ANNUAL LEAVE DAYS DOES MY DOMESTIC WORKER QUALIFY FOR?

Leave provisions for domestic workers are slightly different from other industries and therefore we will deal with different types of leave.

1. ANNUAL LEAVE

The difficulty that Employers face is how do we calculate annual leave when my Domestic Worker **works only on specific days**.

- one day of annual leave on full pay for every 17 days on which the domestic worker worked or was entitled to be paid; or
- one hour of annual leave on full pay for every 17 hours on which the domestic worker worked or was entitled to be paid.

When your Domestic Worker works **full 5 days** a week then;

- at least three weeks annual leave on full pay in respect of each 12 months of employment (the 'annual leave cycle');

Then please take notice of the following general conditions;

- An employer must pay a domestic worker leave pay before the beginning of the period of leave;
- An employer must grant a domestic worker an additional day of paid leave if a public holiday falls on a day during a domestic worker's annual leave on which the domestic worker would otherwise have worked;
- An employer may reduce a domestic worker's entitlement to annual leave by the number of days of occasional leave on full pay granted to the domestic worker at the domestic worker's request in that annual leave cycle.

- Annual leave to be granted not later than six months after the end of the annual leave cycle or the year in which the leave was earned;
 - An employer may not require or permit an employee to take annual leave during;
 - any other period of leave to which the employee is entitled in terms of this Chapter; or
 - any period of notice of termination of employment.
- An employer may not require or permit a domestic worker to work for the employer during any period of annual leave;
- An employer may not pay a domestic worker instead of granting paid leave in terms of the clause except on termination of employment;
- An employer must pay a domestic worker leave pay at least equivalent to the full pay the domestic worker would receive for working for a period equal to the period of leave calculated on the basis of the domestic worker's rate of pay immediately before the period of leave;

2. PUBLIC HOLIDAYS

There is a huge misconception that Domestic Workers who work for either 1, 2, 3 or 4 days are not full-time.

This misconception causes that Employers think that Domestic Workers should work on Public Holidays and if they do not work that they should not be paid.

Now we get down to why we at Edomestix offer as a basic service that we draft employment contracts and this is one of the reasons.

- An employer may not require a domestic worker to work on a public holiday, except in accordance with an agreement;
- If a public holiday falls on a day on which a domestic worker would otherwise have worked, an employer must pay a domestic worker;
 - who does not work on the public holiday the domestic worker's daily wage;
 - who does work on the public holiday at least double the daily wage.

- If a domestic worker who works on a public holiday on which the domestic worker would not normally work, the employer must pay that domestic worker an amount equal to-
 - the domestic worker's daily wage; plus
 - the domestic worker's hourly wage for each hour worked on the public holiday.
- An employer must pay a domestic worker for a public holiday on the domestic worker's normal payday.

3. SICK LEAVE

Please take note that there are some specific conditions with regard to sick leave and especially when the Domestic Worker does not work full-time i.e. full 5 days a week.

- In the case of Sick Leave it runs in "**sick leave cycle**" which means the period of 36 months employment with the same employer immediately following;
 - when the domestic worker commenced work; or
 - the end of the domestic worker's prior sick leave cycle.

When a Domestic Worker starts employment then during the first six months of work, a domestic worker is entitled to one day's sick leave for every 26 days worked.

- During every sick leave cycle, a domestic worker is entitled to an amount of paid sick leave equal to the number of days the domestic worker would normally work during a period of six week;
- An employer may, during the domestic worker's first leave cycle, reduce the domestic worker's entitlement to sick leave by the number of days' sick leave already taken;
- Where an employer, at the request of the domestic worker, pays fees for a domestic worker's hospital or medical treatment, the fees paid may be set off against the worker's pay;
- An employer may require a domestic worker who has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period to produce a medical certificate before paying the domestic worker in terms of this clause.

- The medical certificate must;
 - be issued and signed by a medical practitioner, a traditional healer, a professional nurse who is authorized to issue certificates, or any other person who is certified to diagnose and treat patients and is registered with a professional council, established by an Act of Parliament; and
 - state that the domestic worker was unable to work for the duration of the domestic worker's incapacity.
- If it is not reasonably practicable for a domestic worker who lives on the employer's premises to obtain a medical certificate, the employer may not withhold payment in terms of this clause unless the employer provides reasonable assistance to the domestic worker to obtain the certificate.

4. FAMILY RESPONSIBILITY LEAVE

Again it is important to note that a Domestic Worker who works less than 4 days a week for the Employer, does not qualify for Family Responsibility Leave.

This clause applies to a domestic worker -

- who works on at least four days a week for that employer; and
- who has been employed by an employer for longer than four months;

An employer must grant a domestic worker, during each 12 months of employment, at the request of the domestic worker, **five days' leave**, which the domestic worker is entitled to take;

- when the domestic worker's child is born;
- when the domestic worker's child is sick; or
- in the event of the death of;
 - the domestic worker's spouse or life partner; or
 - the domestic worker's parent, adoptive parent, grandparent, child, adopted child, grandchildren or sibling.
- A domestic worker may take family responsibility leave in respect of the whole or part of the day.

Where Family Responsibility Leave is granted the employer must pay a domestic worker for a day's family responsibility leave;

- the wage the domestic worker would normally have received for work on that day; and
- on the domestic worker's usual payday.

Please note that before paying a domestic worker for family responsibility leave, an employer may require reasonable proof of an event.

A domestic worker's unused entitlement to Family Responsibility Leave lapse at the end of the annual leave cycle in which it accrues.
