

## FACTSHEET: CONTRACT PROVISIONS ON LEAVE

Chapter 5 of the Employers' Guide on the different types of leave discusses legal requirements in detail. This factsheet does not restate legal rules, but provides examples of clauses you might want to include in your employment contracts.

Please also refer to the different chapters of the Employers' Guidebook when finalising specific clauses of employment contracts to ensure you are following the law.

The Employment Act provides the following forms of statutory leave:

- **Annual leave**
- **Sick leave**
- **Maternity leave**

An employee engaged under an employment contract which does not include provisions about leave will still be entitled to statutory leave. As such it is not strictly necessary that you include clauses in these areas. However, it is good practice to do so, as it helps to ensure that both the employer and the employee are clear about their legal rights and/or know what law to refer to in order to determine amounts of leave.

Employers may also wish to include clauses about other, non statutory types of leave such as **unpaid leave** and **compassionate leave**. Whilst these are not required by law, as a good employer you may care to allow some discretion in the use of leave to allow for employees personal circumstances.

**IMPORTANT NOTE TO EMPLOYERS:** The following text boxes provide example clauses that you can use as the basis for writing your own contracts. You can amend the clauses to suit your own situation. Please **do not** just paste any of these clauses into your employment contracts without carefully reviewing them to ensure they meet your needs.

These example clauses usually state the minimum amount of leave available under the law. As an employer you may wish to grant more generous provisions if you desire.

### **EXAMPLE: ANNUAL LEAVE FOR FULL TIME EMPLOYEES OR EMPLOYEES IN CONTINUOUS EMPLOYMENT**

1. The employee is entitled to 1.25 days of paid annual leave per month worked. The date for the annual leave to be taken shall be fixed by the employer, who shall in so far as it shall be practicable in the circumstances of the undertaking, comply with the employee's request in this respect.
2. Once an employee has been employed for *over* 6 years, he or she is entitled to 1.75 days of paid annual leave per month worked.
3. As the length of service increases further leave shall also increase in accordance with section 29 of the Employment Act [Cap 160] (Vanuatu).
4. Employee requests for periods of leave must be made 2 weeks in advance of the proposed date of leave in order to be considered.

**EXAMPLE: ANNUAL LEAVE AND SICK LEAVE FOR CASUAL/PART TIME WORKERS**

1. No paid sick leave or paid annual leave will be provided unless the employee works sufficient days to become 'in continuous employment' for the purposes of the Employment Act. This will require the employee to work for more than 22 days per month for the period of 1 year.
2. Should the employee work sufficient days to become 'in continuous employment' then annual leave will be granted at the rates set in the Employment Act.

**EXAMPLE: SICK LEAVE**

1. The employee is entitled to up to 21 days of paid sick leave per year. Sick leave will only be paid if:
  - a. The employee informs the employer that he or she is unable to work as soon as possible (**eg** within 8 hours of being absent due to sickness **or** by a certain time on the first day of absence, **or** other condition required by the employer - **employer to complete this section with conditions**); and
  - b. If the employee is sick for more than 2 days a medical certificate is provided
2. The employer may, at his own expense, cause an employee who is absent from work on the grounds of illness to be examined by a medical practitioner.

**EXAMPLE: MATERNITY LEAVE**

1. Maternity leave shall be provided in accordance with the Employment Act [Cap 160] and paid for a total period of 12 weeks at a rate of 66% of the employee's usual salary or wage.

**EXAMPLE: UNPAID LEAVE & UNAUTHORISED ABSENCES**

1. Any requests for unpaid leave can only be granted after discussion with and advance agreement of the employer.
2. Absences without advance agreement shall be considered unauthorised absences, and are disciplinary offences.

**EXAMPLE: COMPASSIONATE LEAVE**

1. On the occasion of death of his or her close relatives, a full time employee shall be entitled to compassionate leave on full pay for 2 days in the case of the death of a parent, child, brother or sister, and husband or wife.
2. The employee shall be entitled to take a further 10 working days of unpaid compassionate leave. This period may be extending with prior approval of the employer.