

ANNUAL LEAVE LAW, 5711-1951

CHAPTER ONE: PRELIMINARY

Interpretation.

1. In this Law -

"leave" means annual leave due to an employee under this Law;

"Inspector of Labour" means an Inspector within the meaning of the Department of Labour Ordinance, 1942;

"wage-worker" means an employee the remuneration for whose work is wholly or in part paid otherwise than on the basis of a month or a longer period;

"leave fund" means a leave fund established or approved by the Minister of Labour and Social Affairs under section 18;

"working year" means a period of twelve months beginning with the 1st of April of each year, from the 1st of April, 1951, onwards.

CHAPTER TWO: LEAVE

Right to leave.

2. Every employee is entitled to leave, which shall be given in accordance with the provision of this Law.

Duration of leave.

3. (a) The duration of the leave, in respect of a working year with the same employer or at the same place of employment shall be as follows:

(1) in respect of each of the first four years - 14 days;

(2) in respect of the fifth year - 16 days;

(3) in respect of the sixth year - 18 days;

(4) in respect of the seventh year - 21 days;

(5) in respect of the eighth year and onwards - one additional day per working year up to a period of leave of 28 days; but the Minister of Labour and Social Affairs may, by regulations, prescribe longer leave in the case of some particular employment if he deems it necessary for reasons connected with the employee's health or the circumstances of such employment.

The days of leave shall include not more than one weekly rest for seven days of leave.

(b) Where the legal bond between the employee and the employer exists throughout the working year, and the employee works during that year

(1) at least 200 days, the number of leave days shall be as specified in subsection (a);

(2) less than 200 days, the number of leave days shall bear to the number of days specified in subsection (a) the same proportion as the number of actual working days bears to 200; fractions of a leave day shall be disregarded.

(c) Where the legal bond between the employee and the employer exists during a part of the working year, and the employee works during that part of the year.

(1) at least 240 days, the number of leave days shall be as specified in subsection (a);

(2) less than 240 days, the number of leave days shall bear to the number of days specified in subsection (a) the same proportion as the number of actual working days bears to 240; fractions of a leave day shall be disregarded.

Temporary wage-worker.

4. (a) Section 3 shall not apply to a wage worker who does not work at least 75 consecutive days with the same employer or at the same place of employment either in one and the same working year or in two consecutive working years. Such a worker shall be paid a leave equivalent as specified in Chapter Three.

(b) For the purposes of section (a), working days shall be deemed to be consecutive even if there is a break in the work owing to

(1) reserve service under the Defence Service Law, 5709-1949; or

(2) the weekly day of rest, or a festival on which no work is done, whether by virtue of Law or by agreement or custom, or the First of May; or

- (3) leave under this Law or any paid or unpaid leave or vacation given to an employer by virtue of law or with the consent of the employer; or
- (4) a strike or lockout, or
- (5) an accident or illness; or
- (6) days of family mourning when the employee does not work in deference to religion or custom; or
- (7) an occasional break without interruption of the employee-employer relationship.
- (8) Training for labour service according to the Emergency Labour Service Law, 5727-1967.

Calculation of leave days.

5. (a) The following shall not be counted as leave days:
 - (1) days on which the employee is on reserve service under the Defence Service Law, 5709-1949;
 - (2) festive days on which no work is done, whether by virtue of law or by agreement or custom, not including the weekly days of rest;
 - (3) days of maternity leave;
 - (4) days on which the employee is incapacitated for work owing to an accident or illness;
 - (5) days of family mourning when the employee does not work in deference to religion or custom;
 - (6) days of a strike or lockout;
 - (7) days of notice of dismissal, except if an in so far as they exceed fourteen days.
- (b) Where days as specified in subsection (a) fall within a leave period, the leave shall be deemed to be interrupted for the duration of such days, and the deficiency shall as far as possible be made up within the same working year.

When leave shall be given.

6. Leave shall be given in the last month of the working year in respect of which it is given, or in the working year immediately following.

Accumulation of leave.

7. (a) Leave cannot be accumulated; provided that an employee may, with the consent of the employer, take a leave installment of at least seven days and add the balance to the leave given him in the following two working years.
- (b) The Minister of Labour and Social Affairs may, by regulations, prohibit the accumulation of leave where in his opinion the health of the employee or the circumstances under which the work is performed require that the whole period of leave be given each year.

Leave to be given at one time.

8. Leave shall be given at one time, provided that with the consent of the employee and the employer and with the approval of the local employees' committee, if any, it may be split up, but only so that one spell of leave is at least seven days.

Commencement of leave.

9. (a) The date of the commencement of leave shall be fixed at least fourteen days in advance, and as soon as it has been fixed, the employer shall enter it in a register kept in accordance with section 26, if he is under an obligation to keep such a register.
- (b) This section does not apply to spells of leave of less than seven days.

CHAPTER THREE: PAYMENTS

Leave pay.

10. (a) The employer shall pay to the employee, in respect of the days of leave, leave pay in an amount equal to the amount of his normal pay.
- (b) Normal pay, for the purposes of this section, shall be -
 - (1) in the case of an employee the remuneration for whose work is wholly or in part paid on the basis of a month or a longer period - the pay which the employee would receive, in respect of the period in question, if he had not gone on leave but had continued working;
 - (2) in the case of a wage worker - the average daily pay multiplied by the number of leave days; the average pay shall be the sum resulting from the division of the pay for the quarter

immediately preceding the leave, by ninety; where the said quarter includes months of less than full employment, the average daily pay may, at the worker's option, be calculated on the basis of the quarter of fullest employment within the twelve months immediately preceding the leave.

(c) Pay, for the purposes of subsection (b), shall be any remuneration, in money or money's worth, paid to the employee by the employer in respect of normal working hours unless otherwise provided in a collective agreement approved in that behalf by the Minister of Labour and Social Affairs, an amount paid to the employee to cover special expenses not arising during leave time shall not be considered as part of the pay.

When leave pay shall be paid.

11. Leave shall be paid not later than on the day on which the employee would receive his pay had he not gone on leave but had continued working; but if the employee goes on leave for not less than seven days and requests that the payment of leave pay be advanced, it shall be paid not later than two days before the commencement of the leave.

Loss of right to leave pay.

12. An employee shall not be gainfully employed during his leave and if he performs regular paid work during that period, he shall lose his right to leave pay; if it has already been paid, the employer may deduct an identical amount from the employee's pay or collect it in any manner in which a civil debt may be collected.

Leave compensation.

13. If an employee's employment ceases before he has received the leave due to him up to the day of cessation of his employment, the employer shall pay him leave compensation of an amount equal to the amount of leave pay which would be payable to him had he gone on leave on the day of cessation of his employment.

Calculation of normal pay, and disputes concerning payments.

14. (a) The Minister of Labour and Social Affairs may, by regulations, issue supplementary directions as to the calculation of normal pay for the purposes of section 10.
- (b) In the event of a dispute as to the mode of calculating leave pay or leave compensation, or in connection with section 12, a Regional Court, within the meaning of the Labour Courts Law, 5729-1969, shall decide the matter.

Payment of leave equivalent.

15. (a) Where a wage-worker works with the same employer or at the same place of employment not less than one day but less than 75 consecutive days as specified in section 4, either in the same working year or in two consecutive working years, and there is no written contract of employment between them for a consecutive period exceeding 74 days, the employer shall pay in respect of such worker a leave equivalent of at least four per cent of the amount of his pay.
- (b) The leave equivalent shall be paid into the leave fund of the industry in which the worker is employed or in such other manner as may be prescribed by regulations.

(c) Where any leave equivalent is payable into a leave fund, the employer shall pay it at the beginning of the month following the working month, in accordance with the wage payable in the preceding month to workers as referred to in subsection (a). If the worker continues to work with the same employer or at the same place of employment beyond 74 consecutive days, the employer shall pay him leave pay or leave compensation, as the case may be, and the leave fund shall refund to the employer, on his application, the amounts he has transferred to it in respect of that worker. The Minister of Labour and Social Affairs may prescribe, by regulations, the times and procedure for the refund of the amounts by the leave fund.

(d) A leave equivalent paid into the leave fund shall be paid out to the worker in accordance with the provisions of the fund's statute, and a leave equivalent paid in any other manner shall be paid out to him in a manner to be prescribed by regulations.

(e) The leave fund may - with the consent of the workers, given by collective agreement, contract of employment or in such other manner as shall be prescribed - come to an agreement with the employer concerning the payment of leave pay into the fund in respect also of workers who have worked with him more than 75 days.

Right to claim leave equivalent.

16. A leave equivalent payable by an employer shall be deemed to be a debt due from him to the leave fund or to the person to whom it is payable under regulations.

How payments shall be dealt with.

17. Leave pay, leave compensation and leave equivalents shall for all intents and purposes be dealt with like pay.

CHAPTER FOUR: LEAVE FUNDS

Establishment and approval.

18. (a) The Minister of Labour and Social Affairs may establish a leave fund, and he also may, on such conditions as he may think fit, approve a leave fund if he is satisfied that it offers sufficient guarantee for the efficient use, for purposes of recreation and recuperation, of the leave equivalents paid into it.

(b) The Minister of Labour and Social Affairs shall not establish or approve more than one leave fund for each industry.

(c) A leave fund shall be managed by the employees as may be prescribed by regulations.

Control.

19. A leave fund shall be under the control of the Minister of Labour and Social Affairs as may be determined by regulations.

Corporate body.

20. A leave fund shall be a corporate body and shall be competent to enter into contracts and to be a party in any legal or other proceeding.

Statute.

21. The Minister of Labour and Social Affairs shall draw up a model statute for leave funds, and such statute, with such modifications as may be approved by him, shall be the statute of each fund, and each fund shall operate in accordance with it; the model statute shall be published in *Reshumot*.

Modes of operation.

22. The Minister of Labour and Social Affairs may, by regulations, issue directions as to the manner of establishing a leave fund, its mode of operation and the keeping of its accounts, the submission and publication of reports, the methods of control, the manner of investing moneys and the use of balances for purposes of recreation and recuperation, and also as to the establishment, composition and procedure of supervisory boards.

Withdrawal of approval and winding-up.

23. (a) The Minister of Labour and Social Affairs may withdraw his approval of a leave fund, or wind up a leave fund established by him, if -
- (1) if does not fulfill the conditions attached to its approval; or
 - (2) it does not comply with regulations made under this Law; or
 - (3) the withdrawal of approval or winding-up is, in the opinion of the Minister of Labour and Social Affairs, desirable in the interest of the persons to whom the leave equivalents are payable.
- (b) Where Minister of Labour and Social Affairs withdraws his approval of, or winds up a leave fund, he shall notify, by order, to whom the moneys of the fund shall pass and on what conditions. Upon such an order being given, the moneys of the fund shall be vested in the person to whom they are to pass according to the order, and nobody else shall have control thereof.

Publication of notices.

24. Notice of the establishment or approval, and also of the winding-up or withdrawal of approval, of a leave fund shall be published in *Reshumot*.

Registrar of Leave Funds.

25. (a) The Minister of Labour and Social Affairs shall appoint a person to be a Registrar of Leave Funds; notice of the appointment shall be published in *Reshumot*.
- (b) The Minister of Labour and Social Affairs may delegate to the Registrar of Leave Funds his powers under this Chapter, except the power to make regulations and the power to wind up or withdraw the approval of a leave fund; notice of such a delegation of powers shall be published in *Reshumot*.

CHAPTER FIVE: IMPLEMENTATION AND PENALTIES**Leave register.**

26. (a) An employer shall keep a leave register, in which particulars to be prescribed by regulations shall be entered in respect of each employee.
- (b) The Minister of Labour and Social Affairs shall, by notice published in *Reshumot*, determine the categories of employees to whom this section shall apply.
- (c) In a notice under subsection (b), the Minister of Labour and Social Affairs may prescribe that the leave register shall form part of another register which the employer is bound to keep under a law with whose implementation the Minister of Labour and Social Affairs is charged.

Powers of Inspector of Labour.

27. (a) An Inspector of Labour, in relation to any place in which he has reason to believe that a person is employed, shall have all the powers of an Inspector under sections 10(1) of the Department of Labour Ordinance, 1943.
- (b) An Inspector of Labour may, in any matter relating to this Law, examine any person being in a place visited by such Inspector in virtue of his powers under subsection (a); but no person shall

be required to give an answer or evidence calculated to incriminate him. An Inspector of Labour may prepare a record of the answers and statements of the person examined.

(c) A record prepared in accordance with subsection (b) shall have the effect of a statement prepared in accordance with section 2 of the Criminal Procedure (Evidence) Ordinance, and section 3 and 4 of that Ordinance shall apply thereto.

Offences and penalties.

28. (a) An employer who -

- (1) fails to give an employee leave in accordance with this Law; or
- (2) fails, without sufficient excuse, to pay within a reasonable time an leave pay, leave compensation or leave equivalent under this Law shall be guilty of an offence and shall be liable to a fine not exceeding nine thousand, six hundred new Shekalim in respect of each employee in relation to whom the offence is committed.

(b) A person who -

- (1) obstructs an Inspector of Labour in the exercise of his powers; or
- (2) refuses to answer a question of Inspector of Labour which he is under a duty to answer; or
- (3) fails to keep a register in accordance with section 26;
- (4) fails to enter in a leave register particulars required to be entered therein or enters in a leave register false or incomplete particulars; or
- (5) contravenes regulations made by the Minister of Labour and Social Affairs under this Law shall be guilty of an offence and shall be liable to a fine not exceeding nine thousand, six hundred new Shekalim.

Responsibility of directors and managers.

29. Where a company, cooperative society or other body of persons fails to give an employee leave in accordance with Law or fails, without sufficient excuse, to pay within a reasonable time any leave pay, leave compensation or leave equivalent, every director, manager or official of such body shall be deemed to be likewise guilty of the offence and may be prosecuted and punished as if he had committed it, unless he proves -

- (a) that the offence was committed without his knowledge; or
- (b) that he took all appropriate steps to ensure compliance with the provisions of this Law in connection with the offence in question.

Order to pay.

30. (a) In the trial of a person for an offence under section 28(a), the employee may plead and examine witnesses, and the Court or Labour Court may, upon the application of the employee, order the accused to pay to the employee an amount equal to the amount of leave pay which would have been payable to him had the leave been given at the end of the working year immediately following the working year in respect of which the leave was due.

(b) In the trial of a person for an offence under section 28(a)(2), the employee or the person to whom the leave equivalent is payable, as the case may be, may plead and examine witnesses, and the Court or Labour Court may, upon the application of the employee or of the person to whom the leave equivalent is payable, order the accused to pay the leave pay, leave compensation or leave equivalent which, being liable therefore, he has failed to pay.

(c) A decision of the Court or Labour Court ordering the accused to pay as specified in subsection (a) or (b) shall, in all matters relating to execution, have the effect of a final judgment of a competent court in favour of the employee or the person to whom the leave equivalent is payable, as the case may be.

Prescription.

31. The period of prescription for any action under this Law, whether civil or criminal, is three years.

Leave at a time of emergency.

32. In a period when a state of emergency exists in the State in virtue of a declaration under section 9(a) of the Law and Administration Ordinance, 5708-1948, or at a time when in the opinion of the Minister of Labour and Social Affairs the exigencies of supply in the State necessitate it, the Minister of Labour and Social Affairs may, by general or specific order, postpone the time of leave in respect of all, or a particular category of, employees; in the Minister of Labour and Social Affairs makes an order as aforesaid, he shall prescribe the time within which the leave shall be given or the manner in which the employees shall be compensated for the leave.

State employees.

33. For the purposes of this Law, a State employee shall be treated like any other employee.

Workers' contracting group.

34. In the case of a workers' contracting group, whether or not it be a corporate body, each of the members of the group shall be deemed to be an employee of the person who has entrusted any work to the group, provided he would be so deemed if a direct link existed between him and that person, and each of such members shall be deemed to be a wage-worker who has worked less than 75 consecutive days and in respect of whom a leave equivalent is payable under section 15.

Inapplicability.

35. (a) This Law shall not apply to -

- (1) an agricultural worker who receives the entire remuneration for his work in the form of a share of the produce or in services or money's worth;
- (2) repealed.
- (3) a person employed in casual employment otherwise than for the purposes of the employer's business or trade.

(b) The Minister of Labour and Social Affairs may make regulations specifying what shall be casual employment for the purposes of subsection (a)(3).

Implementation and regulations.

36. The Minister of Labour and Social Affairs is charged with the implementation of this Law and may make regulations as to any matters relating to its implementation.

Duty to Consult.

37. The Minister of Labour and Social Affairs shall not make regulations, except regulations under section 26(a), and shall not exercise his powers under section 18(a), 21, 23(a), 26(b), or 32, save after consultation with the national employees' organisation representing the greatest number of employees and with national employers' organisations which in the opinion of the Minister of Labour and Social Affairs are representative and are concerned in the matter.

Saving of rights.

38. This Law shall not derogate from any right granted to an employee under any law, collective agreement or work contract, or by custom.

Commencement.

39. This Law shall come into force on the 1st of Tishri, 5712, October 1, 1951.