

# Employee Leave Entitlements<sup>1</sup>



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## Overview

The relationship between a worker and employer is founded on reciprocal obligations. On the one hand the worker undertakes to carry out certain work for the employer under the employer's management and supervision, and on the other hand, the employee will be paid a wage for the availability of his or her labour. From this relationship, several rights and duties arise, including the right and duty concerning leave(s).

"Leave" is the interruption of work by the worker within the permissible limits in accordance with the labour law in force. Normally, a worker must allocate his or her time and effort to performing work duties, and shall not cease unless the worker obtains leave in advance or unless the worker is in a situation that allows him or her to be absent.

This Practice Note sets out the several reasons that allow a worker to obtain employee leave under the Qatar Labour Law.

## Definitions

- **Employer:** Every physical or legal person who employs one or more workers for a wage.
- **Worker:** Every physical person who works for an employer in exchange for a wage, under the management or supervision of the employer.
- **Work:** Every human, intellectual, artistic or technical effort made in exchange for a wage.
- **Leave:** Interruption of work by the worker within the permissible limits in accordance with the labour law in force with the employer.
- **Licensed Physician:** A person who has obtained a licence to practise the profession of medicine in the State of Qatar.

1. This Practice Note is part of a wider collection that covers 16 Practices Areas across the six GCC countries and published on Lexis Middle East Law ([www.lexismiddleeast.com](http://www.lexismiddleeast.com)).

## Practical Guidance

The Qatari legislator has dealt with the issue of the leave, numbering the reasons for it, establishing its duration, and the means of obtaining it under Qatar Law No. 14/2004 on the Promulgation of the Labour Law (the "Labour Law").

There are several reasons that justify leave of a worker:

- annual leave;
- maternity leave;
- sick leave; and
- special unpaid leave (pilgrimage leave).

### Annual leave

Under article 78 of the Labour Law, a worker is entitled annually to fully paid leave of:

- three working days for Eid al-Fitr;
- three working days for Eid Al-Adha;
- one working day on the Independence Day (18 December); and
- three working days to be specified by the employer.

Leave is calculated in working days, so rest days or days off are not taken into account. For instance, if the first day of Eid Al-Fitr or Eid Al-Adha starts on Thursday, then the leave will be Thursday, Saturday, and Sunday. If Friday and Saturday are considered rest days and the working hours are distributed in five days per week, then the leave will be Thursday, Sunday, and Monday.

If Independence Day leave falls during Eid Al-Fitr or Eid Al-Adha, then that day will not be calculated within the three working days the legislator has decided to consider days of leave in each Eid.

The legislator has not determined the number of leave days that must fall inside each Eid and they have not required it to be the first, second, and third days of Eid, so the three days' leave may be on the eve, first and second days of Eid.

A worker also has the right to paid leave on the Independence Day of Qatar, celebrated annually on 18 December. If Independence Day falls on a non-work day, then the worker will be entitled to a day instead of it, since the Labour Law provides for a "working day" (Labour Law, art. 78, n° 3).

Besides the aforementioned days, it should also be noted that a worker is entitled to three paid working-days' leave to be determined by the employer, i.e., the role of employer is confined to define the dates of these three days, and an employer may designate the same dates for all workers or different dates for each worker.

The wage which the worker is entitled during leave mentioned in article 78 is not the basic wage, but instead the wage as defined in article 1, n°11, of the Labour Law, which is: "*The basic wage plus all*

*bonuses, allowances and commissions paid to the worker for the work carried out by him, of whatever type and method of calculation."*

Workers also have right to another one-day paid leave on the occasion of the National Sports Day held annually on the second Tuesday of February (Emiri Resolution No. 80/2011).

### **Annual Leave for Workers with More than One Year of Service with the Employer**

Along with leave days described above, workers who have completed more than one year of service with their employer are entitled to an annual leave (Labour Law, art. 79).

Under article 79 of the Labour Law, a worker who has completed one continuous year in the service to his or her employer is entitled to annual leave. The expression "one continuous year" means 365 days and not twelve months (Labour Law, art. 8), which means that a worker is not entitled to the annual leave if he or she has not completed 365 days in service.

The minimum annual leave is three weeks for those workers who have exceeded one continuous year but less than five years of service, whereas, the minimum annual leave for those workers who have completed five years or more of service is four weeks.

The wage to which the worker is entitled during annual leave is the basic wage as set forth in article 1, n° 10 of the Labour Law, which is: *"the average amount paid to the worker for the work carried out by him during a specified period of time or by piece or production, including the annual increment alone"*. (Labour Law, art. 72 and 79)

The Labour Law defines the minimum limit of workers' rights (Labour Law, art. 4) so you are allowed to agree on more than the minimum annual leave described above.

The Employer, according to work requirements, is responsible for the definition of the dates during which workers may enjoy their annual leave. With the consent of the worker, the employer may divide the leave into no more than two periods. If the worker makes a written request, the employer may postpone up to half of the annual leave to the following year (Labour Law, art. 80).

Article 81 of the Labour Law provides that *"The worker may not waive his entitlement to the annual leave and any agreement to the contrary shall be void"*. The expression *"his entitlement"* in this context means the minimum annual leave under the law. Any period of leave exceeding this minimum (for instance, the worker agrees in the employment contract to have six weeks of annual leave per year) may be waived.

If the employment contract is terminated for any reason, the worker is entitled to compensation that equals the worker's wage during the annual leave days to which the worker is entitled at that moment. This payment is to be calculated according to the basic wage at date of termination of the employment agreement.

### **Maternity Leave**

Article 96 of the Labour Law states the conditions of entitlement to maternity leave, conceding that right only to women with more than one year service with the employer.

Maternity leave is to be fully paid and to have a duration of 50 days. The leave covers both pre- and post-delivery period, but the post-partum period may not be less than 35 days. However, if the remaining period of leave after delivery is less than 30 days, the worker may be granted a complementary leave to be deducted from her annual leave. Otherwise, the complementary leave will be unpaid (Labour Law, art. 96).

Maternity leave is to be granted pursuant to a medical certificate stating the likely date of delivering, issued by licensed physician (Labour Law, art. 96).

Where the health condition of the woman prevents her from returning to work after the end of maternity leave, she will be considered on unpaid leave, provided that this period of work suspension does not exceed 60 continuous or intermittent days. To prove her health condition, it is necessary to present a medical certificate completed by a licensed physician.

A woman who has obtained maternity leave does not lose her rights to any other types of leave (Labour Law, art. 96).

An employer does not have the right to terminate the employment contract of a worker because of her request to take maternity leave. Furthermore, an employer may not notify a woman during her maternity leave of the termination of her employment contract or send her a notice that expires during this leave (Labour Law, art. 98).

### **Sick Leave**

Under article 82 of the Labour Law, a worker has the right to paid sick leave for every year of service. This leave is only be granted three months after joining the employer for the first time, provided that the worker is able to provide a certificate from a physician approved by the employer.

A worker shall receive his or her full wage where sick leave period does not exceed two weeks. If sick leave extends for up to another four weeks, the worker will receive half his or her wage. Any extension to the leave period thereafter will be unpaid, until the worker resumes work or resigns, or until employment is terminated for health reasons.

A worker's must may be terminated at the end of the 12th week of sick leave if it is proved, by a report issued by a competent physician, that the worker is unable to resume work at that time.

If a worker resigns because of illness with the certification of a competent physician before the end of the six-week period during which the worker is entitled to obtain as paid sick leave, the employer must pay the remaining amount of the worker's entitlements. This rule also applies in the case of death due to illness before the end of the six-week period of paid sick leave.

Sick leave of a worker for a period of twelve weeks will not be considered as an interruption of continuous service for the purpose of calculating end-of-service gratuity.

The sick leave wage is the basic wage at date of maturity. For example, if the first two weeks of the sick leave fall in 2012, and the next four weeks extend to 2013, then the worker will be entitled to his full basic wage in 2012 for the first and the second weeks and the worker is entitled to the half of basic wage in 2013 for the following four weeks.

### **Pilgrimage Leave**

Under Article 83 of the Labour Law: *"The Muslim worker shall be granted a special unpaid leave of not more than twenty days to perform the Hajj for once during his period of service. The employer shall specify the number of workers who are granted this leave per year according to the work requirements, taking into account the priority given to the worker who has spent the longest period in service."*

The first aspect to highlight is that this text uses a different expression from the one used in the articles about other types of leaves (Labour Law, articles 78, 79 and 82), where the text of each article starts by the expression *"is entitled"*, and this article starts by the

expression "*is granted*". The legislator has changed the expression "*is entitled*" to "*is granted*" in order to give the employer the discretionary power to grant or reject this leave, because it is a grant, not a right.

This leave is granted only once during the service of the worker, whether with the current employer or otherwise, since the legislator employed the expression "*during the period of service*", an absolute expression without specification, and the text does not say "during his service with the employer". This means that if the worker starts working with another employer and the employer discovers that the worker has been granted a leave to perform Hajj by another employer, then the current employer may reject granting such leave to the worker, since it is given once throughout the service period.

This leave is only granted to Muslims and the worker is not to be paid by the employer during this period of leave.

An employer is allowed to specify the number of workers who may be granted such leave annually to avoid disturbance of work, but priority must be given to workers who have been in continuous service for a longer period (Labour Law, art. 83)

The interpretation of this article is complex because the legislator does not determine the meaning of "*has been in continuous service for a longer period*". Does this include the period with only the most recent employer or does it include periods of service with different employers? Considering that this leave is granted only once during the service of the worker, the best interpretation of this article is the one that considers the service period with all employers. Also, this interpretation would tend to give priority to older workers, since the chances of performance of Hajj will decrease as a worker gets older.

#### General Principles to be Respected in All Types of Leaves

A worker is not allowed to work for another employer during any of period of leave, and if there is evidence that the worker has violated this prohibition, the employer has the right to deprive the worker of wages for the leave period and recover any amount of wages paid during leave (Labour Law, art. 84)

The employer may not terminate the employment contract or notify the worker of its termination during leave (Labour Law, art. 85) and also it is forbidden to notify the worker of the termination of the contract if the notice period terminates during any of the workers leaves.

### Related Content

- Qatar Law No. 14/2004 on the Promulgation of the Labour Law.
- Qatar Emiri Resolution No. 80/2011, on the National Sports Day.

### BIOGRAPHY

**ESSA AL SULAITI** is a practising Attorney and Arbitrator in the State of Qatar. Essa has written a book which guides employers and employees in identifying their rights and responsibilities within an employment contract.

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