

L.N. 432 of 2007

**EMPLOYMENT AND INDUSTRIAL RELATIONS ACT
(CAP. 452)**

Minimum Special Leave Entitlement Regulations, 2007

IN exercise of the powers conferred by article 48 of the Employment and Industrial Relations Act, the Minister for Education, Youth and Employment has made the following regulations:-

1. (1) The title of these regulations is the Minimum Special Leave Entitlement Regulations, 2007. Title and scope.

(2) These regulations lay down the minimum entitlements to sick leave, birth leave, bereavement leave, marriage leave, injury leave and leave for jury service and these shall apply to whole-time employees.

(3) These regulations shall be applicable without prejudice to the introduction and, or implementation of provisions in other legislation under the Act, collective agreements or any other agreement entered into between employers and employees, which are more favourable to the workers.

(4) Nothing in these regulations shall be construed as reducing any entitlement enjoyed by any employee on the date of publication of these regulations in terms of any recognised conditions of employment or under an existing contract of employment.

(5) These regulations shall come into force on the 1st January 2008.

2. (1) For the purposes of these regulations:

Definitions.

“the Act” means the Employment and Industrial Relations Act;

“bereavement leave” means leave to be granted to the employee without loss of wages on the occasion of the death of the spouse, parent, son, daughter, brother or sister of the employee, and includes a person who has, or in the past had, legal custody of the employee, or a person who is in the legal custody of the employee;

“birth leave” means leave without loss of wages granted to a father on the occasion of the birth of his child;

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“injury leave” means leave on full wages, less the full amount of any injury benefit to which the employee may be entitled under the Social Security Act, if the employee suffers personal injury caused by accident arising out of and in the course of his employment, or by any of the diseases specified in the first column of the Fourth Schedule to the Social Security Act (being a disease due to the nature of his work) not due to any contributory negligence on his part or to any contravention of safety rules laid down by the management;

“jury service leave” means leave to be granted without loss of wages to an employee who is called to serve as a juror, to enable him to attend to his duties at the Courts;

“marriage leave” means leave to be granted without loss of wages to an employee on the occasion of his or her marriage;

“sick leave” means leave granted to the employee whenever an employee presents a medical certificate certifying incapacity for work.

(2) Subject to the provisions of sub-regulation (1) of this regulation, terms and expressions used in these regulations shall, unless the context otherwise requires, have the meaning assigned to them in the Act.

Sick leave.

3. (1) An employee whose entitlements are not covered by a Wages Council Wage Regulation Order, shall on employment, be entitled to sick leave, of at least the equivalent in hours, calculated as provided for in regulation 3(3), of two working weeks sick leave in every calendar year without loss of wages, less any sickness benefit to which he may be entitled to under the Social Security Act.

(2) Unless otherwise provided in an applicable collective agreement, an employee who has been absent from work on sick leave shall present a medical certificate issued by a registered medical practitioner attesting to the employee’s incapacity for work during any such period of absence. Such medical certificate shall be presented to the employer on the day of return to work or, if such period of absence is longer than seven days, within seven days of the onset of sick leave absence. The employer shall have the right, if he deems fit, to send a medical practitioner to visit and examine an employee who is on sick leave.

(3) The sick leave entitlement shall be calculated on the basis provided for annual leave as specified in regulation 8(1) of the Organisation of Working Time Regulations, 2003.

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(4) Notwithstanding sub-regulation (1) of this regulation, when an employee is in employment for less than twelve months, the employee shall only be entitled to sick leave as is in proportion to the period in employment.

4. (1) Every employee shall on employment, be entitled to be granted by his employer: Other leave.

- (a) one working day of bereavement leave;
- (b) one working day of birth leave;
- (c) two working days marriage leave;
- (d) up to one year of injury leave;
- (e) jury service leave for as long as necessary:

Provided, that these specific leave entitlements shall only apply in the case of an employee who is not covered by an applicable Wages Council Wage Regulation Order.

(2) An employer shall be entitled to request documentation from an employee:

- (a) showing when the events referred to in paragraphs (c) and (e) in the previous sub-regulation are scheduled to occur;
- (b) showing that the event referred to in paragraph (d) in the previous sub-regulation has actually occurred; and
- (c) on return to work, showing that the events referred to in paragraphs (a),(b),(c) and (e) in the previous sub-regulation have actually taken place.

(3) The entitlement to bereavement leave, birth leave and marriage leave shall be availed of on the next working day after the occurrence of the relevant event, unless otherwise requested by the employee, who may request a postponement of up to two weeks after the event in compelling circumstances linked to the same event. In such cases the employer shall grant the employee the postponement as requested.

Offences.

5. Any person who contravenes or fails to comply with any provision of these Regulations shall be guilty of an offence against the Act and shall, on conviction, be liable to a minimum fine (*multa*) of Lm200.