

3. Vacation and Public Holidays

VACATION REGULATION 1949

1. To whom does the Vacation Regulation 1949 apply?

The Vacation Regulation 1949 (P.B. 1949, no. 17) applies to all employees who are working on the basis of a working agreement. A working agreement can be entered into both verbally or in writing.

Not everybody can be considered to be an employee; like sailors, home workers and live-in children of the employer, for whom they work.

Mind you!: domestic workers do fall under this Regulation.

2. To how many vacation days is the employee entitled?

For each year, you have been working consecutively with the same employer, you are entitled to a vacation of at least three times the contracted number of workdays per week with pay.

For example:

- An employee who works two days per week is entitled to three times two (= the number of workdays per week) = six vacation days with pay in a year;
- An employee who works three days per week is entitled to three times three = nine vacation days with pay in a year;
- An employee who works five days per week is entitled to three times five = fifteen vacation days with pay in a year.

However, in case you work six days per week, you are entitled to at least fifteen vacation days.

Mind you!: more vacation days can always be agreed upon between employer and employee!.

3. How is the vacation given?

It is preferred that an employee takes their vacation consecutively. On the employees request or when the activities so demand, the vacation can be divided. However, at least half the vacation has to be given consecutively. The decision regarding the moment on

which the vacation will begin, occurs after consultation between the parties concerned, but the final decision lies with the employer.

4. When can the employer delay or revoke the vacation?

The employer can, on your request or due to reasons related to the company's interests, delay the date of the vacation or revoke the already started vacation. If an employer revokes your already started vacation due to reasons related to the interests of the company, he will have to compensate for travel- and hotel expenses you may have suffered due to the delay of the vacation.

If at the beginning of your vacation you are unfit to work, thus meeting the criteria stipulated in the Accident Insurance Ordinance (P.B. 1966, no. 14) or become ill during your vacation, the vacation or the part that was not enjoyed, will be considered as revoked.

5. When do you lose your right to vacation?

The right to vacation earned from the previous year becomes lost, if you have not been to work during that year:

- a. due to sickness or accident, in total for at least six months;
- b. due to the compliance with legal obligations, in total at least six weeks.

6. What happens to the vacation days that were not taken?

Vacation days to which one is entitled, but have not taken can be combined to a maximum of six times the stipulated number of workdays per week. Vacation days above this maximum will be lost.

The employer is obligated to allow the requested, combined, maximum vacation days to be taken within three months after the request, even though you are obligated to take this vacation, whether asked or unasked by the employer.

For companies, where work is done continuously, a period of six months apply.

The joint maximum vacation will be given consecutively and cannot be delayed or revoked, except when at the beginning of your vacation you are inapt to work or at that moment or during your vacation you are sick or you get sick.

7. What happens to the vacation days which have not been taken at the termination of the service?

At the termination of the working relationship all vacation days, which have not been taken, will be paid according to their value in money. When calculating the number of vacation days a part of a day will be calculated as a whole day

The wage per day will be calculated as follows:

For the employee who has a five-day workweek:

the hourly wage agreed upon between the employer and employee, multiplied by the average number of working hours per week of the employee in question, divided by 5; or the weekly wage divided by 5; or

the monthly wage multiplied by 3, divided by 65

For the employee who has a six-day workweek:

the hourly wage agreed upon between the employer and employee, multiplied by the average number of working hours per week of the employee in question, divided by 6; or the weekly wage divided by 6; or

the monthly wage multiplied by 3, divided by 78.

EXAMPLE

An employee works five days per week. He gets Nafl. 1.000,- per month. His day's wage with a five day's workweek is (monthly wage x 3) divided by 65 = (Nafl. 1.000,- x 3) divided by 65 = Nafl. 46,15.

The employee is entitled to (5x3=) 15 vacation days per year.

Imagine: at the termination of his working relationship he still has 7,5 vacation days left.

The employer will have to pay the following amount to the employee at the termination of the working relationship:

7 times Nafl. 46,15 = Nafl. 323,05

half a day is calculated as a whole day

Nafl. 46,15 +

Nafl. 369,20

PUBLIC HOLIDAYS

- New Year's day;
- The day of 'big' Carnival parade and the day before;
- Good Friday;
- Easter Sunday and Monday;
- Ascension Day;
- Whitsunday;
- The Queen's birthday;
- 15th of December (Kingdom Day);
- Christmas and Boxing Day;
- St. Maarten's Day 11/11
- Labour Day

(see: p.b. 2000 no. 67).

Mind you!: public holidays are not considered as vacation and are therefore extra free days for the employee