The Holiday With Pay Act

* Under the Holidays With Pay Order, 1973 there are four (4) categories of paid benefits/entitlements.

These are:

1. Holidays With Pay (Vacation Leave)
2. Sick Leave With Pay
3. Gratuity
4. Sick Benefit

Who is entitled to Holidays With Pay

* Any worker, other than a casual worker, who has worked for an employer for a period not less than 110 days in each year of employment.

How much VACATION LEAVE should be granted

* A worker who has worked more than 220 days in any year of employment, is entitled to two (2) normal working weeks of vacation leave for that year; or

* A worker who has worked a minimum of 110 days but less than 220 days in any year of employment, is entitled to one day vacation leave for every 22 days on which he/she has worked.

* A worker with ten (10) or more years of service, who has worked at least 220 days in any year of employment, is entitled to three (3) normal working weeks of vacation leave for that year.

When should VACATION LEAVE be granted

Vacation Leave earned in any year of employment:

* shall be granted by the employer during the following year of employment; or

* may, by agreement between the worker and employer, be granted in the year in which it was earned; or

* may be carried forward and added to vacation leave earned in two (2) succeeding years of employment in accordance with the provisions of an agreement with the employee or his trade union, and employer or the organization representing the employer for the accumulation of vacation leave for a maximum of three consecutive years.

How VACATION LEAVE is to be granted

* The days of vacation leave should be consecutive working days on which the employee would normally be called upon to work for his/her employer;

* Vacation leave may also be granted in two periods of consecutive working days;

* Sunday, Good Friday, Christmas Day and a general public holiday cannot be counted in any days of vacation leave;

* Vacation leave cannot be granted during a period of notice given by the employer to end employment.

Minimum VACATION LEAVE or SICK LEAVE remuneration

* Workers employed at time rates are entitled to be paid a sum equal to the normal weekly or daily wages earned by him/her in the last normal working week before the vacation leave period or sick leave.
* In respect of each day of vacation or sick leave, a worker employed on piece/task rate or on a commission basis is entitled to 1/65th of the total normal wages earned by him in the last thirteen (13) weeks (not necessarily consecutive) before the vacation leave or period of sick leave.

When is VACATION LEAVE REMUNERATION to be paid

These payments are to be made to the worker by the employer for the whole period of the vacation leave and before the start of this leave.

Who is entitled to SICK LEAVE With Pay

* Any worker, other than a casual worker, who becomes ill:
  (a) after twelve (12) months of employment is entitled to two (2) weeks sick leave with pay for each twelve (12) month period of employment;
  (b) during the first twelve (12) months of employment and has worked not less than 110 days may be granted sick leave with pay at a rate of 1 sick day for every 22 days on which he/she worked.

Who is NOT entitled to SICK LEAVE With Pay or SICK BENEFIT

* A worker who fails to notify his/her employer of his/her illness during the first working day after its occurrence; and

* A worker who fails to give his/her employer a certificate from a registered medical practitioner after being absent from work for more than three days. The certificate should state the period during which the employee is unable to work;

* A worker who fails to comply with sick leave provisions as agreed between him/herself or his/her trade union, and his/her employer or the organization representing the employer.

Minimum SICK LEAVE With Pay remuneration

The payment method used for holidays with pay should be used for sick leave.

Who is entitled to GRATUITY

* Any casual worker who, during each year of employment:
  (a) has worked 110 days or more for his employer;
  (b) where (a) cannot be determined, has earned as normal wages, a sum equivalent to 110 times the established daily rate for the category of work to which he/she is employed;
  (c) where (a) and (b) cannot be determined, his/her name appears on the pay bills of the employer for a period not less than twenty (20) weeks.

How much GRATUITY is payable

* In a case where gratuity is being granted to a casual worker, he/she is entitled to a sum equivalent to 3% of the wages during the year for which the gratuity is being paid.

When is GRATUITY payable

* Any casual worker entitled to gratuity payment may be paid at or before the end of the year of employment in which the gratuity was earned.

Who is entitled to SICK BENEFIT

* Any casual worker that becomes ill during the first year of employment;
  (a) after working more than 110 days for his/her employer;
  (b) where the days cannot be ascertained, earned as normal wages a sum 110 times the established daily rate for the category of work to which he/she is employed; OR
  (c) whose name appears on the pay bills of the employer for a period not less than twenty (20) weeks.

* Any casual worker who becomes ill in the 2nd or any subsequent year of employment.

How Much SICK BENEFIT is allowable

* If a casual worker becomes ill for a period of more than 10 days during his/her qualifying year, he/she is entitled to be paid a minimum of the first ten (10) days of the illness.

Minimum SICK BENEFIT Payable

* For each day of illness, a casual worker entitled to sick benefit should be paid a sum which is at least 1/10th of 3% of his earnings:
  (a) from the beginning of the qualifying year to the day preceding the illness, in the case of the first illness;
  (b) from the day of resumption of work after the last illness to the day immediately before the latest illness.

BENEFITS payable on TERMINATION OF EMPLOYMENT

When an employer ends a worker's employment he/she is entitled to:
  (a) a sum equal to holiday with pay which has been earned but not taken; or
  (b) gratuity which was earned but not received by the worker before his/her termination.

N.B. If the ownership of a business is transferred and an individual's employment has ended no more than two (2) weeks before the transfer, the new owner is responsible for payments with respect to outstanding holidays/vacation leave

CONTINUITY OF EMPLOYMENT

* Where a worker continues to be employed in an organization immediately after its transfer to another employer, his period of employment is unbroken.

* The employer to whom the undertaking is transferred is liable for any holiday with pay, sick leave with pay, gratuity or sick benefit earned by the worker before the transfer but not granted.

Offences

* Any employer or his agent is guilty of an offence against the ACT and is liable to conviction if he/she:
  (a) fails to grant any holiday with pay, sick leave with pay, gratuity or sick benefit to which the worker is entitled;
  (b) fails to keep records in accordance with the ACT or knowingly enters or causes false or incorrect information to be entered;
  (c) seeks to influence a worker to contract himself/herself outside of the provisions of this ACT.

The agent can be proceeded against in the same manner as the employer at the same time, before or after the conviction of the employer.

GENERAL

The Holidays With Pay Order, 1973 only makes provision for minimum benefits. A worker may be granted benefits in excess of those stated in the ACT.