

## **SICK PAY LAW, 5736-1976**

### **Definitions.**

1. In this Law -

“Collective agreement” means a collective agreement as defined in section 1 of the Collective Agreement Law, 5717-1957, whether or not it was made and submitted for registration under the said Law, and any other collective arrangement, and includes an extension order under the said Law;

“worker” means an employed person in respect of whom the matter of a payment for a period of sickness is not regulated by a collective agreement;

“salaried worker” means a worker the remuneration for whose work is mainly payable on the basis of a month or a longer period;

“wage-worker” means a worker other than a salaried worker;

“sickness” means the temporary or permanent incapacity of a worker to carry out his work, arising, according to medical findings, out of ill-health;

“benefit fund” has the meaning assigned to this term in section 47 of the Income Tax Ordinance.

### **Right to sick pay.**

2. (a) A worker absent from work in consequence of sickness shall, subject to the maximum period of entitlement under section 4, be entitled to receive from his employer -

(1) from the fourth day of his absence as aforesaid, a payment under this Law in respect of the period of his sickness (such payment hereinafter referred to as “sick pay”);

(2) in respect of the second and the third day of his absence as aforesaid, half the amount of the sick pay.

Provided that the Minister of Labour and Social Affairs may, with the approval of the Knesset Labour and Social Affairs Committee, enact by regulations, provisions as to the payment of sick pay in respect of the first, the second and the third day of worker’s absence as aforesaid, and such provisions shall have effect notwithstanding any provision of this section.

(b) The period of sickness shall be calculated as follows:

(1) in the case of a salaried worker, it shall be all the days of his sickness, including days of weekly rest and holydays;

(2) in the case of a wage-worker who worked full-time for the same employer or at the same place of employment, shall be all the days of his sickness, except days of weekly rest and holydays.;

(3) in the case of a wage-worker who worked otherwise than full-time for the same employer or at the same place of employment (such a worker hereinafter referred to as an “intermittently employed worker”), it shall be a number of days which bears to the total number of his days of sickness, except days of weekly rest and holydays, the same proportion as the number of his days of employment during the quarter of his fullest employment in the twelve months immediately preceding his sickness bears to the total number of work-days in that quarter.

(4) in the case of an intermittently employed worker who has not yet worked for a period of three months for the same employer or at the same place of employment, it shall be a number of days which bears to the total number of his days of sickness, except days of weekly rest and holydays, the same proportion as the weekly average of his days of employment during the period of employment preceding his sickness bears to six;

(5) Where a wage-worker or intermittently employed worker used to work on days of weekly rest and on holydays under a permit pursuant to a Hours of Work and Rest Law, 5711-1951, such days shall be included in computing the period of sickness; further more, in the case of an intermittently employed worker under paragraph (3), the words “the total number of workdays in that quarter” in that paragraph shall be replaced by the word “ninety”, and in the case of an intermittently employed worker under paragraph (4), the word “six” in that paragraph shall be replaced by the word “seven”.

(c) The Minister of Labour and Social Affairs may, with the approval of the Knesset Labour and Social Affairs Committee, make regulations concerning procedure in connection with the receipt of sick pay, including the delivery of particulars and evidence to the employer as to the sickness, as well as concerning the date of payment of the sick pay.

### **Part-time work or suitable other work.**

3. (a) Where, on the basis of medical findings, a physician establishes that, owing to medical handicaps, a worker is incapable for certain period of time of carrying out work of a particular nature or under certain conditions and that as a result he is only capable of carrying out his work partially, and the employer offers him suitable other full-time or part-time work, at the same place of employment, the worker shall not be entitled to sick pay, but his wage for the work offered him shall not be less than the wage he would have received if he had continued with his former work, calculated on the basis of the components referred to in calculated sick pay under section 6.  
(b) Where the employer does not offer the worker suitable work as specified in subsection (a), the worker shall be entitled to the amount of sick pay which would be due to him but for the provisions of this section.  
(c) For the purpose of this section, "suitable work" means work to which medical handicaps as referred to in subsection (a) do not apply, and which is of the same kind as the work in which the worker was mainly employed in the three years immediately preceding his sickness or is other work suited to his vocational training, educational standard and physical fitness.

(d) An offer of suitable work under subsection (a) requires consultation with the workers' committee at the place of employment. Where there is no workers' committee, the provision of subsection (b) shall apply as if the employer had not offered suitable work.

#### **Maximum period of entitlement to sick pay.**

4. (a) The period of entitlement to sick pay shall not exceed a cumulative period of one and one half days for every full month of work that the worker worked for the same employer or at the same place of employment from the day on which this Law first applied to him but not more than ninety days in all, less any period in respect of which the worker received sick pay under this Law.

(b) Where in a particular month a worker did not work for the same employer or at the same place of employment on all work-days, then, for the purposes of subsection (a), twenty-five workdays shall be regarded as a full working month, and a fraction of a full working month shall entitle the worker to proportionate sick pay.

(c) A period in which sick pay insurance exists in respect of a worker under the provisions of sections 8 and 9 shall not be included in computing the period of his entitlement to sick pay: Provided that a period for which he is not entitled to a payment under the conditions of insurance - except any such waiting period of qualifying period as is obligatory under the said conditions - shall be included in the computation.

(d) The Minister of Labour and Social Affairs may, with the approval of the Knesset Labour and Social Affairs Committee, make regulations as to the method of computing the period of entitlement and as to periods of work and work breaks to be included in the computation: Provided that any work break in respect of which the worker is entitled to a wage or to be treated as wage shall be regarded as work.

#### **Rate of sick pay.**

5. (a) The rate of sick pay shall be seventy-five per cent of the wage the worker would be entitled to receive in the period of his entitlement to sick pay had he continued to work.

(b) Where a worker is paid according to output, the rate of sick pay shall be seventy-five per cent of the wage he would be entitled to receive in the period of his entitlement to sick pay if he continued to work and produced on each day of that period the average output per workday he produced in the three months preceding his sickness.

#### **Components of wage for the purposes of sick pay.**

6. (a) The following are the components of the wage on which the calculation of sick pay shall be based:

- (1) the basic wage;
- (2) a seniority allowance;
- (3) a cost-of-living or price increase compensation allowance;
- (4) a family allowance;
- (5) a departmental or professional allowance.

(b) Where the wage of a worker is not payable according to the components enumerated in subsection (a) or to part thereof, the wage payable to him for an ordinary workday, plus any allowance mentioned in subsection (a) which is payable to him shall be taken into account for the purposes of that subsection.

(c) The Minister of Labour and Social Affairs may, with the approval of the Knesset Labour and Social Affairs Committee, prescribe by regulations another method or other components for the computation of the wage on which sick pay is to be based.

#### **Sick pay to be treated as wage.**

7. Sick pay payable by an employer shall in all respects be treated as wage.

#### **Sick pay insurance.**

8. An employer shall be exempt from paying sick pay to his worker under the provisions of sections 2 to 7 -

- (1) If he takes out sick pay insurance for him with the benefit fund with which the greatest number of workers in his trade are given sick pay insurance under a collective agreement, the conditions of his insurance not being inferior to the conditions of theirs;
- (2) in the absence of a collective agreement as referred to in paragraph (a) - if he takes out sick pay insurance for him with a benefit fund consented to by him in writing, provided that the

conditions of sick insurance are not inferior to the conditions on which the greatest number of workers in the State are given sick pay insurance under a collective agreement.

(3) where the worker has not given his consent under paragraph (2) - if the employer takes out sick pay insurance for him with the benefit fund with which the greatest number of workers in the State are given sick pay insurance, the conditions of his insurance not being inferior to the condition of theirs.

#### **Consent.**

9. Where written consent for the purposes of section 8 is given by a majority of the workers at a particular place of employment, all the workers at that place of employment shall be deemed to have given their consent. Any change in consent thus given shall require a two-thirds majority of the workers.

#### **Denial of right to sick pay.**

10. A worker who actually works during a period of sickness, either for a wage or for other remuneration, shall not be entitled to sick pay in consequence of that sickness, and if sick pay has already been paid, the employer or the benefit fund, as the case may be, may claim the return thereof or deduct it from any amount he or it owes to the worker.

#### **Application of other laws.**

11. A worker entitled to a payment under any enactment for a period of incapacity for work for health reasons, other than a payment for invalidity benefit under Chapter Three "B" of the National Insurance Law (Consolidated Version) 5728-1968, or compensation by virtue of the Civil Wrongs Ordinance (New Version), shall not be entitled to sick pay under this Law for the period for which he is entitled to a payment as aforesaid or of any period in respect of which that enactment expressly provides that he is not entitled to a payment for it in consequence of that sickness.

#### **Saving of rights.**

12. (a) A worker entitled to sick pay both under this Law and under the conditions of employment agreed upon between him and his employer or customary at his place of employment shall be entitled to sick pay on one of these grounds at his option.

(b) This Law shall not derogate from the rights of workers under a collective agreement, irrespective of whether this Law applies to them or not.

#### **Implementation and regulations.**

13. (a) The Minister of Labour and Social Affairs is charged with the implementation of this Law and may make regulations as to any matter relating to its implementation.

(b) Regulations under this Law may be for workers or employers in general or for particular categories of workers or employers.

#### **Commencement.**

This Law shall come into force on the 2<sup>nd</sup> of Tishri 5737 (1 October, 1976).