Coronavirus
(COVID-19)

Frequently Asked Questions

Labour Law (2011 Revision)

Do I have to pay my employees during business closure resulting from the Shelter-in-Place Curfew?
Employers may use their discretion in offering pay during the shelter-in-place period. However, outside of Public Holiday Pay and paid leave entitlements, the Labour Law does not require that employees be paid for time not worked.

Can I put my employees off on vacation leave during the Shelter-in-Place Curfew?
The Law requires that dates for the taking of earned vacation leave be agreed between employer and employee. As such, the employee may either decline or agree that their earned leave be applied during this time. If there is no such agreement, the employer may use their discretion to either pay the employee, above the requirements of the Law, or approve unpaid leave given the circumstances.
[Note: In the case that employees have not yet earned vacation, by mutual agreement the employer may advance vacation leave not yet earned.]

Can I put my employees off on sick leave during the Shelter-in-Place Curfew?
The Labour Law outlines that sick leave should only be used in relation to illness or incapacitation. However, in the circumstances, employers and employees may choose to agree that the employee’s sick leave entitlement be applied towards the shelter-in-place period. If there is no such agreement, the employer may use their discretion to either pay the employee, above the requirements of the Law, or approve unpaid leave given the circumstances.

May I reduce my employees’ wage or scheduled hours during the Shelter-in-Place Curfew?
Nothing in Law prevents an employer from lessening an employees’ wage or their hours of work. However, any changes to the existing statement of working conditions must be provided to the affected employee in writing. The DLP recommends that these adjustments also be discussed internally and enacted by agreement between the parties. The Department would caution employers that they must ensure compliance with the Minimum Wage Order (2016) as it relates to any agreement to lower employee wages/salaries.
How much is the National Minimum Basic Wage?
The National Minimum Basic Wage is CI$6.00 (gross) per hourly rate for most employees, and the gross hourly minimum wage rate for service employees of an employer that has a registered gratuities scheme is CI$4.50. There are also special calculations for live-in household domestics and employees who work on a commission basis.

http://www.gov.ky/portal/pls/portal/docs/1/12304345.PDF

Is an employer required to pay the National Minimum Basic Wage?
Yes. An employer cannot pay any less than the appropriate National Minimum Basic Wage, but that does not prevent an employer from paying more than the National Minimum Basic Wage. Term and conditions, including salary/wages, of employment are typically negotiated and agreed between the employer and employee and should be contained in a statement of working conditions.

AMENDMENT to section 42 of the Labour Law (2011 Revision) - Severance pay, when payable: temporary termination

By Law, should I pay severance to employees being laid off?
Severance is to be paid to employees being laid off, unless the employees are to be brought back to work within 30 days (in most industries or fields). Once the Labour (Extension of Severance Pay Period) Regulations, 2020 have been enacted, the current 30 day layoff period will be extended to 60 days. In this instance, once 60 days has passed the termination is no longer considered to be temporary, and severance becomes payable.

As it relates to the construction and agriculture industries, severance is to be paid to employees being laid off, unless the employees are to be brought back to work within 6 months. Once 6 months, has passed the termination is no longer considered to be temporary, and severance becomes payable.

How is severance calculated?
Severance is calculated at one week’s wage for each completed year of employment.

What does the extension to the 30 day temporary layoff period mean for the employee?
An extension to the 30 day temporary layoff period would mean that the employee continues to be employed for a further period of 30 days, totaling 60 days from the initial temporary layoff as a result of COVID-19 and accruing benefits pursuant to the Labour Law.
Why is it necessary to enact the Labour (Extension of Severance Pay Period) Regulations, 2020?

To further alleviate financial pressure on employers and employees, it is proposed through Regulations for an extension of the severance pay period by thirty days. This extension will enable employers to continue to employ staff rather than terminate, as well as ensuring that employees continue to be employed and retain more of their earnings while accruing benefits under the Law.

WHAT OTHER PAYMENTS ARE REQUIRED UPON TERMINATION BY THE EMPLOYER?
Employees being terminated by the employer are required to be paid any earned wages, gratuities, commission, vacation, and notice pay.

How soon should I pay employees being terminated?
The DLP would encourage employers to arrange for final payments owed to employees to be made upon termination. Employers should be mindful that they must remit employees’ wages within one month of the wages being earned to avoid incurring an offense.

How much notice pay do I owe my employee?
The Labour Law requires that employees be given notice of their termination, if being dismissed for reasons other than misconduct or poor performance following a warning letter. Notice at least equal to the pay period interval must be given. Where an employee is being terminated with immediate effect and not required to work out the notice period, the employee must be paid what they would have earned had they worked through the period of notice. E.g. if your employees are paid bi-weekly, 2 weeks’ notice would be required.

Do I owe vacation pay if my employee has not completed 12 months’ employment?
Employees begin accruing vacation benefits at the commencement of employment. Once an employee has completed his probationary period, payment of earned vacation leave is required when his employment is terminated. This may be prorated where employees have not completed a year of employment.

Please note that you are invited to contact us by calling 945-8960 or by emailing dlp@gov.ky, should you require additional information and/or assistance, and we will endeavor to return your call or email within 48 hours. You may also wish to visit our website www.dlp.gov.ky for helpful resources such as Labour and Pension Legislation, FAQs or our Minimum Wage Calculator.