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Sick leave is an essential aspect of employment law in India. Employers and employees alike must know the regulations governing sick leave entitlement and medical leave laws. As a leading law firm, we take pride in providing comprehensive and up-to-date guidance on these critical matters. Under the law, employees are entitled to a certain number of sick leave days each year, which varies according to the state and the company's policies. Further, it is the responsibility of the employer to ensure that employees are aware of their entitlements to sick leave and medical leave. Employers should have clear policies in place, outlining the procedures for obtaining sick leave and the consequences of failing to comply with these procedures may result in legal action being taken against the employer.

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Legal provisions relating to sick leave in India

The quantum of sick leave entitlement varies from state to state and is generally prescribed under the State's Shops and Establishment Act. Employers are typically required to provide a minimum number of sick leave days per year, but they may offer more. Employers may also have a policy allowing employees to carry forward unused sick leave days to the next year.

The Factories Act, 1948, for example, requires employers to grant workers (working for 240 days in a calendar year) annual leave of 1 day for every 20 days of work performed by him during the previous calendar year, which may be availed by the workers to cover the period of their illness.<sup>[1]</sup> The Mines Act, 1952 provides for a certain number of days of annual leave, and the same may be utilised by the workers to cover the period of their illness.<sup>[2]</sup> The Employees' State Insurance Act, of 1948, provides for sickness benefits in case of absence due to illness to insured employees.

Employees must follow the prescribed procedures for obtaining sick leave, which typically involves notifying their supervisor or HR department and providing a valid medical certificate from a registered medical practitioner. Failure to follow the proper procedures may result in disciplinary action. The sick leaves allowed under the laws may also be availed by eligible employees in case of injury due to accidents.

Apprentices Act, 1961

As per Section 15 of the Act, an apprentice shall be entitled to such leave as may be prescribed and to such holidays as are observed in the establishment in which he is undergoing training.

Plantation Labour Act, 1951

As per section 32 of the Plantation Labour Act, 1951, employees covered by the Act are entitled to sick and maternity benefits.

Employees covered under the Working Journalist and Other News Paper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955

Every Working Journalist under this Act is eligible for a medical leave of not less than one month for every 18 months of service rendered at half the wages, up to 90 days, as per Section 7 (Rule 28) of the Act.<sup>[3]</sup>

Similarly to this, anyone covered by the Sales Promotion Employees (Conditions of Service) Act, 1976, may take sick leave of no less than one-eighteenth of their total service time while still receiving half of their regular pay. However, this type of leave is only sanctioned when a valid medical certificate is produced.

Provisions related to accidents or sickness caused during the course of work The Workmen's Compensation Act, 1923 which is now after the 2009 Amendment<sup>[4]</sup> (The Employee's Compensation Act), provides compensation to certain classes of employees for injuries suffered during the course of employment. The Act states that any employee who suffers an injury during employment should be entitled to compensation, and in case of a fatal injury, the dependents of the employee should also be compensated.<sup>[5]</sup>

Additionally, the Employees' State Insurance Act is India's first significant piece of social security law for industrial workers. The Act is made to give employees social protection in the event of eventualities like illness, chronic disease, or any other health risks brought on by exposure to workplace accidents or dangers.

Laws relating to HIV/AIDS affected employees at work

In India, there are currently no specific leave provisions that specifically safeguard against discrimination towards HIV/AIDS-affected persons at work, but there are efforts underway to develop legislation to address this issue. Several NGOs are currently working towards this cause.

Laws relating to medical insurance or medical facilities for employees

When it comes to medical insurance or facilities for employees, the Employees' State Insurance Act provides social security benefits to certain employees and their families, including medical assistance. Legal dependents of insured persons are also eligible for medical facilities. Insured persons and permanently disabled workers and their spouses can also receive medical assistance at a nominal contribution.<sup>[6]</sup>

Provisions for medical help or medical bonus during

pregnancy/miscarriage/medical termination of pregnancy/tubectomy operation

In cases of pregnancy, miscarriage, medical termination of pregnancy, or tubectomy operations, there are provisions for medical help and medical bonus under various laws and regulations. For instance, the Maternity Benefit Act, of 1961 provides for paid maternity leave and medical bonuses to women employees.<sup>[7]</sup>

Laws related to the hazardous process functioning for the workers

The Factories Act, 1948, lays down specific provisions for employers/occupiers to ensure the safety of their workers.<sup>[8]</sup>

Section 41 C of the Act places the responsibility of maintaining accurate and up-to-date medical records of workers on the employer. It is also mandatory for the employer to appoint qualified and experienced supervisors to supervise the handling of hazardous substances and to conduct pre-employment medical examinations and periodical examinations of workers.

Section 41 F specifies permissible limits of exposure to chemical and toxic substances, which are applicable whether the industry is hazardous or not. This ensures that workers are not exposed to harmful substances beyond a certain limit, which could potentially harm their health.

Moreover, Section 41 G highlights the importance of worker participation in safety management. Safety Committees, comprising of representatives of management and workers, must be set up to promote better cooperation and ensure a safer working environment.

Finally, Section 41 H empowers workers to warn about imminent danger to human life. Workers can bring such situations to the notice of the occupier, manager, or in charge, directly or through the Safety Committee. They can simultaneously bring the matter to the notice of the designated authorities under the Factories Act, 1948, ensuring that urgent action is taken to prevent any harm to workers.

Conclusion

The provisions relating to the sick leave policy in India are essential for both employers and employees to understand. We at King Stubb & Kasiva, are committed to providing comprehensive and up-to-date guidance on these critical matters. We encourage all employers and employees to familiarize themselves with the relevant laws and regulations, to ensure compliance and avoid any legal implications.

FAQs

How many sick leave days are employees entitled to in India?

The number of sick leave days entitlement varies from the legislation

applicable to a particular industry, and also from state to state. It can also be determined by the company's policies.

What is the responsibility of employers in providing sick leave?

It is the responsibility of the employer to ensure that employees are aware of their entitlements to sick leave and medical leave. Employers should have clear policies in place, in line with the statutory requirements, and outlining the procedures for obtaining sick leave and the consequences of failing to comply with these procedures may result in legal action being taken against the employer.

Are there any laws in India relating to medical insurance or facilities for employees?

Yes, the Employees' State Insurance Act provides social security benefits to industrial workers and their families, including medical assistance. Legal dependents of insured persons are also eligible for medical facilities. Retired insured persons and permanently disabled workers and their spouses can also receive medical assistance at a nominal contribution.

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<sup>[1]</sup>Section 79, The Factories Act, 1948

<sup>[2]</sup>Section 52, The Mines Act, 1952

<sup>[3]</sup>Section 7, Employees covered under the Working Journalist and Other News Paper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955

<sup>[4]</sup>The Workmen's Compensation (Amendment) Bill, 2009 (w.e.f. 18-1-2010)

<sup>[5]</sup>Section 3, The Workmen's Compensation Act, 1923 [Act No. 8 of 1923]

<sup>[6]</sup>Employees' State Insurance Act [Act No. 34 of 1948]

<sup>[7]</sup> The Maternity Benefit Act, 1961 [Act No. 53 Of 1961]

<sup>[8]</sup> The Factories Act, 1948 [Act No. 63 of 1948]

King Stubb & Kasiva,

Advocates & Attorneys

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New Delhi | Mumbai | Bangalore | Chennai | Hyderabad | Mangalore | Pune | Kochi

Tel: +91 11 41032969 | Email: info@ksandk.com