



## **Coronavirus (COVID -19)**

### **Frequently Asked Questions**

#### **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.

#### **Do I have to pay my employees during business closure resulting from Government mandated Shelter-in-Place Curfews or during Government mandated Quarantine periods?**

Employers may use their discretion in offering pay during Government mandated shelter-in-place periods or Government mandated quarantine periods. However, outside of Public Holiday Pay and paid leave entitlements, the Labour Act does not require that employees be paid for time not worked.

#### **Can I put my employees off on vacation leave during Government mandated Shelter-in-Place Curfews or during Government mandated Quarantine periods?**

The Act 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 Act, 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 Government mandated Shelter-in-Place Curfews or during Government mandated Quarantine periods?**

The Labour Act 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 Government mandated shelter-in-place periods or Government mandated quarantine periods. If there is no such agreement, the employer may use their discretion to either pay the employee, above the requirements of the Act, or approve unpaid leave given the circumstances.



**May I reduce my employees' wage or scheduled hours during Government mandated Shelter-in-Place Curfews or during Government mandated Quarantine periods?**

Nothing in the Act 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. Terms 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.

**By Legislation, should I pay severance to employees being laid off?**

The entitlement to severance arises after an employee has completed 12 months of employment. 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), or 6 months if in the construction and agriculture industries. Once 30 days, or 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 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.



**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.

**How much notice pay do I owe my employee?**

The Labour Act 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.

**Please note that you are invited to contact us by calling 945-8960 or by emailing [dlp@gov.ky](mailto: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](http://www.dlp.gov.ky) for helpful resources such as Labour and Pension Legislation, FAQs or our Minimum Wage Calculator.**