

Sick leave in South Africa



The reality of employing staff is that they will fall ill at some point. The Basic Conditions of Employment Act (BCEA) contains provisions to protect both employees and employers when it comes to sick leave.

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The sick leave cycle

The sick leave cycle is enforced by the Department of Labour, as set out in the BCEA, to protect the interests of both employee and employer. The cycle extends over 36 months (three years) and starts as soon as employment commences. During every sick leave cycle, employees are entitled to paid sick leave equal to the number of days they have worked over six weeks. This means that if an employee works a five-day week from Monday to Friday, he/she is entitled to 30 days' paid sick leave over the course of the three-year period.

The sick leave cycle only comes into effect after the first six months of employment. However, during the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 days worked. This is to prevent employees from abusing their sick leave by taking their full 30-day complement on commencement of employment and resigning without actually having worked.

An employee's sick leave cycle shall commence at the beginning of the seventh month of employment.



Sick leave and medical certificates

The *BCEA requires that a medical certificate be submitted* if the employee has been absent from work for more than two consecutive days or if the employee is off sick more than once within an eight-week period. By law, an employer is not required to pay an employee if the employee cannot provide a valid medical certificate to state the reason for his or her absence.

A medical practitioner or someone with the authority to diagnose patients, who is a registered member of a professional council established by an Act of Parliament, is authorised to issue a medical certificate. If an employee lives on the employer's premises, the employer may not withhold payment unless he or she provides reasonable assistance to the employee to obtain such a certificate.

The name, address and qualification of the medical practitioner, as well as the date on which the certificate was issued, must appear on the medical certificate or form for the employee to be entitled to paid sick leave.

For any assistance regarding a sick leave policy or advice on the above, speak to one of the *SERR Synergy* professional labour relations consultants. We guide and assist businesses in a practical and supportive way with regard to the required processes and procedures to ensure *labour legislation compliance* and to minimise the risk to which the business is exposed when employing staff.

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