

EMPLOYMENT LAW GUIDE: LEAVE ENTITLEMENTS AND HOLIDAYS

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Annual leave

(a) Eligibility

All employees are entitled to a minimum amount of annual leave if they meet the requirements under section 88A of the EA.

An employer must pay an employee the employee's gross rate of pay for every day of paid annual leave.

(b) Entitlement/duration

Under section 88A of the EA, an employee who has served his employer for at least 3 months shall be entitled to paid annual leave of 7 days in respect of the first year of continuous service with the same employer, and one additional day for every subsequent year with the same employer, up to a maximum of 14 days' annual leave. An employee who has served an employer for a period of at least 3 months, but has not completed a year of continuous service, is entitled to annual leave in proportion to the number of completed months of service in that year.

Annual leave is in addition to rest days, public holidays, sick leave and child care leave.

If an employee is dismissed on any ground other than misconduct before the employee has taken all of the employee's paid annual leave, the employer must pay the employee the employee's gross rate of pay in respect of every day of that leave not taken by the employee.

An employee forfeits his/her entitlement to annual leave if the employee is absent from work without the employer's permission, or without reasonable excuse, for more than 20% of the working days in the months or year (as the case may be) in which the employee's entitlement to annual leave accrues.

In the case of workmen (whose monthly salary does not exceed S\$4,500) and non-workmen (whose monthly salary does not exceed S\$2,600), annual leave has to be taken not later than 12 months after the end of every year of continuous service and any employee who fails to take that leave by the end of such period shall cease to be entitled to the leave. If the employee chooses not to take leave he will not be able to claim any compensation in lieu of such leave not taken.

(c) Non-compliance

Breach of section 88A results in the commission of an offence. A first-time conviction under this section will result in a fine not exceeding S\$5,000, and a second or subsequent offence will result in a fine not exceeding S\$10,000 or imprisonment for a term not exceeding 12 months or to both.

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Sick leave

(a) Entitlement

An employee is entitled to paid sick leave under the EA if:

- the employee has served the employer for at least three months;
- the employee has informed or attempted to inform the employer of his/her absence within 48 hours; and
- the sick leave is certified after examination of the employee by a medical practitioner registered under the Medical Registration Act. The definition also includes a dentist registered under the Dental Registration Act.

This does not apply to any medical treatment which is for cosmetic purposes.

If the employee fails to duly notify or attempt to notify the employer within 48 hours after its commencement, or if the sick leave is not duly certified, the employee will be deemed to be absent from work without permission or reasonable excuse.

The number of days of paid sick leave a new employee is entitled to depends on his service period:

No of months of service completed of a new employee	Paid Outpatient Sick Leave Entitlement per year where hospitalisation is not required (days)	Aggregate Paid Sick Leave Entitlement per year where hospitalisation is required* (days)
3 months	5	15
4 months	$5 + 3 = 8$	$15 + 15 = 30$
5 months	$8 + 3 = 11$	$30 + 15 = 45$
6 months	$11 + 3 = 14$	$45 + 15 = 60$
Thereafter	14	60

*An

employee is hospitalised if the employee is under quarantine or warded in a hospital –

- for any surgical treatment where the employee is admitted to, and discharged from, the hospital on the same day (called in this regulation day surgical treatment);
- for a period of 8 hours or longer (other than for day surgical treatment); or
- for a period of less than 8 hours before dying in the hospital.

*An employee is deemed to be hospitalised (and entitled to paid hospitalisation leave) if he/she is certified by a doctor to be in need of hospitalisation. He does not necessarily have to be warded in a hospital. This covers the period of recuperation after being discharged.

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(b) Limit

The amount of paid outpatient and hospitalisation sick leave that an employee can take is capped at his sick leave entitlement (as indicated in the right-most column of the table above).

(c) Reimbursement of medical expenses

If an employee has served the employer for at least three months, the employer is legally obliged to bear, or to reimburse the employee for, the medical consultation fee if the medical practitioner is appointed by the employer or is a medical officer; and after the examination, the employee is certified by the medical practitioner to be entitled to paid sick leave. No such liability will be incurred where the medical consultation is for cosmetic purposes. For other medical costs, such as medication, treatment or ward charges, the employer is obliged to bear such costs only to the extent that medical benefits are provided for in the employee's employment contract, or in the collective agreement signed between the employer and the union.

(d) Salary of employees on sick leave

If an employee is on paid hospitalisation leave, his employer has to pay him at his gross rate of pay. If an employee is on paid outpatient sick leave, his employer has to pay him at his gross rate of pay, excluding any allowance payable in respect of shift work.

(e) Sick leave on rest days, public holidays etc.

An employee is not entitled to paid sick leave on the following occasions, even if he is given medical leave by the doctor:

- rest days;
- public holidays;
- non-working days;
- during annual leave; or
- during no-pay leave.

However, he is entitled to claim for the medical examination fee. His entitlement to claim for other medical expenses would depend on the medical benefits provided in his employment contract or the collective agreement signed between the employer and the employee's union.

Maternity leave

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(a) Eligibility

Part IX of the EA and Part III of the CDCSA provide Government-paid maternity leave, benefits and protection for eligible employees.

The CDCSA covers all parents of Singapore citizens, including managerial, executive or confidential staff. Under the CDCSA, a female employee is generally entitled to maternity leave benefits if:-

- the child is a Singapore citizen;
- the employee has worked for the employer for at least three months immediately before the child's birth; and
- the employee gave her employer at least 1 week's notice before going on maternity leave, and informed them as soon as possible of her delivery. Otherwise, she is only entitled to half the payment during maternity leave, unless she had a good reason for not giving the notice.

(Note that a self-employed female may be entitled to Government-paid maternity leave if she has been carrying on her trade, business, profession or vocation for at least 3 continuous months and has lost income during the maternity leave period).

Maternity leave benefits are applicable to both married and unwed mothers.

For female employees not covered under CDCSA, they may be entitled to maternity leave benefits if they fall within the scope of the EA.

(b) Entitlement/duration

A CDCSA eligible employee is entitled to absent herself from work for a total of 16 weeks of maternity leave that may be taken in one of the following manner:

- a continuous period of 4 weeks immediately before and a subsequent continuous period of 12 weeks immediately after her child's birth; or
- by agreement with her employer, a continuous period of 16 weeks, beginning any time within 28 days prior to her child's birth till the date of her child's birth; or
- by agreement with her employer, a continuous period of 8 weeks, beginning any time within 28 days immediately prior to her child's birth till the date of her child's birth, and such subsequent period(s) of an aggregate duration no shorter than the prescribed period under the CDCSA (equivalent to 8 weeks' worth of working days) or 48 days (whichever is the lower) to be taken flexibly anytime, over the 12 month period following the child's birth.

Under Part IX of the EA, employees covered by the EA, but not under the CDCSA, are entitled to a total of 12 weeks of maternity leave that may be taken in one of the following manners:

- a continuous period of 4 weeks immediately before and a subsequent continuous period of 8 weeks immediately after the child's birth; or

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- by agreement with her employer, a continuous period of 12 weeks, commencing no earlier than 28 days prior to the child's birth till the date of the child's birth; or
- by agreement with her employer, a continuous period of 8 weeks, beginning any time within 28 days immediately prior to the child's birth till the date of the child's birth and such further period(s) of an aggregate duration no shorter than the prescribed period under the EA (equivalent to 4 weeks' worth of working days) or 24 days (whichever is the lower) to be taken flexibly anytime over the 12 month period following the child's birth.

(c) Salary

If the employee qualifies for Government-paid maternity leave under the CDCSA, she will be paid by the employer during the entire 16 weeks of maternity leave, regardless of the birth order of the child. The employer is entitled to reimbursement from the Government for the last eight weeks for the first and second births and all 16 weeks for the third or subsequent births (as well as any CPF contribution made by the employer in respect of such payment which is not recoverable from the employee's wages). However, all reimbursements shall not exceed a total of S\$20,000 for the first and second births, and S\$40,000 for the third and subsequent births.

If the employee does not qualify for maternity leave under the CDCSA but qualifies for maternity leave under the EA, the employer is required to continue paying an employee her usual salary (i.e. monthly gross rate of pay, including allowances) for the first eight weeks of maternity leave if:

- the employee has been employed for at least 3 months before the date of delivery;
- the employee has less than two children of her own at the time of delivery. In the case of multiple births (e.g. twins, triplets etc.) during the first pregnancy, the employer is still required to pay the eight weeks of maternity leave; and
- the employee has given her employer at least one week's notice before going on maternity leave, and informed her employer as soon as practicable of her delivery. Otherwise, the employee is only entitled to half the payment during the maternity leave, unless she can show sufficient cause that prevented her from giving such notice to the employer.

For maternity leave under the EA, payment by the employer beyond the first eight weeks is voluntary and subject to contractual agreement.

(d) Employer's obligations

Employers are prohibited from dismissing an employee who is on maternity leave. An employer who does so is liable to a fine and/or imprisonment.

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If a notice of dismissal is given without sufficient cause at any time of the employee's pregnancy (as certified by a medical practitioner before the notice of dismissal is given), the employer must pay her the maternity benefits she is otherwise eligible for.

If the employee is retrenched within three months of her child's birth, the employer must pay her the maternity benefits she is otherwise eligible for. This payment is in addition to any retrenchment benefit which the employee is entitled to.

An employer cannot employ an employee at any time during the four weeks immediately following her child's birth.

An employer cannot contract out of their obligation to provide the maternity benefits.

Paternity leave

(a) Eligibility

Under the CDCSA, a male employee is entitled to Government-paid paternity leave benefits if:-

- the child is a Singapore citizen;
- the child's parents are or had been lawfully married at the time the child is conceived or become married as such before the child's birth or within the period of 12 months commencing on the date of the birth of the child; and
- the employee has worked for the employer for at least three months before the child's birth.

Adoptive fathers who meet the following requirements are also entitled to Government-paid paternity leave for all births where:

- if the child is not a Singapore citizen, then one of the adoptive parents must be a Singapore citizen on the date the dependant's pass is issued in respect of the child;
- the employee has worked for the employer for at least three months before the child's birth; and
- he is not the natural father of the child.

(Note that a self-employed man may be entitled to Government-paid paternity leave if he has been carrying on his trade, business, profession or vocation for a continuous period of at least 3 months preceding the date of the birth of the child, and has lost income during the paternity leave period).

(b) Entitlement/duration

A CDCSA-eligible employee is currently entitled to 2 weeks of paid paternity leave as follows:

- 2 continuous weeks within 16 weeks after the birth of the child; or
- If there is mutual agreement between the employer and the employee, flexibly within 12 months after

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the birth of the child.

(c) Salary

The paternity leave entitlement is funded by the Government and capped at S\$2,500 per week (inclusive of CPF contributions – see section 16 of this guide).

Childcare leave

(a) Eligibility

Under the CDCSA, male and female employees are entitled to childcare leave benefits if:-

- the child is a Singapore citizen; and
- the employee has worked for the employer for at least 3 months.

(Note that those self-employed may be entitled to childcare leave if: (i) he/she has been carrying on his trade, business, profession or vocation for a continuous period of at least 3 months, (ii) ceases to be actively engaged in his trade, business, profession or vocation for childcare purposes for not less than 4 days; and (iii) has lost income during the childcare leave period).

For employees not covered under the CDCSA, they may be entitled to childcare leave benefits if they fall within the scope of the EA.

(b) Entitlement/duration

Regardless of the number of children he/she may have, a CDCSA eligible employee is entitled to:

- **'childcare leave'** - If he/she has a child below 7 years of age at any time during the relevant period: up to 6 days of paid childcare leave per year; and/or
- **'extended childcare leave'** - If he/she has a child between the ages of 7 and 12 at any time during the relevant period: 2 days of paid childcare leave per year.

'Childcare leave' is capped at 42 days for each parent in respect of any qualifying child, and all yearly childcare leave entitlement must be expended by the end of that year.

An employee with children in both age groups (i.e. below 7 years as well as between 7 and 12 years) will have an entitlement of 6 days per year in total for both 'childcare leave' and 'extended childcare leave'.

For employees not covered under the CDCSA but covered under the EA, they may be entitled to 2 days of childcare leave if they have a child below 7 years of age during the relevant period and have worked for the employer for at least 3 months.

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(c) Salary

If the employee qualifies for childcare leave under the CDCSA, the employee will be paid by the employer during the leave period and the employer is entitled to reimbursement from the Government for 3 days of childcare leave if the employee is granted 6 days of childcare leave. Payments are capped at S\$500 per day (inclusive of CPF contributions – see section 16 of this guide).

If the employee qualifies for extended childcare leave only, the employee will be paid by the employer during the leave period and the employer is entitled to reimbursement from the government for the 2 days of extended childcare leave. Payments are capped at S\$500 per day (inclusive of CPF contributions – see section 16 of this guide).

If the employee does not qualify for childcare leave under the CDCSA but qualifies for childcare leave under the EA, the employee will be paid by the employer for the 2 days of childcare leave.

Shared parental leave

(a) Eligibility

Under the CDCSA, male employees are entitled to shared parental leave benefits if:-

- the child is a Singapore citizen;
- the child's mother qualifies for Government-paid maternity leave;
- the child's mother agrees to the arrangement; and
- the child's parents are lawfully married.

(Note that a self-employed man may be entitled to shared parental leave if: within 12 months commencing on the date of the child's birth, he ceases to be actively engaged in his trade, business, profession or vocation during one or more than one period; and has lost income during the shared parental leave period). In addition, employees or self-employed men who are adoptive fathers may be entitled to share their wife's adoption leave benefits if:-

- the adoptive father has made a joint application with the child's adoptive mother to adopt the child;
- the joint application was made on or after 1 July 2017;
- the child's adoptive mother agrees to the arrangement and is lawfully married to the employee on or before the date of election; and
- If the adopted child is not a Singapore citizen, then one of the adoptive parents must be a Singapore citizen on the date a dependant's pass is issued in respect of the adopted child.

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(b) Entitlement/duration

An eligible employee whose child is born on or after 1 July 2017 is entitled to absent himself from work for a total of 4 weeks of shared parental leave that may be taken in one of the following manner:

- 4 continuous weeks within 12 months after the birth of the child; or
- If there is mutual agreement between the employer and the employee, flexibly within 12 months after the birth of the child.

(c) Salary

The shared parental leave entitlement is funded by the Government and capped at S\$2,500 per week (inclusive of CPF contributions – see section 16 of this guide).

Adoption leave

(a) Eligibility

Under the CDCSA, employees who are adoptive mothers are entitled to adoption leave benefits if:-

- the female employee or self-employed woman is not the natural mother of the child;
- the adopted child is below the age of 12 months at the point of the formal intent to adopt (i.e. for a local child: when the court application to adopt is filed; and for a foreign child: when in-principle approval is granted for a Dependant's Pass);
- the adopted child is a Singapore citizen;
- If the adopted child is a foreigner, then one of the adoptive parents must be a Singapore citizen on the date a dependant's pass is issued in respect of the adopted child; and
- the employee has worked for the employer continuously for at least three months before the formal intent to adopt.

(Note that a self-employed woman may be entitled to adoption leave if: within 12 months commencing on the date of the child's birth, she ceases to be actively engaged in her trade, business, profession or vocation during one or more than one period; and has lost income during these period(s)).

(b) Entitlement/duration

An eligible employee whose formal intent to adopt a child is on or after 1 July 2017 is entitled to absent herself from work for a total of 12 weeks of adoption leave that may be taken in one of the following manner:

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- 12 continuous weeks from the date of formal intent to adopt the child;
- by agreement with her employer, a continuous period of 12 weeks, commencing no earlier than the date of formal intent to adopt the child and no later than the date when the adoption order is granted; or
- by agreement with her employer, a continuous period of the first 8 weeks, beginning any time between the date of formal intent to adopt and the date when the adoption order is granted (both dates inclusive), and such subsequent period(s) for the last 4 weeks to be taken flexibly anytime over the 12 month period following the child's birth.

(c) Salary

The adoption leave entitlement is funded by the Government and capped at S\$10,000 per every 4-week of leave taken (inclusive of CPF contributions – see section 16 of this guide).

If the employee qualifies for adoption leave under the CDCSA, she will be paid by the employer during the leave period and the employer is entitled to reimbursement from the Government for the last eight weeks for the first and second children and all 12 weeks for the third or subsequent children. However, all reimbursements shall not exceed a total of S\$20,000 for the first and second children, and S\$30,000 for the third and subsequent children (inclusive of CPF contributions – see section 16 of this guide).

National Service leave

All male Singaporean citizens and second-generation permanent residents who have reached the age of 18 are required to render National Service. The employer is obliged to allow the male employees to perform National Service. No employer shall dismiss an employee solely or mainly by reason of any duty or liability which that person is, or may become, liable to perform or discharged by reason of his being liable to be, called up for National Service.

When a person performs such a service, in so far as his civilian remuneration is reduced, that person may claim a reimbursement in respect of that reduction from the designated authority, less any service remuneration which he may get in respect of that service. If, instead of reducing the civilian remuneration, the employer continues to pay the employee during the period of service, the employer can in turn claim reimbursement from the designated authority provided certain conditions are satisfied.

Public holidays

All employees are entitled to a paid holiday at his gross rate of pay on a public holiday, subject to the following:

- by agreement between the employer and the employee any other day or days may be substituted for

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- any one or more public holidays; and
- if any public holiday falls on a rest day, the working day next following that rest day shall be a paid holiday; and
- if any public holiday falls on a day when the employee is not required to work under his contract of service, the employer may either pay the employee for that holiday at his gross rate of pay or give the employee a day off in substitution for that holiday.

Employees to whom Part IV of the EA does not apply (i.e. all Managers and Executives, workmen earning more than S\$4,500/month, and non-workmen earning more than S\$2,600/month) who work on a public holiday shall be paid the gross rate of pay for that day and may be given the following: a day off in substitution for that holiday or an extra day's salary at the basic rate of pay, or time-off for a number of hours (as parties agree or if there is no such agreement, either 4 hours off if the employee worked 4 hours or less on the Public Holiday or the entire day if he worked more than 4 hours).

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