

Israeli Labour Law: The Essentials

The summary contains essential and practical information relating to employment relations and labour law in Israel. It is intended to provide you with valuable, albeit rudimentary, information, when considering opening a business in Israel. ➔

1. INTRODUCTION

Israeli labour law applies to all employees located in Israel, whether Israeli or foreign (i.e. non-Israeli employees working in Israel pursuant to a valid work visa), and is comprised of a set of cogent statutory rules, regulations and case law. In addition, there are general and special collective agreements and expansion orders which apply to all or certain sectors of the labour market. It should be noted that an employee cannot waive any minimum rights, to which he or she is entitled under Israeli law.

2. DETERMINATION OF EMPLOYMENT RELATIONS

Employers may prefer to engage potential workers as independent "consultants" or "service providers" rather than employees, in order to avoid the requirements of Israeli labour law. However, it is important to note that according to Israeli case law, the determination of whether an individual should be considered an employee is made on a case-by-case basis, taking into account the relationship between the parties in practice, rather than their contractual characterisations. The Israeli labour courts have established various criteria to determine whether an employer-employee relationship exists (e.g. whether the service of the individual is an essential asset to the regular activity

of the workplace and whether the individual serves as an integral part of the workplace as opposed to an external entity).

It is therefore strongly advised to properly determine the nature of relations between the parties, in order to avoid liability as a result of failing to provide an employee with his or her proper legal entitlements.

3. EMPLOYMENT AGREEMENT

In general, employment agreements are not required to be in writing. However, the law requires that an employer provides its employees, no later than 30 days from their commencement date, with a written notification which includes certain information regarding their employment terms (e.g. the commencement date, a description of the employee's main duties, the identity of the employee's direct supervisor, the employee's salary, the length of workdays and workweeks, etc.)¹ Though the law does not compel employment agreements in writing, we normally recommend that our clients sign such agreements in order to ensure the understandings

1. The Employee and Candidates Notification Law (Terms of Employment and Application Process) – 2002.





between the parties and protect the vital interests of the employer, subject to the applicable law.

4. MINIMUM EMPLOYMENT TERMS AND CONDITIONS

Below is a list of the core minimum entitlements of an employee under the Israeli labour law:

(a) Minimum wage

The law² establishes that an employee shall not be paid less than the minimum wage, as established from time to time. As of December 2017, the minimum monthly wage for a full time position will be NIS 5,300 and the minimum hourly wage will be NIS 28.50.

(b) Hours of work and rest

The law³ contains certain restrictions and obligations regarding the permitted amount of working hours per day, night and week, and the obligatory rest periods

2. The Minimum Wage Law - 1987.

3. Hours of Work and Rest Law - 1951 and its subsequent expansion orders.

(including during workdays) applicable to employees. The key points are as follows:

(i) The working week shall not exceed 43 hours and shall consist of not more than six days. It should be noted that, in certain sectors, applicable law determines that the regular working week shall not exceed five working days. Moreover, it is now common practice in many sectors to work only five days per week (Sunday to Thursday).

(ii) An employee is entitled to continuous rest of at least 36 hours per week, which shall consist of a day determined according to the employee's religion (e.g. Saturday for Jewish employees).

(iii) Employers may not require employees to work more than the maximum working hours per day and per week or to work during the obligatory weekly rest period, unless such work has been permitted by law or a specific or general permission has been obtained from the competent government authority. Please note that according to general permissions which have been issued by the competent government authority, there today exists a limited amount of overtime hours which an employee may work during the working day and week.

(iv) The law applies a complex compensation mechanism for overtime work as well as work carried out during rest periods. Such compensation

is substantially higher than the regular hourly wage. It has become common practice in Israel for employees who are required to regularly work overtime to be paid a 'global overtime compensation' in addition to their basic salary. The amount of global overtime compensation should be calculated taking into account the average amount of overtime an employee is expected to work per month and should be limited to the maximum amount of overtime hours an employee is permitted to work under applicable law.

Certain classes of employees are exempt from the restrictions and obligations described above, due to the special characteristics of their employment (e.g. managerial positions and positions which require a special degree of personal loyalty). However, as a result of Israeli case law, the cases in which such exemptions apply are fairly limited.

(c) Annual leave

An employee is entitled to a number of days of paid annual leave in each year⁴. The amount of annual leave to which an employee is entitled depends upon criteria such as the length of the employee's service with the employer, the period of employment in each calendar year and the number of the employee's working days. In general, however, the amount of annual leave ranges from 12 days per year for new employees up to 24 days per year for long-serving employees.

4. Annual Leave Law - 1951.



(d) Public holidays

Eight days of Jewish holidays and one day for Israeli Independence Day have been established as paid 'days of rest' in Israel (i.e. nonworking days)⁵. In addition, applicable law also provides that non-Jewish employees have the right to choose between the Jewish holidays as their days of rest or other days, according to their own religion.

In relation to the Jewish holidays and the Israeli Independence Day, the law provides that those employees who are paid on a monthly basis shall not be entitled to any additional payment for such public holidays, but rather that their regular salary shall not be reduced during months when such holidays occur. In addition, such holidays shall not be deducted from these employees' entitlement to annual leave. Employees paid on an hourly or daily basis shall be entitled to separate reimbursement for such public holidays, subject to certain conditions.

(e) Sick leave

An employee is entitled to accumulate sick leave of one and a half days per full month of employment, and up to a total maximum of 90 days sick leave⁶. The entitlement for payment during sick leave is as follows: (i) for the first day

5. Law and Governance Ordinance-1948 and the Independence Day Law - 1949.

6. The Sick Leave Law - 1976.

of absence the employee is not entitled to any payment; (ii) for the second and third days of absence the employee is entitled to receive 50% of the salary he would have received if he had worked on those days; (iii) from the fourth day of absence onwards, the employee is entitled to 100% of the salary he would have received had he worked on those days.

(f) Travel expenses

An employee is entitled to receive compensation for travel expenses to and from work, at a rate which is determined according to the cost of discounted public transportation for such journey, but not more than a maximum daily rate which is updated from time to time. The current maximum daily rate stands at NIS 22.60⁷.

(g) Pension

According to Israel's Compulsory Pension Expansion Order, an employee is entitled to receive pension insurance contributions from his employer, which are comprised of contributions towards both pension and severance pay. The contributions are calculated by reference to the lower of: (i) the employee's wage (as defined under applicable law) or (ii) the average monthly wage in Israel (the "**Basic Wage**").

7. Employers' participation in Travel Expenses to and from Work Expansion Order.

As of November 2017, an employer is required to contribute an amount equal to 6.5% of the Basic Wage towards pension pay and an amount equal to 6% of the Basic Wage towards severance pay, provided that the employee also contributes an amount equal to 6% of the Basic Wage towards pension pay⁸. The date upon which contributions should commence depends on whether the employee already has a pension fund.

(h) Recuperation pay

Following completion of 12 continuous months of employment, an employee is entitled to yearly recuperation days' payment, which is determined according to the employee's length of employment and the prorated scope of employment⁹. The number of recuperation days for full-time employees per full year of employment ranges between five and 10 days. The level of recuperation pay is updated by the competent authority periodically. As of November 2017, the pay level is NIS 378 per recuperation day. Part time employees are entitled to a pro rata payment.

(i) Contributions to the National Insurance Institute

Employers must contribute funds to the Israeli National Insurance Institute (a government body

8. Under certain circumstances such contribution may be increased up to 7.5% of the Basic Wage.

9. Payment of Recuperation Pay Expansion Order.



charged with the social security of Israeli residents) towards national insurance and medical insurance (some of which are to be deducted from the employee's salary). The Scope of deductions increases with the employee's salary¹⁰.

5. PARENTAL RIGHTS

In general, Israeli law provides for certain entitlements and protections to pregnant women, women who recently gave birth (or adopted children) and women undergoing fertility treatment. Under certain circumstances, similar protections may also be afforded to men. In addition, under certain circumstances, parents may use their entitlements to sick leave in order to look after their sick children.

With regard to maternity leave, a female employee who has continuously worked for the same employer or at the same place of work for at least 12 months is entitled to 26 weeks of maternity leave¹¹. In the event that the employee's work period is less than 12 months prior to commencement of maternity leave, the maternity leave entitlement is generally restricted to 15 weeks. An employer is not required to pay an employee's salary during the period of maternity leave, although, an employer is required to continue to make contributions towards pension insurance during certain periods of the maternity leave. It should be noted that: (i) under certain circumstances the

maternity leave can be extended or shortened; (ii) under certain circumstances a male employee whose wife gave birth is entitled to partial paternity leave; (iii) there are various restrictions and limitations on the employer's ability to dismiss an employee during pregnancy, the maternity leave, and during certain periods after the maternity leave (See paragraph 6(d) below).

6. TERMINATION

The basic conditions for termination of employment are as follows:

(a) Hearing¹²: an employer who is contemplating the dismissal of an employee is obliged to conduct a hearing prior to reaching a final decision on the matter. The hearing is intended to allow the employee to hear the reasons for his or her intended dismissal, to express an opinion regarding the dismissal, and to allow the employer to reach an informed decision on the matter. There are certain guidelines according to which the hearing should be conducted (e.g. the employer shall notify the employee in writing in advance that his or her dismissal is being considered and the reasons therefor; during the hearing the employee should be given a genuine opportunity to present any argument he or she may have in respect of the contemplated dismissal, etc.).

Please note that in some circumstances, a failure to properly carry out the hearing

procedure may result in the annulment of the dismissal or may entitle the employee to damages.

(b) Advance notice¹³: according to applicable law, both employee and employer are required to provide each other with an advanced written notice before their termination of the employment. In general, the statutory periods for such advance notice vary depending on the employee's seniority as well as the payment basis (hourly or monthly), reaching as much as one month. Please note that an employer may terminate the employment without giving advance notice to the employee, provided that it provides him or her with a payment in lieu of the advance notice.

(c) Severance pay: other than in certain cases set out under applicable law, an employee who continuously works for the same employer or at the same place of work for at least 12 months¹⁴ and is dismissed (or resigns in circumstances which qualify as constructive dismissal) is entitled to severance pay¹⁵. In general, the amount of severance pay is calculated by multiplying the employee's last month's salary prior to his or her dismissal, by the number of years worked by such employee (or any part thereof).

It should be noted, however,

13. Advanced Notice for Dismissal and Resignation Law - 2001.

14. Please note that under the Severance Pay Law - 1963, an employee who is dismissed towards the end of the first year of employment may also be entitled to severance pay.

15. Severance Pay Law - 1963.

10. National Insurance Law - 1995.

11. Women Employment Law - 1954.

12. The hearing obligation was established by Israeli labour courts.



that since 2008 employers are obligated to contribute certain amounts towards severance pay, on a monthly basis, to the employee's pension insurance fund. Such amounts are deducted from the employee's entitlement to severance pay upon termination. In certain cases the law further allows an employer to increase contributions towards severance pay. In such cases the amount accumulated in the insurance fund is considered as being paid to the employee *in lieu* of paying severance pay. In these cases no outstanding obligation is incumbent on the employer upon termination.

(d) General: under applicable law, termination under certain circumstances or due to particular grounds may be found to be illegal (e.g. dismissal of a pregnant employee who worked for at least six months for the same employer or at the same workplace is prohibited unless the employer has received a specific authorisation from the competent authority¹⁶, and dismissal due to the employee's religion, personal status or sex and several other grounds is also prohibited, etc.).

Please note that the above provides only a general overview of certain key provisions of Israeli labour law. Israeli labour law is naturally more comprehensive and additional issues, which an employer in Israel may need to take into account, exist (e.g.

intellectual property, salary payment procedures, prevention of sexual harassment, equal rights and prohibitions of discrimination, employment through manpower companies and service contractors, retirement, etc.). In addition, the above summary: (i) does not include any reference to specific collective agreements or expansion orders which may apply to certain sectors; (ii) refers only to employees who are eighteen years old and older (there are specific rules for younger employees); (iii) does not refer to special rights and restrictions concerning foreign employees; and (iv) does not refer to rights which may be given to employees beyond the minimum requirements under the applicable law.

In light of the above, this document is intended as a general guide only and should not be regarded as legal advice or be relied upon. You should seek specific professional advice in applying the applicable law to any specific situation.

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16. Women Employment Law - 1954.