

# Annual Paid Leave

## 1. Concept

Annual Paid Leave is designed to maintain the efficiency of the labor force and provide a civilized life through mental and physical rest for employees who have worked during the entire preceding year.

(1) Basic rule: An employer shall grant 15 day's paid leave to an employee who has worked not less than 80 percent of attendance during one year.

(2) Additional rule:

① An employer shall grant one day's paid leave per month to an employee whose consecutive service period is shorter than one year or whose attendance is less than 80 percent, if the employee has offered work without an absence throughout a month.

② After the first year of service, an employer shall grant one day's paid leave for each two years of consecutive service in addition to the leave prescribed in paragraph (1) the employee who has worked consecutively for 3 years or more. In this case, the total number of leave days including the additional leave shall not exceed 25 days.

③ An employer shall grant paid leave pursuant to paragraphs on the above upon request of a worker, and shall pay ordinary wages or average wages prescribed in employment rules or other regulations during the period of leave. However, the leave period concerned may be changed, in case granting the leave as requested by the employee might cause a serious impediment to the operation of the business.

④ In applying paragraphs (1) and (2), any of the following periods shall be deemed the period of attendance at work: <Amended on Feb. 1, 2012; Nov. 28, 2017>

1. Period during which an employee takes time off due to any injury or sickness arising out of duty;
2. Period during which a woman in pregnancy takes time off due to the leave under Article 74 (1) through (3);
3. Period during which an employee takes time off on child-care leave under Article 19 (1) of the Equal Employment Opportunity and Work-Family Balance Assistance Act.

⑤ The leave referred to above shall be forfeited if not used within one year. However, this shall not apply in case where the employee concerned has been prevented from using the leave due to any cause attributable to the employer.

## 2. How to calculate

○ Paid leave days = 15days+((Service year-1)/2)

- Disregard decimal with maximum of 25 days

1 yr	2 yr	3 yr	4 yr	5 yr	10 yr	15 yr	20 yr	21 yr	25 yr
15 days	15 days	16 days	16 days	17 days	19 days	22 days	24 days	25 days	25 days

## 3. Guides related to the right to annual paid leave allowance and allowance for unused leave

### 1) Right to request Annual Paid Leave allowance

The right to request Annual Paid Leave allowance is right to ask for paid leave when the employee uses Annual Paid Leave accrued as remuneration for work in the preceding year. This Annual Paid Leave allowance is considered wages (Article 60 of the Labor Standard Act).

### 2) Right to request unused Annual Paid leave allowance

The right to request unused Annual Paid leave allowance is the right to ask for an allowance for the number of unused Annual Paid Leave days if the employee provided labor service without using Annual Paid Leave accrued as remuneration for work for the previous year. This right occurs after the right

to request Annual Paid Leave expires. There is also right to ask for an allowance for the number of unused Annual Paid Leave days due to termination of an employment contract, for example, upon retirement. However, when the employer takes measures to promote the use of Annual Paid Leave the right to request unused Annual Paid Leave allowance expires (Article 61 of the Labor Standard Act).

[Source: Bong Soo Jung, Korean Labor Law: Disputes & Resolutions, Joongang Economy]

#### 4. Promoting the Use of Annual Paid Leave

(1) If a worker's leave has been forfeited for non-use pursuant to Article 60 (7) despite the fact that the employer has taken measures described in any of the following subparagraphs to promote the use of paid leave prescribed in Article 60 (1), (3) and (4), the employer shall have no obligation to compensate the non-use attributable to the employer's action under the proviso of Article 60 (7):

1. Within the first 10 days of the six months before unused leave is to be forfeited pursuant to Article 60 (7), an employer shall notify each worker of the number of his/her unused leave days and urge them in writing to decide when they would use the leave and to inform the employer of the decided leave period: and

2. If a worker, despite the urging prescribed in subparagraph (1), has failed to decide when he/she would use whole or part of the unused leave and to inform the employer of the decided leave period within 10 days after they were urged, an employer shall decide when the employee uses the unused leave and notify the employee of the decided leave period in writing no later than 2months before the unused leave is to be forfeited pursuant to Article 60 (7).

(2) Where the paid leave of an employee who has continuously worked for less than one year is terminated by time limitation pursuant to the main clause of Article 60 (7) because the employee fails to take his or her paid leave although the relevant employer has taken the following measures to urge employees to take the paid leave under Article 60 (2), the relevant employer shall not be liable to indemnify the employee for his or her failure to take the paid leave, which shall be deemed not to fall under the reasons attributable to the employer under the proviso of Article 60 (7): <Newly Inserted on Mar. 31, 2020>

1. An employer shall inform each employee of the number of days of his or her paid leave not taken and shall urge in writing the employee to set a period during which he or she is planning to take the remaining paid leave and to notify it to the employer, within 10 days as of the date prior to three months before the first one year of employment period ends: Provided, That the employee shall be urged to notify the employer regarding the paid leave occurring after the employer's written urge, within five days as of the date prior to one month before the first one year of employment period ends;
2. Notwithstanding the urge referred to in subparagraph 1, if the employee fails to set a period during which he or she is planning to take all or part of the remaining paid leave and to notify it to the employer, within 10 days from the date he or she is urged to take the paid leave, the employer shall set a period for such remaining paid leave and notify it to the employee in writing, not later than one month before the first one year of employment period ends: Provided, That the employer shall give written notice regarding the paid leave urged pursuant to the proviso of subparagraph 1, not later than 10 days before the first one year of employment period ends.