

Employee leave in Ukraine: legal aspects

Introduction

1. Annual leave
2. Sick leave
3. Maternity leave
4. Leave for the birth of a child
5. Leave for family reasons
6. Bereavement leave
7. Paid moving leave

B

One of the most important issues to be resolved in an employer-employee relationship is an employee's right to leave. In most cases, expectations of foreign companies establishing subsidiaries in Ukraine differ from the actual legal situation. This article discusses the main types of leave that are of most interest to foreign employers.

1. Annual leave

The following types are distinguished here:

- basic leave – at least 24 calendar days for the working year worked, counted from the date of the employment contract; certain categories of employees whose work involves increased nervous, emotional and intellectual stress or is performed in special natural geographical and geological conditions and conditions of increased health risk – for up to 35 calendar days according to the List of industries, works, professions, and positions approved by the Ukrainian government (e.g., for working on a computer, leave is granted from 1 to 4 calendar days);
- additional leave for work in harmful and difficult working conditions – up to 35 calendar days for employees engaged in work involving negative health effects of harmful production factors, according to the List of industries, workshops, professions, and positions approved by the Ukrainian government; employees with irregular working hours – for up to 7 calendar days according to the lists of positions, jobs, and professions specified in the collective agreement.
- additional leave for a special type of work and its duration, which is granted to:
- other additional leaves provided for by law.

It is also worth mentioning the annual leave granted to employees with children:

- 1) annual social paid leave:

one of the parents who has 2 or more children under the age of 15, or a child with a disability, or who has adopted a child, a parent of a person with a childhood disability of subgroup A of group I, a single mother, a father of a child or a person with a childhood disability of subgroup A of group I, who is raising them without their mother (including in case of a long stay of the mother in a medical institution), as well as a person who has fostered a child or a person with a childhood disability of subgroup A of group I, or one of the foster parents, is granted an additional paid leave of 10 calendar days annually, excluding holidays and non-working days.

2) unpaid leave:

a mother or a father raising two or more children under the age of 15 or a child with a disability without their mother (including in case of the mother's long-term stay in a medical institution) is entitled to up to 14 calendar days of unpaid leave annually.

2. Sick leave

The following legal regulation applies to temporary disability (sick leave) as a result of an illness or injury not related to an occupational accident, as well as temporary disability for the period of rehabilitation as a result of an illness or injury not related to an occupational accident:

The first 5 days of the temporary disability allowance are paid by the employer, and the remaining days are paid by the Pension Fund of Ukraine.

Temporary disability may also occur in other cases:

- temporary disability allowance for caring for a sick child under the age of 14 is paid to the insured person from the first day for the period during which the child needs care according to a doctor's opinion, but not more than for 14 calendar days;
- temporary disability allowance for caring for a sick child under the age of 14, if the child requires inpatient treatment, is paid to the insured person from the first day for the entire period of his/her stay in the hospital with the sick child;
- temporary disability allowance for caring for a sick family member (except for caring for a sick child under the age of 14) is paid to the insured person from the first day, but not more than for 3 calendar days, or for not more than 7 calendar days in exceptional cases, given the severity of the family member's illness and household circumstances;
- temporary disability allowance in case of illness of a mother or other person who is in fact caring for a child under 3 years of age or a child with a disability under 18 years of age is provided to the insured person who cares for the child from the first day for the entire period of illness.

The amount of social assistance in case of temporary disability depends primarily on the duration of the insurance service:

1) 50% of the average salary (income) – for insured persons with up to 3 years of service insurance period; 2) 60% of the average salary (income) – for insured persons with a service insurance period of 3 to 5 years; 3) 70% of the average salary (income) – for insured persons with a service insurance period of between 5

and 8 years;4) 100% of the average salary (income) – for insured persons with a service insurance period of over 8 years.

3. Maternity leave

Based on a medical certificate, women are entitled to a paid leave in connection with pregnancy and childbirth (maternity leave) for the following duration:

- before childbirth – 70 calendar days;
- after childbirth – 56 calendar days (70 calendar days in case of birth of two or more children and in case of complications of childbirth), starting from the day of childbirth.

Maternity benefits are paid to the insured person for the entire period of maternity leave.

Related article: Changes to the granting and use of leave in Ukraine

At the request of the woman and in the absence of medical contraindications, the 70 calendar days provided for before childbirth may be transferred and used by the woman in whole or in part after childbirth, starting from the day of childbirth. However, the total duration of the leave may not exceed 126 calendar days (140 calendar days in case of two or more children and complicated childbirth).

Maternity benefits are paid to pregnant women by the Pension Fund of Ukraine.

After the end of maternity leave, at the request of the child's mother or father, one of them is granted a parental leave to care for the child until the child reaches the age of 3.

4. Childbirth leave

A one-time paid childbirth leave of up to 14 calendar days (excluding holidays and non-working days) is granted no later than three months from the date of birth to the following employees:

a husband whose wife gave birth to a child;

a father of a child who is not in a registered marriage with the child's mother, provided that they live together, are connected by a common household, and have mutual rights and obligations;

grandparents or other adult relatives of the child who effectively care for a child raised by a single parent.

Childbirth leave is granted only to one of the persons mentioned above.

In addition, unpaid leave of up to 14 calendar days is mandatorily granted at the request of an employee to a husband whose wife is on postpartum leave.

5. Family leave (care leave)

Unpaid leave shall be granted on a mandatory basis at the request of an employee who is:

- a mother or any other of persons listed in part three of Article 18 and part one of Article 19 of the Law of Ukraine "On Leaves", if the child needs home care, for the duration specified in a medical report, but not longer than until the child reaches the age of 6; if the child has type I diabetes mellitus (insulin-dependent) or if the child, who has not been diagnosed with a disability, has a severe perinatal nervous system impairment, severe congenital developmental disorder, rare orphan disease, oncological, onco-haematological disease, cerebral palsy, severe mental disorder, acute or chronic kidney disease of the IV degree – no longer than until the child reaches the age of 16; if the child is classified as a "child with a disability of subgroup A" or a child who has not been diagnosed with a disability, has suffered a serious injury, needs an organ transplant, or requires palliative care – until the age of 18;
- the list of serious illnesses, disorders, injuries, conditions, etc. that entitle an employee to unpaid leave for a child who has not been diagnosed with a disability is approved by the Ukrainian government;
- taking care for a sick relative by blood or marriage who, according to a medical institution, needs constant outside care, for the duration specified in the medical report, but not more than 30 calendar days.

6. Bereavement leave (to attend funerals)

Unpaid leave at the request of an employee is granted on a mandatory basis to employees in the event of death of:

- relatives by blood or marriage: husband (wife), parents (stepparents), child (stepchild), siblings – for up to 7 calendar days, excluding the time required to travel to and from the place of burial;
- other relatives – for up to 3 calendar days, excluding the time required to travel to and from the place of burial.

7. Paid leave for moving house

According to Ukrainian legislation, paid leave to move house is not provided for.

However, for family reasons and for other causes, an employee may be granted unpaid leave for a period stipulated by an agreement between the employee and the owner or his/her authorised body, but not more than 15 calendar days per year.

Under Ukrainian law, there are other types or grounds for leave, which are subject to various nuances, including those related to martial law.