

To know the Employment Ordinance

Rest Day, Statutory Holiday and Paid Annual Leave

VO: Ah Fai and his friend are going to leave Hong Kong for travel. They are having a chat at the airport. They are talking about their knowledge on the Employment Ordinance.

Female VO: Hey, Ah Fai. Let see how well you know about the Employment Ordinance!

Male VO: Sure, you can ask me!

Female VO: Do you know, for an employee employed under a continuous employment contract, how many rest day is he entitled in every period of seven days under the Employment Ordinance?

Male VO: Not less than one rest day in every period of seven days. A rest day is a continuous period of not less than 24 hours. An employer must not compel an employee to work on a rest day except in the event of a breakdown of machinery or plant or in any other unforeseen emergency. For any rest day on which the employee is required to work, the employer should substitute some other rest day within 30 days after the original rest day.

Female VO: Correct! Is rest day with pay or no pay?

Male VO: The Employment Ordinance does not stipulate whether a rest day is paid or not. It is to be agreed by employers and employees.

Female VO: Correct! Does the Employment Ordinance specify the minimum length of service of an employee before he is entitled to statutory holiday?

Male VO: According to the Employment Ordinance, an employee is entitled to statutory holidays, irrespective of his length of service. There are 12 statutory holidays in a year. If the employee has been employed under a continuous contract for not less than 3 months immediately preceding a statutory holiday, he is entitled to holiday pay. Regardless of whether an employee is entitled to holiday pay, an employer should grant his employee a statutory holiday.

Female VO: Correct! Can an employer make any form of payment to the employee in lieu of granting a statutory holiday?

Male VO: No! If an employer could not grant a particular statutory holiday to an employee due to operational needs, the employer needs to arrange an alternative holiday for the employee according to the requirement in the Employment Ordinance. Moreover, if a statutory holiday falls on the rest day of the employee, the employer shall grant the holiday to the employee on the next day which is not a statutory holiday or an alternative holiday or a substituted holiday or a rest day of the employee.

Female VO: Correct! How many days of paid annual leave is an employee entitled every year?

Male VO: An employee is entitled to annual leave with pay after having been employed under a continuous contract for every 12 months. An employee's entitlement to paid annual leave increases progressively from seven days to a maximum of 14 days according to his length of service. That is, in the first two years of service, an employee is entitled to seven days of paid annual leave after completing every 12 months. After completing the third year of service, the number of days of paid annual leave increases progressively from eight days by one additional day per year until reaching a maximum of 14 days after nine years of service. Paid annual leave should be granted for an unbroken period. If the employee so requests and his entitlement does not exceed 10 days, up to 3 days can be granted separately and the balance should be granted consecutively. If the employee's entitlement exceeds 10 days, at least 7 days should be granted consecutively and the remaining part of the entitlement may be granted separately.

Female VO: Correct! Can an employer make any form of payment to the employee in lieu of granting annual leave?

Male VO: An employee may choose to accept payment in lieu of the part of his entitlement which exceeds 10 days.

Female VO: Correct! Your knowledge about the Employment Ordinance is amazing. There are other employee rights provided under the Employment Ordinance. If you wish to know more about the Employment Ordinance, you may visit the website of the Labour Department at the following address: www.labour.gov.hk or call the Labour Department's 24-hour Enquiry Hotline at 2717 1771 (The hotline is handled by "1823")

VO: This slide show sets out in simple terms some of the main provisions of the Employment Ordinance (Chapter 57). It should be noted that the Ordinance itself remains the sole authority for the provisions of the law explained.