

## Legal Problems in Organizing Sick Leave for Workers under Jordanian Law

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### **Abstract**

*Sick leave is considered one of the essential types of leave that an employee may require during their service with an employer. Sick leave has received attention in numerous legislations in different countries, with provisions and considerations to ensure a balanced relationship between the worker and the employer. In the Jordanian context, the legislator has granted workers the right to sick leave if certain conditions are met. This raises the question of how well the Jordanian legislator considers the interests of both the worker and the employer and strives to create a balance between them. The worker is allowed to benefit from sick leave if specific conditions are met, which reflects the legislator's good intention to provide procedures that guarantee a fair balance between the interests of the worker and the employer. The worker is required to provide medical proof substantiating their need for sick leave. In this context, the role of the designated physician is crucial in assessing the health condition and the necessity of the leave. Despite these positive aspects, there may be potential challenges in implementing this system. The worker may encounter difficulties in obtaining medical reports within a short period, and the system may require more transparency and controls to ensure its fair and balanced utilization by all parties involved. Therefore, it is preferable to consider more details on how the law regulates sick leave and how it impacts the employment relationship. Additionally, it is important to address the specifics of implementing current laws and their effectiveness in protecting the rights of workers and the interests of employers.*

**Keywords:** Sick Leave, Legal Concerns, Jordanian Law

### **INTRODUCTION**

The Declaration of Human Rights stated that "everyone has the right to work, to free choice of employment, to just and favorable conditions of work, and to protection against unemployment" Since employment contracts are legally regulated by labor laws, in the absence of specific provisions in labor law to address a particular issue, general principles in civil law are referred to. Undoubtedly, workers need a period of complete separation from their work, both psychologically and physically, in order to regain their energy and physical and mental strength.

The issue of regulating sick leave for workers is a vital matter that poses important legal challenges, characterized by its complexities and ramifications related to the legal and social context in the Hashemite Kingdom of Jordan. Providing a healthy and safe working environment is essential to ensure the rights and well-being of workers. Among the significant aspects that affect this context are the problematic issues of organizing sick leave.

Furthermore, there are various legal issues related to the regulation of sick leave in the Jordanian context, requiring a precise understanding of the relevant legal systems and regulations. This research aims to explore and analyze these legal challenges, with a focus on identifying weaknesses and the challenges faced by the sick leave system in Jordanian law.

Through this research, we will shed light on the legislative and legal developments witnessed by the Jordanian system in this context. Additionally, recommendations and proposals will be presented to enhance and improve this system, achieving an effective balance between workers' rights and the needs of employers.

This research is part of scientific inquiry aimed at expanding our understanding of the legal issues related to workers' rights in our society. It seeks to make a meaningful contribution to the development of relevant legislation and policies, with the goal of promoting social justice and ensuring the rights and well-being of workers under Jordanian law.

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The following is stated in the Declaration of Human Rights: "Everyone has the right to work, the freedom to choose work that is just and satisfying, and the right to protection against unemployment." The employment contract is governed by the labour law, which also regulates its legal requirements. If the labor legislation does not contain a special provision addressing a particular issue, reference is made to the basic rules of civil law. Without a doubt, the worker needs a period of time during which he is totally cut off from his work in order to regain his activity and his material and moral vigor. This is true both psychologically and health-wise.

Because the disease cannot be cured by taking a weekly vacation, the lawmaker has mandated various vacation kinds that vary based on their intended use:

In this study, sick leave is the thing that worries us. Since the labour law primarily protects the interests of the worker, who is the weak party in the employment contract, the worker, like other people, may be exposed during or outside of work to an illness that prevents him from performing his work and requires him to be given leave in order to recover. It also attempts to safeguard the employer as a party to the agreement, so if extending sick leave would interfere with the employer's ability to operate in the workplace and add to their obligations—particularly if the absence is paid for—cutting the length of time would also the worker and his dependents suffer greatly from this leave, even if it is unpaid, because it is wrong to abandon a worker in such a condition when he is in desperate need of money. The worker depends primarily on the wages he receives from his work, and the interruption of wages during the worker's absence from work causes serious damage.

The Jordanian legislator assumed responsibility for overseeing sick leave and established a comprehensive provision for it in the form of Article (65) of Labour Law No. 8 of 1996. In this text, the legislator discussed various aspects concerning sick leave, although failed to offer resolutions to important and substantial matters. Regarding the preceding post, it is crucial to assess the sufficiency and suitability of the sick leave time mentioned. This is perhaps one of the most significant entitlements for workers, since it allows them to take sick leave for a duration that exceeds the allocated sick leave period. It is also important to determine who has the authority to approve such extended sick leave. Are you referring to a vacation or a day off from work or school? Is it the doctor, the employer, or both parties involved? The legislator failed to resolve the disparity between the medical reports provided by the worker after visiting a doctor and the medical reports issued by the institution's authorised doctor when diagnosing the worker's illness. Furthermore, it failed to specify the worker's entitlement to utilise his yearly leave if the sick leave duration elapses without the worker's recovery.

This research aims to address these inquiries and elucidate the perspectives of jurisprudence and the courts on many matters. This research incorporates the official stance of the Jordanian legislator.

### **Research Structure:**

**The First Topic:** What is sick leave and the conditions for granting it.

**The First Requirement:** the concept of sick leave.

**The Second Requirement:** Conditions for granting sick leave to the worker.

**The Second Topic:** provisions for sick leave

**The First Requirement:** the duration of sick leave

**The Second Requirement:** The penalty for terminating the employment contract due to sick leave

**The Third Requirement:** The effects resulting from the end of sick leave.

### **The First Topic**

#### **What is Sick Leave and the Conditions for Granting It?**

In order to elucidate the concept of sick leave, we must turn to the specific provisions outlined in the Labor Law. Article (65) of said law stipulates that each employee is entitled to a maximum of fourteen days of sick

leave per year, during which they will receive their full salary, contingent upon the submission of a medical report. If the inmate is a hospital resident, the institution may allow their leave for fourteen days with full pay. This leave can be extended for another fourteen days if supported by a report from a doctor approved by institutions with less than twenty personnel. For establishments with more than twenty employees, a dedicated medical committee is authorized. For the purpose of validating medical reports. Consequently, the Jordanian Court of Cassation incorporated numerous of its judgements. Considering the purpose of this article, we will categorize this subject into two distinct topics as outlined below:

## **The First Requirement**

### **The Concept of Sick Leave**

The fundamental concept is that illness is an unforeseen and urgent event that happens to the worker, rendering them unable to perform their duties for a temporary duration. During this time, the worker has the entitlement to cease working and, contrary to the fundamental concept, continue receiving their salary, with due consideration to humanitarian factors. The Jordanian legislature has not established a specific definition for the duration of a worker's absence from work due to illness, sometimes known as sick leave. The task of defining terminology falls within the domain of jurisprudence, rather than the legislator.

Under the existing labor legislation, the Jordanian legislator has bestowed upon the worker certain rights which are protected and cannot be denied by the employer. Simultaneously, it is impermissible for the worker to acquire these benefits unless they meet the criteria outlined by the law. The law has established stringent regulations to ensure that these benefits are not subject to the worker's personal desires or interests, including compensation for sick leave.

Sick leave refers to a temporary period in which a worker is unable to perform their assigned tasks due to an illness they have contracted, whether work-related or not. The primary objective of sick leave is to provide the worker with sufficient time to recuperate. Sick leave is defined as "authorized absence from work granted by a qualified medical professional due to illness." The user's text is empty

This definition is predicated on the premise that the medical authority's duty is limited to advising that the worker be granted a period of time for recuperation, while also providing a medical report that elucidates the diagnosis of the patient's condition. The employer has the discretion to offer sick leave to the worker if the worker meets the qualifying criteria.

Additionally, it should be mentioned that this type of leave is also referred to as health leave. However, health leave is specifically granted for health-related purposes, such as maternity leave, which is given to pregnant women for health reasons rather than sickness. We are unable to adopt this word as it broadens the scope of sick leave beyond our capacity to accommodate.

## **The Second Requirement**

### **Conditions for Eligibility for Sick Leave**

For a worker to be eligible for sick leave, several conditions must be met, including the following:

#### **1- Proof of the worker's illness**

The worker is not entitled to obtain sick leave simply by applying for it without reason. Rather, he must be actually sick, and the burden of proving the illness falls on the worker. The way to do this is to submit an approved medical report to the institution in which he works. The worker's illness can only be proven by you. A specialized medical report approved by the institution in which he works. Therefore, if the worker submits a medical report issued by a medical authority that is not accredited by the institution in which he works, he is not entitled to sick leave and is not considered valid in proving his illness

Here the question arises about the institution not accrediting a specific medical body in the absence of a text obligating the employer to accredit a doctor for his institution, which in this case puts the employer in a position of negligence

Article (65) of the Jordanian Labour Law addresses sick leave and assumes that the employer has designated a doctor for their institution, without considering the possibility of the opposite scenario. If the institution disapproves of a doctor, how can the worker substantiate their ailment with a medical report as stated in this text? To break free from the cycle of worker restrictions and barriers that hinder their right to leave, which has been granted by the legislator, we propose that workers should provide a medical report verifying their health condition. This report can be obtained from either a private or government medical institution. However, if an authorized doctor is not available, the worker may resort to fabricating medical reports in order to receive sick leave, as permitted by the institution.

The state legislature examined this idea and imposed disciplinary sanctions on the violator for infringing upon the regulations governing the employee's entitlement to take leave. These penalties aim to prevent the worker from tampering with medical reports. The content of Paragraph (A) of Article (28) of the Labour Law (4) is as follows: If it is established that he provided fraudulent reports, the employer is entitled to terminate his employment without providing any prior warning. In this scenario, the employer can engage in the act of forgery without requiring a court order. Instead, it is adequate for him to substantiate this claim with irrefutable evidence, while the employee has the option to initiate legal proceedings and seek reparation if it is established that he was terminated unjustly.

### **The Worker's Illness Must not be Deliberate**

In order to be eligible for leave, the worker must genuinely be ill and not have engaged in any deliberate actions to gain it<sup>3</sup>. In this case, the employer must get irrefutable evidence regarding the worker's falsification of the disability that hinders his ability to work, or that he willingly subjected himself to conditions and situations that caused his illness.

### **The Employee Files a Request to Acquire Sick Leave**

The employee files a sick leave application, supported by a medical report validating the severity of the request. The medical report he gives must be accurate and authentic, as any falsification would subject him to the punishment specified in Paragraph (A) of Article (28) of the Labor Law. The authority must also possess the requisite power and jurisdiction. The medical doctor is certified by the institution where he is employed, in line with the provisions of Article (65) of the same legislation. Upon receiving a worker's request for sick leave together with medical documentation, the employer is obligated to acknowledge and provide the leave, provided it adheres to the legal requirements. However, there are instances where the worker may be incapable of granting sick leave due to an abrupt onset of disease. In order to necessitate immediate medical attention, he must promptly and expeditiously submit a sick leave request as soon as feasible in this situation.

### **4- That The Worker Does Not Exhaust the Specified Period of Sick Leave During the Same Year**

The legislator set the maximum period of sick leave during one year, which is (28) days. As a result, the worker cannot benefit from his sick leave in a previous year and had not used it in the same year, and he also cannot benefit from his sick leave from the following year. If these conditions are met, the worker is entitled to his sick leave after obtaining approval from the employer, as he is the person authorized to do so. During his sick leave, the worker is considered to be in the service of the employer.

### **The Second Topic**

#### **Sick Leave Provisions**

If the worker meets the necessary conditions and is eligible for sick leave, they have the right to avail themselves of it as specified by the legislator in the Labour Law. The legislator has established a maximum limit for sick leave and has ensured that the worker is entitled to wages during this period, as outlined in Article (65) of the Labour Law. This study is divided into three portions as outlined below:

## **The First Requirement**

### **The Duration of Sick Leave**

- The initial criterion is the length of the sick leave period.

In compliance with the preceding provision of the Labour Law, the legislator has established the duration of sick leave as follows:

1- During the first period, if a worker provides a medical report from an accredited institution stating their health status, they are awarded a sick leave for fourteen days. During this period, the worker is entitled to receive their full salary. This time refers to the duration in which the legislator provides the worker with complete remuneration to ensure that they do not experience any financial loss. He will act as an advocate for individuals in his vicinity, ensuring their safety and protection. Regarding the wage amount, it consists of his fundamental salary along with any other earnings he acquired from his employment.

2- The second period: According to the same article, the worker has the option to request an extension of the initial time for a similar duration. During this extended period, if the worker is a hospital resident, they are entitled to receive their full income.

With reference to the phrase contained in the text of Article (65) of the Labor Law, which is: "It may be renewed for another fourteen days with full pay..." as the phrase may be renewed raises confusion about who has the right to renewal: is it the worker or the employer? However, the one who has the right to renewal is the worker, as he is the one who knows best about his ability to return to work and regain his health, and he determines whether or not this renewal will be granted.

Just as the first fourteen-day period of sick leave requires the employer's approval, so does the second period, and in both cases, the employer retains the authority to approve or deny the leave, noting that he bears responsibility in the event of abuse of this right. (2), the wage and medical report that must be submitted are the only differences between these two periods. The wage is full for the first period and half for the second term if the worker is a resident of a hospital in institutions with fewer than twenty workers. The medical reports required in order to acquire sick leave. During the first phase, the required report must be issued by the institution's recognized medical authority.

In the second period, the legislator made a distinction: if the number of workers in the institution is less than (20), the medical report issued by the doctor approved by the institution; if the number of workers is greater than (20), the approved report is what is approved by the committee. Accredited private medical doctors to make decisions and approve reports.

In any case, the sick leave duration established in the Labor Law is insufficient for certain workers to recover, and it is quite short.

## **The Second Requirement**

### **Penalty for Terminating the Employment Contract Due to Sick Leave**

It should be noted that the Jordanian legislator prohibits the employer from dismissing the worker during his sick leave, as the direct purpose of sick leave is to enable the worker to restore his health.

The Jordanian Court of Cassation took this into account in many of its decisions, as it stated in one of its decisions the following: "The legislator included in the text of Article (27) of the Labor Law a restriction on the employer to the effect that even if there are legitimate reasons for dismissing the worker, his service may not be terminated." Cases, including when the worker is on sick leave", as the Labor Law in Article (27\A\3) considers dismissal of the worker during sick leave to be illegal and unjustified.

Thus, the employer may not terminate the worker's employment contract while he is on sick leave or give him notice to terminate his service while on sick leave. Despite the above, the employer remains exempt from the

provisions contained in Paragraph (A) of Article (27). of the Labor Law if the worker works for another employer during the period of his illness, and this is what was indicated in paragraph (b) of the same article.

### **The Third Requirement**

#### **The Effects of Sick Leave**

If a person is exposed to a disease and takes sick leave as mandated by the law, the primary concern arises around the duration of this leave if the individual fails to fully recover and resume their previous job capacity. The solution to this question is independent of two assumptions:

**1- The Initial Assumption:** Empirical evidence confirms that the worker is permanently incapacitated and unable to resume employment.

If it is evident that the worker is incapable of returning to his previous job due to a permanent partial disability, and this disability does not hinder him from performing other types of work, it is the employer's responsibility to offer him suitable employment that aligns with his health condition, provided such work is available, and with appropriate compensation. Assigned to that task.

even though the employee experiences an incurable disability or illness, the employer is legally allowed to terminate the employment agreement based on the provision outlined in Paragraph (C) of Article (21) of the Labor Law, which addresses the impracticability of fulfilling the contract. The Court of Cassation in numerous rulings has consistently upheld this interpretation.

Nevertheless, the legislator failed to explicitly state whether the disability mentioned in this article is of a permanent or temporary nature. It would have been more advisable to clarify it as a permanent disability, as temporary disability implies the possibility of the worker's recovery or their ability to perform another job suitable for their health condition. This is precisely what Article (14) signifies. Regarding the field of labor law.

**2- The Second Assumption:** Since the worker is still in a state of recovery or has not yet recovered.

In this regard, part of the jurisprudence holds that the employer has the right to dispense with the worker's services on the basis that the period of his sick leave has expired and he has not recovered and is unable to resume his work again.

However, the texts that are tinged with doubt are interpreted in the interest of the worker, and since the legislator did not provide an explicit text to that effect, because its application would cause the worker and those he supports serious harm, which makes the first hypothesis the most adopted by the legislator, so adopting the idea of freezing the relationship between the worker and the employer (cessation of the contract Work) until the worker recovers, and to avoid harm to the facility and the interest of the employer, the worker has the right to seek the assistance of another worker in place of the sick worker until his fate is decided.

In any case, employment injuries and occupational diseases are among the legislative grounds for suspending an employee's employment contract, as the employment contract is suspended until the injured worker's fate is established. Either the injury causes a partial disability, a permanent disability, or it is deadly.

Finally, the lawmaker must permit the worker to use his yearly leave if the duration of his sick leave has ended and he has not yet healed.

### **CONCLUSION**

In conclusion, the discussion on the issues of sick leave in the Jordanian legal context clearly demonstrates its significance within the framework of workers' rights and achieving a fair balance in the employment relationship. The comprehensive view of Jordanian legislation in this context shows its commitment to protecting workers' rights and providing a framework that encourages cooperation between the worker and the employer in order to achieve the interests of both parties.

The Jordanian legal system adopts an approach that recognizes the importance of sick leave as a fundamental right of the worker. At the same time, it seeks to guide this right in a way that preserves the interests of the parties involved. It requires the worker to provide medical proof to ensure their entitlement to sick leave, thereby enhancing transparency in the process and ensuring the sustainable and balanced use of this right.

However, there remains a challenge in ensuring the smooth implementation of this system, especially considering the difficulties the worker may face in obtaining medical reports in a timely manner. Therefore, the effectiveness of this system can be enhanced by developing mechanisms to verify the accuracy of medical reports and facilitating the process of requesting sick leave.

In light of this, it is important to periodically review labor legislation and policies to ensure their updating and meet the needs of both workers and employers. Improving the framework for sick leave contributes to building a healthy and sustainable work environment that achieves the desired balance in the employment relationship.

## **THE RESULTS**

- 1- If the worker knowingly causes himself hurt and injury, the employer has the right to prevent him from doing so under the Labor Law's legal requirements governing sick leave.
- 2- The sick leave duration is relatively short and insufficient for the worker to recover, as it is not permitted to standardize the duration for all illnesses due to the varied requirement for sufficient time for the patient to recover, as the legislator has established a maximum ceiling of 28 days.
- 3- The employer owns the authority to provide sick leave, and the worker must make an application in order to acquire sick leave, attaching what supports his request, which is the medical report approved by the institution's doctor.
4. If the employer does not specify the approved doctor for his institution, the worker has the right to prove his illness with a medical report, whether from a governmental or private medical authority.

## **Recommendations**

- 1- The duration of sick leave is too short in some cases, because the legislator must intervene legislatively and amend this period to fit the average sufficient number of days for sick leave, based on medical statistics for medical cases in detail, rather than standardizing the duration of leave for all diseases.
- 2- When awarding sick leave to a worker, the length of his service with the business, as well as his medical history and age, must be considered. If a worker uses up his sick leave, he must be able to take advantage of his annual leave.
- 3- We propose revising paragraph (C) of Article (21) of the Labor Law to state that the incapacity that terminates the work contract must be permanent.

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