

BILL No. 3 of 1995 SATURDAY, 4TH FEBRUARY, 1995

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.

30th January, 1995

The following Bill which will be introduced in the National Assembly is published for general information.

F. A. Narain,
Clerk of the National Assembly.



GUYANA

BILL No. 3 of 1995

HOLIDAYS WITH PAY BILL 1995

ARRANGEMENT OF SECTIONS

SECTION.

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A BILL

Intituled

AN ACT to repeal and re-enact the Holidays with Pay Act, to provide for the grant and regulation of annual holidays with pay for all categories of workers, and for matters connected therewith and incidental thereto.

A.D. 1995

Enacted by the Parliament of Guyana:—

Short title
and com-
mencement,

1. This Act may be cited as the Holidays with Pay Act 1995 and shall come into operation on such date as the Minister may, by order, appoint.

Interpreta-
tion.

2. In this Act —

(a) “occupation” includes any trade, industry, undertaking or business;

(b) “wages” means the regular amounts paid by an employer to a worker in respect of the worker’s services and includes the value of any allowance in kind supplied to such worker under or by virtue of his contract of employment, but does not include any amount paid in respect of overtime work or by way of bonus, unless such payments by way of bonus form part of such regular amounts; and for the purposes of this definition the cash value of any allowance in kind shall be deemed to be the amount fixed as such by or under the terms of the worker’s employment, or if it is not so fixed, shall be as determined by the Chief Labour Officer;

(c) “worker” means worker employed in any occupation.

Grant and
method of
computing
holidays
with pay,

3. (1) Every worker being in employment at the date of the commencement of this Act shall be allowed a period of holidays with pay of not less than one day for each completed month of employment computed as though his employment commenced on the date of the commencement of this Act.

(2) Every worker not being in employment at the date of the commencement of this Act but thereafter being in employment shall be allowed a period of holidays with pay of not less than one day

for each completed month of employment computed from the date of engagement.

(3) Every worker who is employed on a half-day basis, shall have the half-day counted as a day in the computation of periods of employment and holidays with pay.

(4) Every worker who is employed on a daily or hourly basis, shall be allowed a period of holidays with pay of not less than one day for every period of twenty days or one hundred and sixty hours worked as the case may be.

4. (1) No employer shall require a worker to take his holidays with pay in periods of less than six consecutive days:

Periods of
holidays
with pay,

Provided that any of the days which are Sundays or Public Holidays shall not be computed as holidays with pay under this Act.

(2) The holidays with pay shall be given by the employer and shall be taken by the worker before the expiration of three months after the date upon which the right to such holidays accrues.

(3) The employer shall determine the date on which the holidays shall commence taking into account any special request by the worker.

5. (1) In respect of a period of holidays with pay, the employer shall pay to the worker for each day of such period his current daily wage.

Remunera-
tion for
holidays
with pay,

(2) If the worker so requests, the wages payable in the course of the holidays shall be paid to him before such holidays commence.

6. When the employment of a worker is terminated, either by such worker or by the employer, the employer shall pay to such worker in lieu of such period of holidays with pay as shall have accrued under this Act and in respect of which no payment has been made, a sum equal to the wages which would have been paid for a like period of holidays with pay if taken at that date.

Payment
for holidays
with pay
upon
termination
of employ-
ment,

7. Any provision in any agreement between any employer and a worker whereby the worker purports to contract himself out of the provisions of this Act, or whereby the worker undertakes to receive any less benefit than he is entitled to under this Act shall be of no effect.

No power to
contract out
of Act,

Records.

8. Every employer shall keep such records as may be prescribed to show that the provisions of this Act are being complied with in respect of persons in his employment.

Offences.

9. Any employer who —

- (a) fails to allow a worker any holidays with pay to which such worker is entitled under this Act;
- (b) enters into any contract, any of the provisions of which is of no effect under section 7;
- (c) fails to keep any records as may be prescribed under section 8, or knowingly makes or causes or permits to be made any false entry in such records; or
- (d) contravenes any of the provisions of any regulations made under section 12,

shall be liable on summary conviction to a fine of not less than twenty thousand dollars nor more than twenty-five thousand dollars.

**Offence
by agent.**

10. (1) Where an offence for which an employer is, by virtue of this Act, liable to a penalty, has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were the employer and shall be liable to the same punishment to which the employer is liable.

(2) Where an employer charged with an offence under this Act proves to the satisfaction of the court that he has used due diligence to secure the compliance by his agent with this Act, and that the offence has in fact been committed by an agent or some other person without his knowledge, consent or connivance, he shall, in the event of the conviction of that agent or other person, be exempt from any penalty in respect of such offence.

(3) Where the immediate employer of any worker who is entitled to be allowed holidays with pay is himself in the employment of some other person, and that worker is employed on the premises of that other person, that other person shall, for the purposes of this Act, be deemed to be an employer of the worker jointly with the immediate employer.

**Institution
of prosecu-
tions by
Chief
Labour
Officer.**

11. (1) The Chief Labour Officer may institute or cause to be instituted any prosecution for the purpose of enforcing this Act.

(2) Any officer of the Department of Labour may prosecute or conduct before any court having jurisdiction any information, complaint or other proceeding arising under this Act.

12. The Minister may make regulations generally for giving effect to the purposes of this Act and for the better carrying out of any of the provisions of this Act.

Regulations,

13. (1) The Holidays with Pay Act is hereby repealed.

Repeal and savings,

Cap. 99:02

(2) Notwithstanding the repeal of the Holidays with Pay Act, the Holidays with Pay (Register of Holidays) Regulations made under section 11 of the said Act, to the extent to which they could be made under this Act, shall with any necessary modification and subject to the power of the Minister to amend or revoke them, continue in force as if they were made under section 12 of this Act.

(3) Any accrued right in relation to holidays with pay of any worker being in employment on a date prior to the commencement of this Act shall be taken into consideration in computing his entitlement to holidays with pay under this Act.

EXPLANATORY MEMORANDUM

This Bill seeks to extend the current provisions relating to holidays with pay, in the Holidays with Pay Act, Cap. 99:02, which is being repealed, to all categories of workers.

Henry B. Jeffrey,
Senior Minister of Labour,
Human Services & Social Security.