

WIETA

	Code Principle	Fair Working Hours and Conditions	Date	May 2016
	Subject	Annual Leave & Payments on Termination	Benchmark Ref	07.03 (a) – (c)
	Legal reference	Basic Conditions of Employment Act, No. 75 of 1997: Sectoral Determination 13: Farm Worker Sector, South Africa		

SECTION 21 & 29 – SECTORAL DETERMINATION 13: FARM WORKER SECTOR

21. ANNUAL LEAVE

- (1) An employer must grant a farm worker–
 - (a) at least three weeks leave on full pay in respect of each twelve months of employment (the ‘annual leave cycle’);
 - (b) by agreement, at least one day of annual leave on full pay for every 17 days on which the farm worker worked or was entitled to be paid; or
 - (c) by agreement, one hour of annual leave on full pay for every 17 hours on which the farm worker worked or was entitled to be paid.
- (2) An employer must grant a farm worker an additional day of paid leave if a public holiday falls on a day during a farm worker’s annual leave on which the farm worker would otherwise have worked.
- (3) An employer may reduce a farm worker’s entitlement to annual leave by the number of days of occasional on full pay granted to the farm worker at the farm worker’s request in that annual leave cycle.
- (4) An employer must grant -
 - (a) at least three weeks annual leave on full pay in respect of each 12 months of employment (the ‘annual leave cycle’) not later than six months after the end of the annual leave cycle or the year in which leave was earned.
 - (b) The leave earned in one year over a continuous period, if requested by the farm worker.
- (5) Annual leave must be taken -
 - (a) in accordance with an agreement between the employer and the farm worker; or
 - (b) if there is no agreement in terms of paragraph (a), at a time determined by the employer in accordance with this sub-clause.
- (6) An employer may not require or permit a farm worker to take annual leave during -
 - (a) any other period of leave to which the farm worker is entitled in terms of this chapter; or

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(b) any period of notice of termination of employment.

- (7) An employer may not require or permit a farm worker to work for the employer during any period of annual leave.
- (8) An employer may not pay a farm worker instead of granting paid leave in terms of the clause except on termination of employment in terms of clause 26.
- (9) An employer must pay a farm worker leave pay at least equivalent to the remuneration the farm worker would have received for working for a period equal to the period of leave, calculated at the farm worker's rate of remuneration immediately before the beginning of the period of leave.
- (10) An employer must pay a farm worker leave pay before the beginning of the period of leave.

29. PAYMENTS ON TERMINATION

- (1) On termination of employment, an employer must pay a farm worker all monies due to the farm worker including –
- (a) any remuneration that has not been paid;
 - (b) any payment owing in respect of extended ordinary hours of work in terms of clause 11;
 - (c) any paid time off that the farm worker is entitled to in terms of clause 14 or 16 that the farm worker has not taken;
 - (d) remuneration calculated in accordance with clause 21(9) for any period of annual leave due in terms of clause 21(1) that the farm worker has not taken; and
 - (e) if the farm worker has been in employment longer than four months, in respect of the farm worker's annual leave entitlement during an incomplete annual leave cycle as defined in clause 21(1) –
 - (i) one day's remuneration in respect of every 17 days on which the farm worker worked or was entitled to be paid; or
 - (ii) remuneration calculated on any basis that is at least as favourable to the farm worker as that calculated in terms of subparagraph (i).

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