

Fact Sheet - Paid Holiday Entitlement

Full time workers (those who work five or six days a week) are legally entitled to 28 days (5.6 weeks) paid annual holiday per year which may include the bank and public holidays if their employment contract says this. The 28 days leave is **statutory minimum paid leave** and is set out in the Working Time Directive.

As the employer, you are responsible for making sure that your employees take their 28 days **statutory minimum paid leave** each year. Workers should not be allowed to carry forward any unused statutory minimum paid leave into the next leave year. If they are allowed to do this, they will not have taken the **statutory minimum paid leave**. You would leave yourself vulnerable to a challenge that you have breached the working time legislation. There is one exception, case law that allows people who are unable to take their annual allocation due to sickness or maternity leave to carry leave over to the next year (see below).

If the contract of employment gives employees more than 28 days paid leave, you are still responsible for making sure that they take their 28 days statutory minimum paid leave each year. Any entitlement you give them over the 28 days can be dealt with as you wish (it's called contractual leave) eg you can allow people to carry it forward, you can "buy" the holiday back of the employee.

Calculating statutory minimum paid leave entitlement

All workers, whether full time, part time or zero hours, are entitled to paid leave. The method for calculating the amount to be paid is laid down in law.

Annual leave can be calculated in a number of days per year or a number of hours per year. We tend to use

- a number of days per year when employees work regular hours over regular days eg 09:00 – 17:00, Monday to Friday, 10:00 – 14:00 Monday, Tuesday, Wednesday
- a number of hours per day when the working pattern is varied eg on a Monday the employee works 4 hours, 6 hours on a Tuesday and 7 hours on a Friday or the employee is on a zero hour contract.
- 12.07% of the hours worked on a zero hours contract are accrued as annual leave. You need to manage the employee taking this leave during the leave year (we have a spreadsheet that we have developed that you can use to manage this for you)

Obviously, people starting or finishing work with you during a leave year are entitled to a pro rata accrual of holidays. Give us a call if you need help calculating this.

Bank Holidays - Pay and Leave Entitlement

We've found the easiest way to understand how we now treat Bank Holiday working and annual leave is to stop thinking of holiday entitlement as 20 days holiday and 8 bank holidays. Think of it as one amount of paid leave, 28 days (or whatever the entitlement of the employee is).

An employee can only take a day's holiday when they are scheduled to work. If they are not scheduled to work on Easter Monday then they can't be asked to take a day's holiday. It is just a day when they are not working. If the employee is scheduled to work on Easter Monday but you are closed, the employee must take a day's leave.

Carrying over holidays from year to year

Statutory holidays are mandatory. An employee with 28 days entitlement must take a minimum of 20 days in any given year. Anything over 20 days can be carried over by agreement between both parties. However if an employee does not take at least 20 days annual leave you are at risk of being in breach of the statutory regulations and could be subject to a fine.

Maternity Leave and Holiday Entitlement

An employee on maternity leave (or adoption leave, or long term sick) is entitled to accrue their annual entitlement in the same way as they would whilst in work. When they take the accrued leave is a matter for agreement between you and the employee. They cannot lose holiday not taken in anyone year because they were on long term leave (this is an exception to the "you can't carry your leave over" rule). In the interests of your business you might prefer to agree with them that they take their leave before they return to work, or use it to help them phase their return.

For more information or help on annual leave queries call us on 01706 565332 or email us on info@metishr.co.uk