

NEW HOLIDAY ENTITLEMENT REGULATIONS

Under Working Time Regulations all workers had the right to four weeks paid leave. This entitlement, however, could include any right to paid public holidays. The new rules state full time employees are now entitled to a minimum of 24 days paid holiday per annum and as from 1 April 2009, the minimum entitlement will increase to 28 days per year.

New rules - the key points

- The extension to holidays will be implemented in two stages, with the annual statutory entitlement increased to 24 days (4.8 weeks) from 1 Oct 07 and 28 days (5.6 weeks) from 1 April 2009
- From 1 April 2009, a full time worker will be entitled to 28 days' statutory annual leave. This equates to the current entitlement of 20 days plus eight public holidays. The new rules do not give the right to take time off on the public holidays themselves where these are normally worked
- Employers who give their workers a minimum of four weeks holiday plus public holidays' need not provide the workers with additional leave – assuming they give at least four days public holidays now and at least eight public holidays from April 2009.
- Until April 2009, employers may make payments in lieu of the additional four days (0.8 weeks) entitlement. Thereafter, the additional leave may not be replaced by a payment in lieu except where a worker's employment is terminated.

• In contrast, the additional entitlement of eight days (1.6 weeks) may be carried over into the following leave year. Employers may, during the period 1 October 2007 until 1 April 2009, make payment in lieu to their employee in respect of the additional four days holiday. Thereafter they will not be able to do this.

• Employers whose employees' leave is increased owing to the new rules will be obliged by S.4 of the Employment Rights Act 1996 to provide those employees with a written statement containing details of this change to their employment particulars.

Public holidays - There will be no new right to take time off on any specific public holiday. It follows workers not contractually entitled to take leave on such days must, make holiday requests in the normal way for these days.

Long Term Sick Leave - The impact of long term sick leave on annual leave entitlement is in a state of uncertainty and is the subject of court proceedings at present. The House of Lords has referred a number of questions to the European Court of Justice (ECJ). Until a judgment has been made by the ECJ no firm advice can be given regarding paid holidays and those unfortunately on long term sick.

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