



Employment Briefing

Construction Confederation

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Changes to Statutory holiday entitlement

The statutory holiday entitlement is changing. The holiday entitlement will increase to 4.8 weeks (24 days if you work a five day week) from 1 October 2007 and to 5.6 weeks (28 days if you work a five day week) from 1 April 2009, pro-rata for those working part-time.

The Working Time Regulations 1998 gave both employees and "workers" an entitlement to paid holiday for the first time. The 1998 Regulations implement the provisions of the EU Working Time Directive that sets down a minimum of four weeks annual paid holiday including public and bank. However the UK Government has now decided to increase the entitlement over and above the EU minimum so as to provide four weeks paid holiday plus a further eight days (for someone who works five days a week).

The additional eight days are designed to allow those who take public and bank holidays off to be paid for them. There is no intention to make public and bank holidays compulsory and those who work on public and bank holidays simply take their entitlement at another time by agreement with their employer.

The additional entitlement is being phased in starting October 2007. Currently holiday entitlement under the Regulations for someone working a five day week accrues at one and two third days per month. From October 2007 this accrual will increase to two days per month and then from 1 April 2009 two and one third days per month. Someone working part-time will have their entitlement based on a pro-rata basis.

Do I already comply?

To be excluded from the regulations an employer must, from 1 October 2007, offer at least 4.8 weeks annual leave (which can't be replaced by a payment in lieu) and 5.6 weeks by April 2009. Any unused holiday above four weeks (the first four weeks can't be carried over) may only be carried over into the following year.

Eligible employers should continue to meet these and other legal obligations relating to annual leave. If satisfied you meet the requirements, carry on as normal and take no further action. Others must increase their annual leave entitlement to 4.8 weeks from 1 October 2007 and to 5.6 weeks from 1 April 2009.

The CIJC Working Rule Agreement

The CIJC WRA provides 21 days of annual (Industry) days holiday plus 8 for Public and Bank holidays. Therefore employers operating the CIJC WRA need do nothing as the entitlement is still in excess of the new minimum entitlement.

Calculating the entitlement

Employees will be entitled to the additional holiday from 1 October 2007. Depending on an employer's leave year, employees will be entitled to 0.8 weeks of additional holiday multiplied by the proportion of their leave year left to run after 1st October 2007 – eg if an employer's leave year runs from 1st January to 31st December, employees will be entitled to three months' worth of the additional annual entitlement, an additional 0.2 weeks.

As the entitlement to statutory annual leave is capped at 28 days, employees working 6 days a week will be entitled to 28 days from 1 October 2007.

Part time

The increase should be pro-rated for those working part time (regardless of what days the work). So if an employee works four days a week in a leave year beginning on or after 1 October 2007, they will be entitled to 19.2 days (4 x 4.8). If they work three days a week they will be entitled to 14.4 days (3 x 4.8).

Part days

Calculations may result in part days (e.g. 19.2 days for someone working four days a week). Although they cannot be rounded down to the nearest full day, they don't need to be rounded up to the nearest full day but an employer can choose to do this. Employees may want to carry over unused holiday from the current leave year to the next. This is only allowed for any entitlement above the four-week minimum. Outstanding holiday above four weeks can be carried over if you and the employee agree. Additional statutory leave can only be carried over into the following leave year.

You may offer payments in lieu of taking any remaining holiday at the end of a leave year. Currently, this is only allowed for contractual entitlement above the statutory four-week minimum. As a temporary measure, payment can be given in lieu of the additional days introduced on 1 October 2007 (four days for those working a five-day week). From 1 April 2009, payment in lieu cannot be provided for anything less than 5.6 weeks (28 days for those working full time). Different rules apply to employees that are leaving.

Employers will need to notify employees in writing of any increase in holiday entitlement through a letter to employees or by a statement on pay slips, for example.

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