

A guide to handling holiday leave



Handling holiday leave

Holidays should be relaxing...

...so let's keep them that way! The holiday season can be a lot to handle if your business isn't prepared. Luckily, Citation's HR & Employment Law experts are here to break it down for you - from working out holiday entitlement, and accruing leave to making annual leave requests a breeze.

Holiday entitlement

Since 1 April 2009, the statutory minimum annual holiday entitlement is 5.6 working weeks of paid holiday per year - including any bank holidays. This adds up to 28 days for a worker who has a five day week. This is the statutory minimum number of holidays; some employers may decide to give more.

Important

You must include the details of employees' holiday entitlements in their written statement of particulars.

Part-year workers

There has been a recent case that has confirmed that part-year workers (which includes term-time workers) are entitled to a statutory minimum holiday entitlement of 5.6 weeks that should not be pro-rated or reduced to reflect that they don't work through the whole year. The Supreme Court made a distinction between part-year and part-time workers, and it's very important not to confuse the difference.

However, the government is proposing to change the way holiday is calculated so that weeks where the worker doesn't do any work are also taken into account.

This would have the effect of pro-rating the holiday for part-year workers. The consultation ended on 9 March and we're awaiting the outcome.

Part-time employees

Holiday allowances for part-time employees should be calculated based on their work patterns or hours. For example, a part-time employee who works five morning shifts per week would be entitled to 28 paid mornings off per year.

Part-timers are entitled to a pro-rata equivalent of full-timers' holidays. Any bank holidays that fall on their working days and which they are allowed to take are counted towards their entitlement.

If you've got a part-time employee who works three full days a week, for example, their allowance would be three-fifths of the annual 28-day entitlement - 16.8 days. An employee who works two days a week would be entitled to 11.2 paid holiday days off per year, and so on.



Accruing leave

An employee's holiday entitlement will depend on when they join your business. For example, if an employee joins you at the start of your holiday year, they'd be entitled to the full year's allowance.

However, if they start a quarter of the way through the year, they won't be entitled to one quarter of their allowance, and if they started halfway through your business' holiday year, they would only be entitled to half of their allowance...so on and so forth.

Protection: There are rules in place to prevent employees exhausting all their holiday allowance as soon as they start working for you, and then leaving the business.

The rule stipulates that holidays in the first year of employment are accrued at a rate of 1/12th of the annual entitlement on the first day of each month of that year

Carrying holidays forward

As a rule, annual leave can't be carried from one holiday year to the next. However, there are a few exceptions to this, like maternity leave or other family leave. If an employee has been unable to take annual leave for any of these reasons, any outstanding holiday days will roll over into the following year.

Another exception is when an employee is unable to utilise their holiday days because of sickness. In the event of this, an EU court judgement ruled that annual leave can be taken at a later date - even if it falls into the following holiday year. Each matter will be fact-sensitive and advice should be sought where possible. If an employee couldn't take their holidays because of the effects of COVID-19, they can carry it forward for up to two years.

At the discretion of your business, you may choose to let employees carry a limited number of holiday days over to the next year (provided they take at least four working weeks holiday in that year). If you allow this, make sure it's documented so that you can show they've agreed to and understood the terms. It's also worth being aware that by allowing this you may be setting a precedent, and others may ask for you to exercise your discretion with them too.

Requesting leave

The notice period employees must give when requesting holiday days is entirely up to you.

If you don't have a documented procedure in place, employees should put in their holiday requests at least twice the length of the leave before the leave date.

For example, if an employee puts in a request for two weeks off commencing 14 August, they should lodge the request no later than 17 July. Once the request has been made, you must respond at least the length of leave before the leave date. So, sticking with the same example, you must give an answer by 31 July.

Additional bank holidays

In 2022 and 2023, we've seen some extra bank holidays - like for the King's Coronation. Employees have no automatic right to this time off.

Deciding whether you need to (or can) give employees such time off and/or pay them for this extra holiday will depend on what you've done in the past and what their contract says.

However, even if you could choose to say to employees that they're not allowed the day off or you won't pay them for it, it's always good to think about employee engagement and how this message would land, especially if the bank holiday is to do with a national event that they may want to be part of.