



ANNUAL LEAVE AND PUBLIC HOLIDAY ENTITLEMENTS FOR PART TIME STAFF

GENERAL

The Organisation of Working Time Act 1997 sets out statutory rights for employees in respect of rest, maximum working time and holidays. These rights apply either by law as set out in the Act, in Regulations made under the Act or through legally binding collective agreements. These agreements may vary the times at which rest is taken or vary the averaging period over which weekly working time is calculated.

HOLIDAYS

Holiday pay is earned against time worked. All employees, **full-time, part-time, temporary or casual** earn holiday entitlements from the time work is commenced. The Organisation of Working Time Act 1997 provides that most employees are entitled to 4 weeks annual holidays for each leave year with pro-rata entitlements for periods of employment of less than a year. In the case of employees working a normal 5 day week this would work out at 1 2/3 days per month worked or 20 days.

Depending on time worked, employees holiday entitlements should be calculated by one of the following methods: -

- (i) 4 working weeks in a leave year in which the employee works at least 1,365 hours (unless it is a leave year in which he or she changes employment)
- (ii) 1/3 of a working week per calendar month that the employee works at least 117 hours
- (iii) 8% of the hours an employee works in a leave year (but subject to a maximum of 4 working weeks)

The time at which annual leave may be taken is determined by the employer having regard to work requirements, and subject to the employer taking into account the need for the employee to reconcile work and family responsibilities, and the opportunities for rest and recreation available to the employee.

PUBLIC HOLIDAYS

The Act also provides the following nine public holidays: -

- (i) 1 January (New Year's Day);
- (ii) St. Patrick's Day;
- (iii) Easter Monday;
- (iv) the first Monday in May;
- (v) the first Monday in June;
- (vi) the first Monday in August;
- (vii) the last Monday in October;
- (viii) Christmas Day;
- (ix) St. Stephen's Day.

In respect of each public holiday, an employee is entitled to: -

- (i) a paid day off on the holiday, or
- (ii) a paid day off within a month, or
- (iii) an extra day's annual leave, or
- (iv) an extra days payas the employer may decide.

If the public holiday falls on a day on which the employee normally works, then the employee is entitled to either a ***paid day off, an additional day's pay, a paid day off within a month of the day, or an additional day of paid annual leave for the public holiday.***

If the public holiday falls on a day on which the employee does not normally work, then the employee is entitled to ***1/5 of his/her normal weekly wage*** for the day, which rate of pay is paid if the employee receives options (i) (ii) or (iv), above, as may be decided by the employer.

If the employee is asked to work on the public holiday, then he/she is entitled to either an additional day's pay for the day, or a paid day off within a month of the day, or an additional day of paid annual leave.

Part-time employees must have worked a total of 40 hours over a five-week period ending immediately before the public holiday to qualify.

FAQ's

Do employees who have left employment have a public holiday entitlement?

An employee must satisfy two criteria to be entitled to a public holiday occurring after the termination of employment.

Firstly, the employee must have left employment in the week ending on the day before the public holiday.

Secondly, the employee must have been in employment for the four weeks preceding that week.

Example

A public holiday fell on Monday 7 May 2001. Look to the day before the public holiday, Sunday 6 May and go back a week from that day. The employee must have left employment between the 30 April and 6 May, and have been in employment for the four weeks preceding the week beginning on the 30 April 2001, in order to be entitled to a day's pay in lieu of the public holiday.

How is annual leave calculated for part-time employees?

If a part-time employee is employed for the full leave year, and works 1,365 hours or more, he/she will be entitled to four of his or her working weeks as annual leave. It is important to remember that 4 working weeks, means four of that employee's working weeks. So, if the employee works a three day week, then four of his / her working weeks amounts to 12 days.

However, since most part-time employees work less than 1,365 hours the annual leave entitlement may be calculated by getting **8 per cent of all the hours worked** by him / her in the leave year, subject to a **maximum of 4 working weeks**.

Example 1

A part-time employee works Monday to Thursday, eight hours each day. What is their annual leave entitlement for the year?

8 hours * 4 days = 32 hours per week

32 hours * 52 weeks = 1,664 hours per year

1,664 hours is in excess of 1,365 hours, so this employee's annual leave entitlement is 4 working weeks

One of their working weeks is 4 days, so 4 of their working weeks is 16 days

Example 2

A part-time employee works for five hours on Monday, Wednesday and Friday mornings. What is their annual leave entitlement for the year?

5 hours * 3 days = 15 hours per week.

15 hours * 52 weeks = 780 hours per year.

780 hours is less than 1,365 so use the 8% method of calculation.

780 hours * 8% = 62.4 hours annual leave entitlement.

Convert 62.4 hours back into weeks, by dividing by the number of hours worked each week.

62.4 hours annual leave / 15 hours per week = 4.16 weeks.

The 8 per cent is subject to a maximum of 4 working weeks, so get rid of 0.16 weeks.

This employee is entitled to 4 of their week's annual leave, which is 12 days of 5 hours each.

If an employee is sick on a public holiday are they entitled to any benefit?

If an employee is sick on a public holiday, the public holiday entitlement must still be paid.

If the employee was due to work on the public holiday, or it was a day the employee would normally have worked, then the employee should receive a normal days pay in respect of the public holiday. If the public holiday falls on a day on which the employee does not work, a public holiday entitlement still exists, provided the 40 hours has been worked in the preceding five weeks. The employee should receive one fifth of the normal weekly pay.

However, an employee is not entitled to a days pay for the public holiday, and a days pay from the company sick pay scheme, if one is in operation. The

Organisation of Working Time Act, 1997 does not provide for employees receiving the time again because he/ she was sick on a public holiday.

Is an employee who is absent before a public holiday entitled to a benefit?

Depending on the reason for the employee's absence from work, the employee retains the public holiday entitlement as follows:

- If the absence is due to an occupational injury the employee retains the public holiday entitlement for the first 52 weeks of that absence.
- If the absence is due to illness or injury, but is not related to the workplace, the employee retains the public holiday entitlement for the first 26 weeks of that absence.
- Any absence that is authorised by an employer, including a layoff, but not including illness or injury as mentioned above, the employee retains the public holiday entitlement for the first 13 weeks of that absence.
- An employee will not be entitled to a public holiday if they were absent owing to a strike.

Note, employees retain an entitlement to public holidays falling during any period of maternity leave, additional maternity leave, adoptive leave, additional adoptive leave, parental leave, and the first 13 weeks of carer's leave for each relevant person. An employee absent on health and safety leave has no entitlement to a public holiday.

What happens if an employee is ill while on annual leave?

If while on annual leave, an employee is ill, and the employee furnishes the employer with a medical certificate from a registered medical practitioner in respect of the illness, then those days shall not count as annual leave.