

4. Holidays (Annual Leave) Entitlement and Pay

Legislation on entitlement to Annual Leave is set out in **The Working Time Regulations 1998**, Part II, sections 13 - 15.

UK Gov: Working Time
Regulations Act 1998



The statutory minimum full year's annual leave entitlement is 28 days for a full time employee or worker. Part time employees/workers are entitled to a proportion of the full time entitlement this is called a pro rated (pro rata) amount.

The Government has produced information on reform of holiday pay and entitlement effective from 1 April 2024. Employers should familiarize themselves with these rules to ensure they provide employees and workers with their correct entitlement.

There are specific rules on how to calculate annual leave for irregular hours and part year workers, this is often called accrual. The calculation is 12.07% of the hours they worked in a pay period. The entitlement must be rounded up to the nearest hour if the entitlement is 0.5 of an hour or more.

An employer might give more contractual annual leave than the statute, however, this is at their discretion, details of the company leave year and entitlement should be set out in the contract of employment.

The following are entitled to paid holidays:

- employees
- apprentices
- zero-hours workers
- casual workers
- agency workers

UK Gov: Holiday
entitlement rights



UK Gov: Holiday pay
and entitlement reforms



ACAS: Irregular hours and
part-year workers



UK Gov: Calculate
leave entitlement



ACAS: Asking for
and taking holiday



An employer has the right to allocate annual leave, and, company rules are normally set out in the contract of employment. It is also good practice for them to have an Annual Leave Policy which details the preferred procedure for applying for annual leave.

Bank Holidays / Public Holidays are not in addition to the statutory entitlement unless the Contract of Employment states otherwise.

Contracts of Employment must outline holiday and holiday pay, including an explanation of how its calculated if the employee/worker joins or leaves part way through the year.

Annual leave entitlement requires to be recalculated where there is a change to the contracted hours during the leave year and an adjustment of the total amount of annual leave would either increase or decrease in line with the change of contracted hours.

The Government also has an online calculator which can be useful:

UK Gov: Calculate holiday entitlement

Often, problems can arise when people leave their job and they believe that they are still due annual leave entitlement, in this case employees and workers are entitled to be paid for any annual leave not taken accrued to the actual final day.

If someone has overtaken their annual leave entitlement to their leaving date, the employer has the right to make an adjustment to the final pay to cover the deduction for this leave.

Employers should be mindful of the prevention of discrimination in respect of annual leave requests, particularly for requests over religious festivals. ACAS has produced guidance on this.

ACAS: Religion or belief discrimination

Agricultural sector employers particularly should be aware of the specific rules that govern terms and conditions for agricultural workers. The link to The Agricultural Wages in Scotland: guide for workers and employers provides this information in part 4.

Scot Gov: Agricultural wages in Scotland

People who are self-employed are not entitled to paid annual leave.

Information on Holidays can be found here:-

Citizens Advice Scotland: Check if entitled to paid holidays

ACAS: How much holiday someone gets

UK Gov: Holiday entitlement



If you need more help with employment rights, contact your nearest **Citizens Advice Bureau**.

Holiday Pay

Legislation on how to calculate Holiday Pay is set out in the **Working Time Regulations 1998** Section 16 as well as In the **Employment Rights Act** Sections 221 – 224.

UK Gov: Working Time Regulations Act 1998

UK Gov: Employment Rights Act 1996

Employers should know that holiday pay made to their employees and workers should reflect what they would have earned if they had been working, legislation sets out that they should not suffer financially for taking holidays.

UK Gov: Holiday pay the basics

An employer should be informing its employees of what to expect to be getting paid for their holidays especially during the first year of employment if they use an accrual method, to avoid any confusion.

In law, an employer should be including the normal amounts included in the basic pay

for the first 4 weeks of holiday pay, this also includes any supplements and/or allowances such as bonuses, regular overtime and commission, whether these are based on the amount of work done or on results. An employer, at their discretion can do this for the total annual leave entitlement.

In terms of holiday pay, an employer only needs to include basic pay when calculating the holiday pay for the remaining 1.6 weeks. Employers should note that this can be difficult to calculate.

The reason for this is because statutory entitlement of 5.6 weeks is made up of 4 weeks which comes from EU retained law and 1.6 weeks which comes from UK law and different rules apply to each part of this.

There is new legislation under the Employment Rights Amendment Regs 2023 for irregular and part time workers' holiday years on or after 1 April 2024. The law is very specific on 'rolled up' holiday pay, that this can only be done for irregular hours workers and part year workers.

ACAS: Irregular hours and part-year workers

ACAS: Calculating holiday pay

ACAS: Holiday entitlement - calculating holiday pay



If you need more help with employment rights, contact your nearest **Citizens Advice Bureau**.

The Government has produced information on reform of holiday pay and entitlement effective from 1 April 2024. Employers should familiarize themselves with the rules:

UK Gov: Holiday pay and entitlement reforms

When a worker is on long term sick leave they can nominate a period of that sick leave as paid annual leave and they must receive their normal pay in respect of this. It is good practice for an employer to be discussing this with those affected.

Whilst on sick leave, workers continue to accrue annual leave as usual. If someone has not been able to use their holiday entitlement as a result of being on long-term sick leave, they can carry it over. Employees on long-term sick leave can carry over 4 weeks' unused holiday entitlement, unless the employer allows more to be carried over. This holiday must be used within 18 months from the date it was carried over.

Where a worker is in receipt of payments of Private Healthcare Insurance, the Working Time Regulations reg 16(5) provides that this discharges the employer's liability for paying holiday pay.

The Government also has an online calculator which can be useful:

UK Gov: Calculate holiday entitlement

Often, problems can arise when people leave their job and they believe that they are still due payments for accrued but untaken annual leave - in this case workers are entitled to be paid for this to the actual final day.

If someone has overtaken their annual leave entitlement to their leaving date, the employer has the right to make an adjustment to the final pay to cover the deduction for this leave. The following ACAS link has additional information.

ACAS: Deduction from pay and wages

People who are self-employed are not entitled to paid annual leave.

Citizens Advice provides further information on this aimed at employees and workers but is also useful for employers to view.

Citizens Advice Scotland: Check paid holiday entitlement

Information on Holidays can be found here:

ACAS: How much holiday someone gets

UK Gov: Holiday entitlement

South of Scotland Employment Rights Advice Service

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