

# Employment Law Fact Sheet No. 19



## HOLIDAYS AND HOLIDAY PAY

### The Right to Annual Leave

- The legal minimum entitlements:
- 5.6 weeks paid leave each year (e.g. 5.6 x 5 days per working week = 28 days holiday) *Note: the statutory entitlement is capped at 28 days even if the worker works for more than 5 days per week including public holidays.*
- Payment for untaken statutory leave entitlement on termination of employment.
- This entitlement should be set out in the written terms and conditions together with details of the "Leave Year".
- The employer can generally direct the employee when holidays should be taken (subject to detailed rules set out in the Working Time Regulations).

Record keepingL Employers will need to keep records of annual leave for six years.

### Public Holidays

This covers bank holidays special holidays by "Royal Proclamation" and "common law" holidays.

- There is no automatic entitlement to paid time off on public holidays or any particular day.
- The statutory entitlement includes days for public holidays (i.e. these do not have to be in addition).

### Part Time Workers

The calculation of holiday entitlement should be made on a pro rata basis, so in the example of a 3- day week the calculation is  $3 \times 5.6 = 16.8$  (rounded up to 17 days holiday).

### Holiday Pay

A week's pay is the amount due for a week's work under the worker's contract. Recent case law means that this should include a payment in respect both guaranteed and non-guaranteed overtime, commission and other elements usually paid in the normal course of employment so that an employee receives their "normal pay" whilst on holiday. Overtime pay and commission pay need only be included in respect of 4 weeks' (20 days) which is the element of minimum holiday entitlement derived from European Law.

Further guidance on the current position and the calculation of holiday pay is available by visiting: [ACAS holiday pay guidance](#)

## Holidays and sickness

Statutory holiday entitlement is built up while an employee is off work sick (no matter how long they're off). Any statutory holiday entitlement that is not used because of illness can be carried over into the next leave year. If an employee is ill just before or during their holiday, they can take it as sick leave instead.

- If the working hours vary from week to week, a week's pay is the pay for the average working hours over the previous 52 weeks.

Useful Information

ACAS Links: [ACAS on holidays](#)

[ACAS on calculation of holiday pay](#)

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