

CHANGES TO HOLIDAY CALCULATIONS

INTRODUCTION

By law, every employer, regardless of whether they employ part time, zero hour or full time employees must allow their employees paid time off. The minimum you must pay your employees is 5.6 weeks per year inclusive of bank holidays. Due to multiple employment types, and irregular hours, holiday can be a nightmare to navigate. As of 1 April 2020 there are some fundamental changes to the way holiday pay is calculated...

CONTRACTED HOURS

Nice and easy... if your employees have fixed hours and fixed pay then their holiday pay must be paid at the same fixed rate. As an example, if you pay your employee 40 hours per week then a weeks holiday will need be paid at 40 hours per week. This is the case for all 5.6 weeks' worth of entitlement. So as long as your employee is employed for the whole holiday year and they are contracted to 40 hours per week, then their entitlement would be 224 holiday hours, inclusive of bank holidays. If your employee works bank holidays then the holiday would be taken on a different day, in lieu. The same applies for part time workers however, their entitlement is reduced pro rata in line with the reduced hours they work.

SHIFT WORK AND IRREGULAR WORKING PATTERNS

It used to be that you would calculate average hours for shift time and irregular working hours over a 12 week period. **This is changing from 1 April 2020. As of 1 April 2020 you must calculate an average working week using the previous 52 working weeks.** For an employee who works different hours every week you would need to keep a record of those hours, and when they request holiday you must derive an average from those hours using no less than 52 weeks. If an employee does not have 52 weeks on which to draw upon then you would count back until you have 52 weeks, up to a maximum of 104 weeks. If an employee does not have 52 weeks to draw upon over the 104 weeks then you must use the weeks you have to derive and average working week. **This is a huge change for businesses who do not employ using contracted hours. Please amend your systems and employment contracts to reflect these changes. If you deal with your own holiday calculations then you will need to have a reference period of up to 104 weeks for all employee hours in order to correctly calculate an average. This is a rolling period and you will always count back from the present week when averaging hours.**

NO MORE 12.07%

The governments' method for calculating casual workers holiday using 12.07% of the hours they have worked in the year has now been withdrawn. For casual workers you must use the method above to ascertain an average working week. This average would then be multiplied by the employee's entitlement i.e. 5.6 weeks in order to ascertain their annual holiday entitlement. **Again, this is a massive change for businesses who employ workers on a casual basis. Please ensure your employment contracts reflect these changes.**

ONLY WORK PART OF THE YEAR?

It seems logical that if an employee only works part of the year then they should have their holiday for part of the year. This is now a bone of contention due to an employment tribunal. In essence the only time you should pro rata an employee's holiday entitlement is if they start employment part way through the year. If they are employed for the whole year but only work 26 weeks of the year then they must still be in receipt of at least 5.6 weeks holiday based on their average/contractual working week.

SUMMARY

The landscape for holiday is changing and you must be on top of these changes to avoid costly errors. Please review your contracts of employment and ensure you have provisions in place for the up to 104 week reference period. **If you are unsure how these changes will affect your workforce please speak with the MNA Payroll Department on 01803 698 928**