



## Holidays: HR guide

### Description

## Introduction

Navigating the law on **holidays** is not easy. Here is a brief guide highlighting some of the key issues.

### Holidays and statutory entitlement

Workers are usually entitled to paid **statutory** minimum **holiday**.

A worker is a person who provides work or services, personally, and is not in business themselves. Workers are entitled to certain rights including the national minimum wage and **statutory** minimum **holiday**. The worker category includes employees.

There have been a number of recent cases brought by people working in the gig economy, claiming worker status and associated rights.

The statutory holiday entitlement for workers is 5.6 weeks<sup>??</sup> each year. People who are working five days a week would be entitled to 28 days leave. People who are working part-time would have 28 days<sup>??</sup> leave pro-rated calculated by reference to how many days per week they work.

Bank and public **holidays** are included, and workers do not have rights to take annual leave on those days.

During the first year of employment the rules state that **holiday** entitlement is deemed to accrue at the rate of 1/12 of a full year<sup>??</sup>s entitlement at the beginning of each month.

For leave years beginning on or after 1 April 2024, there is a new accrual method for irregular hour workers and part-year workers in the first year of employment and beyond. Holiday entitlement for these type of workers will be calculated as 12.07% of actual hours worked in a pay period.



## Notice and carry over

Notice is required if a worker wishes to take **statutory holiday**. The notice that the worker has to provide needs to be at least twice as long as the length of the period of leave asked for. That means that if someone requests five days's leave the person must provide a minimum ten days' notice.

Providing an employer provides the correct notice, an employer can refuse the **holiday** request. The required length of minimum notice is as many days ahead of the **holiday** as how many days that the employer is not allowing.

A worker is not normally able to carry over holiday into the next leave year. There are, however, a few exceptions.

If a worker is unable to take some or all of their statutory holiday entitlement as a result of taking a period of family related leave, then they will be able to carry forward their full 5.6 weeks' statutory annual leave entitlement into the next holiday year.

If a worker is unable to take some or all of their statutory holiday entitlement as a result of being off sick, then the worker will be entitled to carry forward up to 20 days of their untaken leave into the following leave year. The carry over is subject to the worker taking the leave by the end of the period of 18 months starting from the end of the holiday leave year in which it originally arose.

A worker will also be entitled to carry forward leave into the next year if:

- the employer has refused to pay a worker their paid leave entitlement;
- the employer has not given the worker a reasonable opportunity to take their leave and encouraged them to do so; or
- the employer failed to inform the worker that untaken leave must be used before the end of the leave year to prevent it from being lost.



## Holiday pay

The first four weeks of any **statutory** annual **leave** each year must be calculated on the basis of normal remuneration which must include:

- payments, including commission payments, intrinsically linked to the performance of tasks which a worker is contractually obliged to carry out
- payments relating to professional or personal status relating to length of service, seniority or professional qualifications
- other payments, such as overtime payments, which have been regularly paid to a worker in the 52 weeks preceding the calculation date.



[Under UK law, there are various rules for calculating statutory holiday pay â?? depending on the working arrangements.](#)

For leave years beginning on or after 1 April 2024 for irregular hour and part-year workers only, employers may use rolled-up holiday pay for calculating holiday pay, provided:

- holiday pay is calculated at 12.07% of all pay for work done in any pay period
- the extra 12.07% is paid at the same time as pay for the work done, and
- the holiday pay is itemised separately on the payslip.

Employers may, as an alternative, use the existing 52-week reference period to calculate holiday pay for irregular hour and part-year workers if they wish to do so.

## Contractual holiday

These requirements do not apply to contractual **holiday** over and above **statutory** minimum **holiday** though having different calculations could cause administrative challenges for employers.

The law on **holiday** entitlement and **holiday** pay is notoriously complicated, and has been in a state of flux for some time. There are plenty of other matters to grapple with too, and if you are in any doubt you should obtain specific legal advice.

This guide is intended for guidance only and should not be relied upon for specific advice.

If you have any queries relating to **holidays** or need advice on other employment law queries please do not hesitate to [contact](#) me on [020 3797 1264](tel:02037971264).

Do check [mattgingell.com](http://mattgingell.com) regularly for updated information.