**CALCULATION OF ANNUAL LEAVE ENTITLEMENTS**

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 four weeks annual holidays for each leave year with pro-rata entitlements for periods of employment of less than a year.

The Act sets out **3** mechanisms for calculating the annual leave entitlements.

Employees are entitled to whichever of the following is the greater;

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 s/he changes employment)

**Or**

One third of a working week for each month in the leave year the employee works at least 117 hours

**Or**

8% of the hours an employee works in a leave year (but subject to a maximum of 4 working weeks).  This is related to part-time employees.

**\*** An employee who has worked for eight or more months must be allowed an unbroken period of two weeks holidays.

In summary therefore all employees are entitled to:

* 4 working weeks where at least 1365 hours have been worked in the leave year

OR

* One third of a working week where the employee works at least 117 hours in a calendar month

OR

* 8% of the hours worked in a leave year (subject to a maximum of 4 working weeks)

*Note 1: the maximum entitlement is four of the employee’s normal working weeks and NOT twenty days; this can be significant because the “working week” itself is not defined in the Act and must be construed by reference to the number of days/hours encompassing a work cycle.*

*Note 2: pay must be paid in advance of the annual leave.*

*Note 3: periods of sick leave are not counted as hours worked but parental and maternity leave are.*

***Examples***

(a)    *4 working weeks where the employee works at least 1,365 hours in the year*

Sheila works a 39 hour, 5 day week.

She has worked 1400 hours at the end of September. As this exceeds 1,365 hours she is entitled to 4 weeks paid holidays.

Her normal working week is 5 days. She is entitled therefore to 20 days (4 weeks @ 5 days) paid annual leave.

(b)   *One third of a working week per calendar month in excess of 117 hours*

Michael works a four day week at 39 hours per week.  This is in excess of 117 hours per month (over 600 hours in fact).

So Michael accumulates annual leave at a rate of 1.34 (one and one third) days per month worked that is, one third of four days = 1.34.

In a full year (12 months) Michael will accumulate 1.34 \* 12 = 16.08 days annual leave.

(c) *8% of the hours worked*

Jonathan works for 8 weeks and did 200 hours over the 8 weeks and then quit.

Jonathan is entitled to 8% of hours worked, that is, 16 hours of paid leave which he is entitled to receive when leaving the employment.

**NOTE**: if more than one of these methods of calculation is applicable, the employer must use the method which gives the greatest entitlement

**Re- Part-time employees**

Note 1.   Time spent on annual leave is deemed to be time worked for the purposes of the Act.

Note 2.  Overtime hours should be included for the purposes of calculating entitlement to annual leave.

**Note:** **You should check to see if your company is covered by an Employment Regulation Order that may have set additional leave over and above the Organisation of Working Time Act 1997.**

**Employees who Work Irregular Hours.**

In the case of employees who work irregular hours, their holiday entitlements should be converted in hours.  This is calculated by taking the normal weekly working hours divided by 5 and multiplied by the annual leave entitlement for that employee.

**Example**

If an employee works a 39-hour week he/she is entitled to 156 hours per annum

i.e. 20 (days) x 7.8 hours = 156 hours

Each time an employee takes annual leave the number of hours s/he would have worked on the days taken should be added up to determine the amount of annual leave taken.

**Note:** In calculating how many days holidays to which an employee may be entitled, employers should include all hours worked including time spent on sick leave, annual leave, maternity leave, parental leave, force majeure leave, adoptive leave and the first 13 weeks of carer’s leave. Employees do **not** accrue annual leave while on temporary lay-off or career break. Please note however that if an employee, while on annual leave becomes ill and this illness is covered by a medical certificate it does not count as part of their annual leave.

**Employees on Certified Sick Leave**

If an employee is sick during their annual leave and get a medical certificate for the days they are sick, these days will not be counted as annual leave days. An employer cannot insist that the employee take annual leave on days they are off sick, once you have a medical certificate.

The employee can build up your annual leave entitlement while they are off sick, once you have a medical certificate.

If an employee is on long-term sick leave and cannot take your annual leave due to illness, they can carry it over for up to 15 months after the end of the year you built it up. If the employee leaves your job within these 15 months, you should get holiday pay for the day’s leave they did not take due to illness.