

Holidays are Hurting Employers

February 2010



Introduction

It is now clear that employees on long-term sick leave continue to accrue statutory holiday. This does not apply to the additional contractual holiday entitlement you may offer on top of statutory holiday. They may also be able to claim compensatory pay for any statutory holiday that they have accrued and not used as holiday leave from previous years when they leave your employment.

What is Statutory Holiday?

Working Time Regulations state that in normal circumstances all employees working 5 days a week must have a minimum of 28 days (5.6 weeks) holiday including bank holidays per holiday year (pro-rata for part time employees). This applies in respect of holiday which can be accrued during long-term sick leave.

How does this work in practice?

20 days of the statutory holiday can be taken during sickness absence, so in effect you can allow employees to take holiday during their absence. Only 8 days of the statutory holiday can be transferred to the following holiday year if your contract of employment permits it to be carried over.

Contact us

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Offices in Romford, London (City & West End), St Albans, Hayes and Redhill.

Can a Payment in Lieu of Holiday be made?

Termination of employment is the only instance where a payment in lieu of statutory holiday can be made. So in practice employers must allow employees to take all the statutory holiday accrued in a holiday year irrespective of whether they are working or they are on absent due to sickness.

Income Protection Insurance (IPI)

There are a number of IPI schemes available, but those IPI schemes for which the employee is still employed when receiving IPI will have to agree with the employee that they will be on holiday for 28 days of the year and receive full pay for this period. Otherwise, they may be able to claim this from you when they eventually leave your employment.

Holidays and Contract Reviews

Recent case law may mean that all untaken holiday could be accumulated and claimed by an employee on termination. This may have worrying financial implications for some employers. Contracts need to clearly state that a payment in lieu of accrued but untaken holiday will only apply to the current holiday year (not previous years).

Health Warning!

This is a complex area of law and it is critical that to avoid potential problems you contact HR Insight if you think you may have issues relating to holiday.

Clients who have their employment contracts managed by HR Insight will automatically have their holiday clauses updated in the next update.

If you would like your employment contracts reviewed to ensure they are in line with legislation and protect you from making retrospective holiday payments, please do contact us.

STOP PRESS

The HRi Management Programme is now enrolling delegates for 2010.

- Getting Recruitment Right Mar 2010
- Maximising on Performance Jun 2010
- Disciplinary & Grievances Sep 2010
- Absence & Discrimination Dec 2010

Please contact us for more information.

Can We Help?

If you have any questions about the content of this Factsheet or any specific concerns about individual employees, please do contact us on 01708 758958 or visit us at www.hrinsight.co.uk

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