

## HOLIDAY AND LEAVE ENTITLEMENTS

1. The Holidays Act 2003 (**Act**) provides all employees, whether they are permanent, fixed-term or casual, with various leave and holiday entitlements.
2. The Act requires employers to:
  - 2.1 keep accurate records for all employees in respect of their leave and holidays;
  - 2.2 allow employees to take annual holidays, sick leave and bereavement leave; and
  - 2.3 pay employees for public holidays, if they would normally work on that day.

### Annual holidays

3. All employees are entitled to at least four weeks of paid annual holidays after 12 months of continuous employment.
4. Instead of providing annual holidays, some casual and fixed-term employees can be paid their four weeks' annual holidays on a pay-as-you-go basis at a rate of 8 percent of their gross earnings. If this occurs unlawfully, the Act provides that employees must be paid the full amount of holiday pay again.
5. Employees can request for a portion of their annual holidays to be paid out. Employers can agree to pay out a maximum of one week of annual holidays in each entitlement year.

### Public holidays

6. Employees are entitled to a paid day off if a public holiday falls on a day that would otherwise be a working day for the employee.
7. If an employee works on a public holiday, they must be paid time and a half and given a paid day off in lieu.
8. An employee who is on call on a public holiday that would otherwise be a working day for them is also entitled to a paid day off in lieu.

### Sick and bereavement leave

9. Employees are entitled to paid sick and bereavement leave each year:
  - 9.1 after six months' current continuous employment with the employer; or
  - 9.2 if the employee has worked over a period of six months, at least an average of 10 hours a week during that period and no less than one hour in every week or no less than 40 hours in every month during that period.
10. Sick leave can also be taken by employees who need to care for a sick or injured spouse, or a person who depends on the employee for care.
11. Bereavement leave can be taken if an employee suffers a bereavement on the death of the employee's spouse or partner, parent, child, brother or sister, grandparent, grandchild, and spouse's or partner's parent.

### Family violence leave

12. After six months of continuous employment, employees affected by family violence can take up to 10 days paid family violence leave.

### Parental leave

13. Employees are entitled to different lengths and types of parental leave, depending on their intentions as a caregiver and length of service. Protections for employees who are on parental leave are also provided, by the Parental Leave and Employment Protection Act 1987.

### Paying employees

14. It is important to understand what your employees are entitled to, especially if they work irregular or part-time hours.
15. Different payment calculations apply depending on the type of leave that is taken and when it is taken.

### What happens if you get it wrong?

16. If minimum entitlements are not provided, penalties and backpay can apply, or personal grievance claims may be made.

### Changes to the Holidays Act

17. The Holidays Act Taskforce was set up to review the current Act and has made several recommendations for changes, which you can read more about in our article [here](#).

**Our team of specialist workplace lawyers throughout the country are always happy to answer your questions, [contact us here](#)**

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