

RAINEY COLLINS LAWYERS

10 Things Employers Must Know About The Holidays Act

Employers must know what these provisions are or risk personal grievances or prosecutions.

1. **Advice of Rights**

Employers must advise employees of their entitlements under the Act and that information is available from the union (if they are a member) and the Department of Labour.

To show that this has been done these points should be included in all employment agreements along with a provision concerning the opportunity to take independent advice.

2. **4 Weeks Holiday**

This is standard and cannot be bargained away. Leave is to be expressed as so many weeks (not days). Since 1 April 2011 employees are able to request that one week of their annual leave be paid out.

3. **Annual Holidays Must be Taken**

The employer must allow the employee to take all their annual holidays. They can require them to take them by giving 14 days' notice.

4. **Annual Holidays do not Lapse**

If employees fail to take holidays then clauses preventing carrying forward are of no effect. Holidays remain due until they are taken. Allowing a delay will put up your costs as wages rise. Holidays are paid at the current rate.

5. **Two Weeks Uninterrupted Leave**

Employees are entitled to take two weeks of their leave in an uninterrupted block.

6. **Sick Leave**

Sick leave of 5 days after 6 months service must be allowed. A further 5 days is due after each subsequent 12 months.

Sick leave can be accumulated up to 15 days to an employee can have 20 days up their sleeve.

7. Sickness While on Holiday

If an employee is sick while on holiday the employer may agree to them taking sick leave and they can take their holidays at some other point. If they fall sick before they start their holiday then they are entitled to take sick leave and transfer the holiday to another time.

Make sure you have clear processes in place for employees to report sickness and provide evidence to support their claim. Employers can request evidence of sickness, at the employee's expense, after 3 consecutive calendar days of sickness. Since 1 April 2011 employer's may request a medical certificate from a sick employee before 3 consecutive calendar days are completed, provided they meet the employee's reasonable expenses in obtaining proof.

8. Public Holidays

If the employee is required to work on a Public Holiday they will be paid at time and a half for the hours worked on that Public Holiday and will be given a day in lieu to be taken at an agreed time. Agreements may not state that the pay includes the extra pay. It must be paid on top of ordinary pay.

9. Close Downs

Only one per year is allowed. This is where the business is closed and annual leave must be taken.

10. Bereavement Leave

Three days for the death of a spouse, parent, child, brother or sister, grandparent, grandchild or spouse's parent.

One day on the death of another person if the employer accepts that a bereavement has been suffered. Relevant factors include closeness of the relationship, responsibility for arrangements and cultural responsibilities.

If more than one bereavement is suffered at the same time then the employee is entitled to leave for each.

The mechanisms for calculating leave and public holiday pay are complicated. The onus is on the employer to get it right.

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