

COVID-19 Guidance – Carry over of holidays into the next 2 leave years

On Friday 27th March 2020, the government announced it is allowing workers to carry over up to four weeks annual leave into the next two leave years.

When does the right apply?

The Working Time (Coronavirus) (Amendment) Regulations 2020, once in force, will amend regulation 13 of the Working Time Regulations to allow workers to carry over their EU statutory holiday entitlement into the next two leave years, where it is not reasonably practicable for them to take some, or all, of the holiday they are entitled to due to COVID-19.

Does this apply to all of a worker's leave entitlement?

The Regulations only apply to a worker's 4 weeks (20 days) statutory holiday entitlement provided for under EU law. Therefore, it does not apply to the additional 1.6 weeks (8 days) leave provided for under UK law (although this proportion of a workers leave can be carried over for up to a year by agreement under existing law). The Regulations also do not apply to any contractual holiday entitlement over and above the statutory minimum periods, although this can be carried over either in accordance with the contract or at the discretion of the employer.

Who does this apply to?

The changes will amend the Working Time Regulations, which apply to almost all workers, including agency workers, those who work irregular hours, and workers on zero-hours contracts.

Why has this change been introduced?

The change has been introduced to support businesses who are under particular pressure from the impacts of COVID-19 (for example those in healthcare and food). The change will allow these sectors flexibility to better manage their workforce, while protecting workers' right to paid holiday.

What if it is reasonably practicable for the leave to be taken in the current leave year?

If employees can reasonably take all their leave in the current leave year without leading to additional pressure or staff shortages it is still open to employer to grant this leave. Equally, if an employee has not requested leave but it is possible for the leave to be taken in the current leave year, employers can still give employees notice of the requirement to take leave in accordance with the Working Time Regulations.

Vista Employer Services Limited

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