

WITH half term and Christmas looming, employee leave is on the minds of many – and there still seems to be a huge amount of confusion over just what holiday employees are allowed and when it should be taken.

From April 2009 an employee has been entitled to no less than 5.6 weeks paid holiday in a holiday year (accruing from the first day in employment) – that means 28 days for those working a five-day week (5 x 5.6), 5.6 days for those working a day a week (1 x 5.6) and 11.2 hours for those working two hours a week (2 hours x 5.6). That 5.6 weeks INCLUDES Bank and public holidays.

Those who, for example, work Tuesday to Friday therefore have the same amount of holiday as those who work Monday to Thursday. New employees start to accrue holiday from Day 1 and will be entitled to the same fraction of the 5.6 weeks as the fraction of the holiday year he works: so if he starts exactly halfway through the holiday year, he will be entitled to 2.8 weeks holiday (5.6/2.)

There is no right to have a Bank Holiday off and no right to extra pay for working on a Bank Holiday unless the employment contract states that is the case. If the business is usually closed on Bank Holidays, the employer can apply a day's holiday from the employee's 'allowance' for that non-working day.

The holiday year varies from employer to employer who should state in the employment agreement when the year starts and ends. If there is nothing stated then the holiday year starts on the first day of each individual's employment.

The employer cannot refuse to let the employee take 5.6 weeks leave in a holiday year but does have the final say in when it can be taken. The employer can even state when holiday must be taken – for example some factories close for two weeks in the summer.

The employee must use or lose his 5.6 weeks as the law says none of it can be carried over into the next holiday year (except in certain circumstances such as some long term sickness) nor can the employee be paid in lieu unless he is leaving the employment.

If the employer chooses to give more than the statutory minimum 5.6 weeks then it may decide on its own rules for those additional days.