

# Act relating to Holidays

## Chapter I. General provisions

### Section 1. Purpose of the Act

The present Act shall ensure that employees have annual holidays and holiday pay.

### Section 2. To whom the Act applies

(1) (*Employees*) Persons who work in the employment of others (employees) are entitled to holidays pursuant to this Act.

(2) (*Employees on ships*) In respect of employees on ships or groups of such employees, the King issues Regulations concerning the more detailed rules required by the conditions of service at sea. The Regulations may depart from the rules in the present Act, but not from section 5 (1), (2), (3) and (4), first paragraph, relating to the length of holidays and section 10 (2) and (3) relating to the percentage rates of holiday pay.

(3) (*Svalbard*) The King issues Regulations laying down that the Act or parts of it shall apply to Svalbard. The Regulations may depart from the rules to the present Act.

(4) (*Equivalent arrangements*) The Ministry may decide that the Act or certain provisions of the Act shall not apply to groups of employees who through pay scales or collective agreements or in other ways are assured of holiday arrangements which on an overall assessment are at least as favourable as the arrangement pursuant to the present Act.

(5) (*Posted employees*) The Ministry shall issue regulations concerning application of the Act in relation to posted employees, cf. section 1-7 of the Working Environment Act.

### Section 3. Prohibition against departures from the Act

No departure may be made from the present Act in an employee's disfavour, unless it is specifically laid down in the Act that a provision may be departed from by agreement. An agreement which departs from the Act in an employee's disfavour must be entered into in writing for an employer to be able to invoke it.

An employer who is bound by a clause in a collective agreement which departs from the Act may apply it to all employees who perform the kind of work covered by the agreement, provided a majority of them are bound by the agreement.

### Section 4. Qualifying year and holiday year

The holiday year is the calendar year. The qualifying year for holiday pay is the preceding calendar year.

## Chapter II. Holidays

## Section 5. Length of holidays

(1) *(Normal annual leave in connection with holidays)*Employers are obliged to ensure that employees have 25 working days' leave in connection with holidays each holiday year. Employees are obliged to take holidays each year, cf. however this section (5), section 7 (3), first paragraph, and section 9 (1) and (2). All days count as working days except Sundays and public holidays. Working days during holidays which, according to an employee's work schedule, would in any case have been days off are counted as holidays and deducted from the number of days pursuant to the first sentence and (2) and (3).

(2) *(Extra holidays for employees over the age of 60)*Employees who reach the age of 60 during a holiday year shall be given 6 working days' extra holiday. If the extra holiday is divided up, the employee may only demand as many working days off as he normally works in a week.

(3) *(Length of holidays for persons appointed in a holiday year)*An employee who takes up a post no later than 30 September of a holiday year is entitled to full holidays, but cf. section 7 (1). An employee who takes up a post at a later date is entitled to holidays of 6 working days. An employee may only demand holidays pursuant to the preceding paragraph insofar as it is shown that he has not already had full holidays from another employer earlier in the holiday year.

(4) *(Additional time off in connection with Sunday or shift work, irregular working hours, etc.)*An employee who works on Sundays may claim time off either on the Sunday immediately preceding or on the Sunday immediately following his holiday. This only applies, however, when a period of holiday is taken comprising at least 6 working days. An employee may demand that the time from the end of work before a holiday to the return to work after the holiday shall amount to at least 16 hours altogether in addition to the length of holiday pursuant to the provisions above. This only applies, however, when a period of holiday is taken comprising at least 18 working days.

(5) *(Employees not qualified for full holiday pay)*Employees may claim annual leave in connection with holidays pursuant to the provisions above irrespective of holiday pay earned. Employees may refuse to take holidays or any additional time off insofar as their holiday pay does not compensate for pay lost during absence on holiday. If an enterprise ceases operations wholly or in part in connection with holidays, all employees affected by the stoppage may nevertheless be ordered to take holidays and any additional time off for the same period of time.

(6) *(Departure)*The provisions in (4), second paragraph, may be departed from in a collective agreement.

## Section 6. Fixing holiday dates, changes and compensation

(1) *(Who determines holiday dates)*In good time before holidays, employers shall discuss the fixing of holiday dates and setting up of holiday lists with each individual employee or his representative. If agreement is not reached, the employer fixes the holiday dates within the limits which follow from sections 7-9. Unless otherwise agreed, employees over the age of 60 decide themselves when to take their extra holidays. Extra holidays may be taken together or divided into periods of one or more days.

(2) (*Notification*)An employee may demand to be notified of the holiday dates fixed as early as possible and at the latest 2 months before the holiday begins, provided special reasons do not prevent this. Employees aged over 60 must give employers at least 2 weeks' notice before taking extra holidays.

(3) (*Changes of fixed holiday) dates, compensation, etc.*)Fixed holiday periods of which an employee has been notified can be changed by the employer if this is necessitated by unforeseen events. Such changes may only be made when, because of unforeseen events, holidays taken as fixed would cause significant operating problems, and when no replacement can be found for the employee. The employer shall take up the question of a change with the employee in advance. The employee is entitled to the assistance of a representative at the discussion. At the discussion, the employee is obliged to present information on additional expenses for which he will claim compensation. An employee may claim compensation for documented additional expenses resulting from the change in holiday dates. Compensation for additional expenses which were not made known by the employee at the discussion may only be claimed insofar as they appear to be natural consequences of the change. The above provisions do not apply to cases where holiday dates are changed pursuant to sections 8 and 9.

(4) (*Departure*)The rules in this Section may be departed from in a collective agreement or other agreement.

## Section 7. Holiday periods

(1) (*Main holiday*)An employee may demand to take his main holiday, comprising 18 working days, during the main holiday period, 1 June-30 September. This does not apply, however, to an employee who takes up his post after 15 August in the holiday year. If a holiday is fixed for the 1 June-30 September period and postponed pursuant to section 9, no claim may be made to take the holiday at a later date in that period. An employee who has taken a period of leave with parental benefit pursuant to sections 14-1 to 14-15 of the National Insurance Act during the entire main holiday period may refuse to take the main holiday before the end of the holiday year.

(2) (*Remaining holiday*)An employee may demand to take the remaining holiday (7 working days) together within the holiday year.

(3) (*Holidays taken in advance and transfer of days of holiday*)Written agreements may be entered into concerning the taking of holidays in advance of up to 12 working days and the transfer of holidays of up to 12 working days to the following holiday year. Holidays in advance and transfers of holidays beyond that limit may not be agreed. Holidays which, in contravention of the provisions of this Act or owing to circumstances as referred to in section 9 (1) and (2), have not been taken by the end of the holiday year shall be transferred to the following holiday year. If the employer is responsible for the omission to take holiday, the employee may, in addition to transfer of holiday, claim compensation pursuant to section 14.

(4) (*Departure*)The provisions of this section concerning holiday dates within the holiday year may be departed from in a collective agreement or other agreement.

## Section 8. Taking of holidays during periods of notice

(1) (*Notice given by an employer*)An employer may not without the employee's consent fix holidays to periods of notice following notice given by the employer unless the period of notice is 3 months or longer. An employee may refuse to take a previously fixed holiday during such a period prior to leaving his post.

(2) (*Notice given by an employee*)Subject to the conditions which follow from sections 6 and 7, holidays may be fixed and taken in the period following notice given by an employee.

(3) (*Changes in the dates fixed for a holiday*)The dates fixed for a holiday may not without the employee's consent be changed owing to notice unless the conditions in section 6 (3) are met.

(4) (*Right to have holidays fixed to a period of notice*)An employee may demand to take his holiday before the end of a period of notice if after that period not enough time remains in which to take the holiday within the main holiday period or the holiday year, cf. section 7 (1) and (2). An employee who himself gives notice after 15 August may nevertheless not demand to have his holiday fixed for the period before 30 September.

(5) (*Departure*)The rules in this Section may not be departed from by agreement to an employee's disadvantage before notice has been given.

## Section 9. Taking of holidays during illness, leave of absence, industrial disputes etc.

(1) (*Taking holidays during absence through illness etc.*)An employee who is completely incapacitated for work before his holiday may demand to have the holiday postponed until later in the holiday year. The demand must be supported by a medical certificate and be submitted at the latest on the last working day the employee would have worked before the holiday. An employee who has been completely incapacitated for work during the holiday may demand to have a corresponding number of working days' holiday postponed and given to him as a new holiday later in the holiday year. The demand must be supported by a medical certificate and be submitted without undue delay after the employee's return to work.

(2) (*Taking holidays during parental leave*)An employer may not without the consent of the employee fix holidays to periods of leave during which parental benefit is being paid pursuant to sections 14-1 to 14-15 of the National Insurance Act. The same applies to leave in connection with births granted to fathers and other providers of care pursuant to section 12-3, first paragraph, of the Working Environment Act. An employee may claim the right to take statutory holiday during a period of leave when maternity benefit or benefits for care of adoptive children is paid, cf. sections 14-7, 14-16, 14-22 and 14-25 of the National Insurance Act. If the period of leave as mentioned in the first paragraph coincides with an already fixed holiday, the employee may demand postponement of the number of working days of holiday included in the period of leave. Subject to the conditions which follow from sections 6 and 7, an employer may fix holiday dates for a period when an employee has extended parental leave pursuant to section 12-5 of the Working Environment Act.

(3) (*Holidays during military service and other compulsory service*)An employer may not without the employee's consent fix a holiday for a period when the employee is engaged in compulsory service in the Home Guard or Civil Defence or in military reserve training exercises. If compulsory

service as mentioned in the first paragraph coincides with a previously fixed holiday, an employee may demand postponement of the number of working days' holiday spent in such service. Subject to the conditions which follow from sections 6 and 7, an employer may fix the dates of annual leave in connection with holidays for one year in a period when an employee is engaged in initial military service in the Norwegian Armed Forces in accordance with the Norwegian Armed Forces Act.

(4) (*Holidays during industrial disputes*) During a lawful industrial dispute (strike or lockout) holidays may be fixed and required to be taken in accordance with the rules in sections 6 and 7. An employer may not because of a lawful industrial dispute change the dates fixed for a holiday. If an employer fails to pay holiday pay in accordance with section 11 (4), the fixed holiday is not regarded as having been taken during the period of absence.

(5) (*Departure*) The rules in (1), (2) and (3) may not be departed from in an employee's disfavour in a collective agreement or other agreement in advance. The rules in (4) may be departed from in a collective agreement.

## Chapter III. Holiday pay

### Section 10. Calculation of holiday pay

(1) (*Basis for calculating holiday pay*) Holiday pay from an employer is calculated on the basis of wages paid in the qualifying year. Wages do not include payments to cover expenses for car travel, board, lodging and the like. The following payments are not included in the basis for calculating holiday pay:

- a. holiday pay pursuant to the present Act, paid during the qualifying year,
- b. shares of net profits,
- c. regular payments earned and paid irrespective of absence of holiday, or
- d. the value of goods, services or other benefits other than payments in money. The value of full or partial board received as part of payment for work shall, however, be included in the basis for calculating holiday pay.

The basis on which holiday pay is calculated shall be given in the list of payments and deductions sent to the employee pursuant to section 7-12-2 (2) of the Tax Assessment Regulations.

(2) (*The general percentage rate*) An employee is entitled to holiday pay from his employer amounting to 10.2 per cent of the basis on which holiday pay is calculated (cf. (1)).

(3) (*Higher rate for employees over the age of 60*) For employees who are over 60 years of age and entitled to extra holidays pursuant to section 5 (2), the rate rises by 2.3 percentage points. Holiday pay pursuant to the first paragraph is not paid in respect of that part of the basis on which holiday pay is calculated which exceeds 6 times the basic amount<sup>1</sup> in the National Insurance system. The basic amount for the purpose of this calculation shall be the amount applicable on 31 December of the qualifying year. If an employee resigns in the course of the qualifying year, the calculation shall be based on the basic amount applicable at the resignation date.

(4) (*Earning holiday pay entitlements during illness, parental leave, etc.*) Wages pursuant to (1) also include sickness benefit paid by an employer during the employer's period. The same applies

to sickness benefit for up to 10 days paid by an employer in the event of children's illness, cf. chapter 9 of the National Insurance Act. The National Insurance pays holiday pay on the basis of:

- a. sickness benefit paid by the National Insurance for up to 48 days in each qualifying year, cf. section 8-33 of the National Insurance Act. In addition, the National Insurance pays holiday pay based on sickness benefit refunded by the National Insurance to the employer in respect of employees who are excepted from the rules concerning employers' periods pursuant to section 8-20, first paragraph, of the National Insurance Act, or in respect of absence for longer than 10 days in the event of children's illness pursuant to section 9-8, cf. section 9-9, of the National Insurance Act. The National Insurance also pays holiday pay based on up to 12 weeks (60 sickness benefit days) of sickness benefit relating to children's illness pursuant to section 9-17 of the National Insurance Act.
- b. pregnancy benefit paid to employees for up to 64 days of the benefit period, cf. section 14-4 of the National Insurance Act.
- c. parental benefit paid to employees for up to 12 weeks at the full rate or for up to 15 weeks at 80 per cent of the full rate, cf. section 14-8 of the National Insurance Act.

(5) (*Qualifying for holiday pay during compulsory military and civilian service*) An employee who has worked for an employer for at least 3 months qualifies for holiday pay from that employer during unpaid absence owing to:

- a. compulsory military service in accordance with the Norwegian Armed Forces Act,
- b. compulsory service in the Civil Defence or Home Guard for up to a total of 3 months each qualifying year.

The holiday pay is calculated on the basis of the employee's sickness benefit basis pursuant to sections 8-28 to 8-30 of the National Insurance Act on the date when the leave begins. An employee who has not been employed in the enterprise following his absence may not claim holiday pay pursuant to the first paragraph, unless his absence is due to notice by the employer or health reasons.

(6) (*Departure*) The rules in this Section concerning the calculation of holiday pay from employers may be departed from in a collective agreement.

*1 basic amount = grunnbeløp. The National Insurance system in Norway operates with a «grunnbeløp» which is periodically adjusted and upon which the calculation of social security benefits is based.*

## Section 11. Payment of holiday pay

(1) (*General rules*) Holiday pay earned in the employment of an employer the preceding qualifying year is paid on the last normal pay day before the holiday. An employee may nevertheless demand payment of holiday pay at the latest 1 week before the beginning of the holiday. If holidays are divided, holiday pay shall be divided correspondingly. The amount by which holiday pay exceeds wages for normal working hours in the holiday may nevertheless be paid in connection with the taking of the main holiday or together with wages for June.

(2) (*Holiday pay for holiday not taken*) If holiday time has been transferred to a following holiday year, holiday pay in respect of the transferred holiday is only paid when the holiday is taken, cf. the

provisions in (1).

(3) (*Payment on the termination of employment*) If employment is terminated, all holiday pay entitlements are to be paid on the last normal pay day before the post is vacated. Such holiday pay as cannot be calculated at that time may be paid in connection with the final pay settlement. A deduction may be made from the payment amounting to 1.4 per cent of the basis for calculating holiday pay earned in the employment of the employer concerned in the shortened qualifying year 1 May to 31 December 1988.

(4) (*Payment in the event of industrial disputes*) The absence of an employee in connection with a lawful industrial dispute (strike or lockout) does not entail an obligation to pay pursuant to (3) above. An employee who has vacated his post in connection with a lawful industrial dispute shall be paid holiday pay in respect of holidays fixed previously or subsequently, in accordance with the provisions in (1).

(5) (*Payment on death*) If an employee dies, all holiday pay earned shall be paid to the estate together with the final pay settlement. A deduction may be made from the payment in accordance with the rules in (3), second paragraph.

(6) (*Payment by a jointly and severally liable contractor pursuant to the General Application Act, the Working Environment Act and the Civil Service Act*) In cases where a jointly and severally liable contractor remunerates employees pursuant to section 13 of the General Application Act, holiday pay calculated on the basis of such remuneration shall be paid at the same time. The same shall apply where a jointly and severally liable hirer pays remuneration to a temporary agency worker pursuant to section 14-12c of the Working Environment Act and section 11 (6) of the Civil Service Act.

(7) (*Method of payment, deductions from holiday pay, etc.*) The method of payment, the right to make deductions from holiday pay, and the obligation to inform about how holiday pay has been calculated are regulated by section 14-15 of the Working Environment Act.

(8) (*National Insurance payments*) Holiday pay paid out by the National Insurance pursuant to section 10 (4), second paragraph, is paid, regardless of the rules above, in the second half of May in the year following the qualifying year, cf. section 22-10, fifth paragraph, of the National Insurance Act.

(9) (*Departure*) The rules in (1) to (5) may be departed from in connection with a collective pay agreement.

## Chapter IV. Miscellaneous provisions

### Section 12. Change of ownership of an enterprise

If there is a change of ownership (owner or lessee) of an enterprise, the new owner assumes the previous owner's obligation to give annual leave in connection with holidays and pay holiday pay pursuant to the present Act. Holiday pay to which entitlements were acquired under the previous owner may still be claimed from him.

### Section 13. Advice

The Norwegian Labour Inspection Authority gives advice concerning the present Act.

## Section 14. Compensation

If an employer or someone acting on his behalf deliberately or negligently fails to ensure that an employee has holidays and receives holiday pay in accordance with the rules of the present Act, the employer becomes liable to pay compensation.

The compensation shall cover the financial loss plus a reasonable amount in compensation for lost welfare. The liability may be mitigated if owing to the size of the loss or other circumstances it is reasonable for the employee to take all or part of the loss on himself.

## Section 15. Powers of the King to establish longer holidays

The King may decide to introduce rights to holidays up to 5 working days longer than the holidays pursuant to section 5. Each increase must be justifiable in the light of the country's overall economic situation. The general rate for holiday pay shall be 10.6 per cent when holidays of 26 working days are decided on, and in respect of decisions on holidays of 27, 28, 29 and 30 working days, respectively 11.0, 11.4, 11.8 and 12.3 per cent.

## Section 16. Entry into force

The present Act enters into force on 1 January 1990.

However, the transitional provisions of section 17 enter into force on 1 May 1988.

## Section 17. Transitional rules

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(4) (*Validity of earlier decisions*) Decisions taken pursuant to section 1, third paragraph, of the old Act shall apply in relation to the new Act until the Ministry decides otherwise.

## Section 18. Repeal and amendment of other Acts

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