

Changes to Holiday Pay Calculations From 6th April 2020

From 6 April 2020, changes will be made to the Working Time Regulations 1998 (WTR) that will affect the way in which employers calculate statutory holiday pay for employees and workers with variable pay. The government is introducing these changes in Great Britain as part of its Good Work Plan, the main aim being to ensure that a worker's holiday pay best reflects their working hours across the year.



The new provisions mean that, for those workers who have variable pay either because they do not have normal working hours (e.g. casual workers) or they have normal working hours, but their pay varies with the amount of work done (e.g. piece work) or the times or days the work is done (e.g. shift workers), the reference period used to calculate their holiday pay under the WTR will increase from 12 weeks to 52 weeks. These changes apply to both EU Leave and UK Leave, i.e. the whole of the individual's holiday entitlement.

In very simple terms, for these categories of worker, if employers currently use a 12-week reference period for holiday pay purposes, they will need to change to a 52-week reference period. This means they will have to count back over the last 52 weeks a worker has worked and received pay to enable them to

calculate the worker's holiday pay entitlement under the WTR. As is currently the case, if the reference period contains weeks in which no remuneration was payable, no account should be taken of these weeks and the employer should take into account remuneration paid in earlier weeks, although under the amended WTR employers are not required to go back further than 104 weeks before the beginning of the period of leave. Where this gives fewer than 52 weeks to take into account, the reference period is reduced to that lower number of weeks. If an individual has been employed for less than 52 weeks, the reference period is the number of weeks for which they have been employed.

If there are no weeks to take into account (e.g. the worker is at the beginning of their engagement or because they have no weeks in the reference period in which pay was payable), a week's pay must be calculated in a different way, namely by reference to an amount which fairly represents a week's pay, having regard to factors such as the pay received by others engaged in comparable work with the same employer.

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Ethical veganism ruling could have widespread implications in the workplace

An employment tribunal has ruled that ethical veganism is a philosophical belief that is protected by the law against discrimination.

The ruling, at a Norwich employment tribunal, came in response to a case brought by Jordi Casamitjana, who claimed he was unfairly dismissed by the animal welfare charity, League Against Cruel Sports (LACS), after raising concerns about the pension fund being invested in companies involved with animal testing. LACS claimed he was dismissed for gross misconduct.

Casamitjana has not won his case but the ruling lays the ground for a substantive hearing and has wider employment implications. The second part of the hearing will rule on the lawfulness of Casamitjana's treatment by the LAC.

Ethical vegans, like vegans eat plant based diets, avoiding the likes of dairy products. But ethical vegans go further avoiding contact with products derived from any sort of animal exploitation. This includes not wearing clothes made of wool or leather and not using products tested on animals.

It is important to remember that this is the judgment of the first instance employment tribunal. It does not have to be followed and does not implement any change in the law. It

does give employers guidance in relation to the likely treatment of ethical veganism before the employment tribunal and as such, the types of steps they should be considering for their employees and the workplace. Employers will need to think about the products and services they provide in the workplace, 'from vegan-friendly food options in the cafeteria to uniform and furniture choices avoiding wool or leather'.

Richard Lozano Head of Employment, UnionLine said: *"This case demonstrates that ethical vegans can enjoy protection from discrimination in the workplace due to their beliefs. But it should be noted that it is "belief" that is protected under the Equality Act rather than Veganism itself. To be protected, an individual's belief must attain a certain level of cogency, seriousness, cohesion and importance. These are questions of fact for an Employment Tribunal to be determined in each case and with each individual Claimant. An employer should not subject those who have such belief to less favourable treatment"*.

National Minimum Wage Increases

The legal minimum hourly rate that a worker can be paid, known as the National Minimum Wage (or National Living Wage for workers aged 25 and over) will increase for all workers from 1 April 2020 as follows:

Workers aged 25 and above

– from £8.21 to £8.72 per hour

Workers aged 21 to 24-years-old

– from £7.70 to £8.20 per hour

For 18 to 20-year-olds

– from £6.15 to £6.45 per hour

For under-18s

– from £4.35 to £4.55 per hour

For apprentices

– from £3.90 to £4.15 per hour

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